

FARGO CITY COMMISSION AGENDA
Monday, March 18, 2024 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, March 4, 2024).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Receive and file the Summons and Complaint relating to the David Herring and Patricia Frazier vs. First Transit, Inc. d/b/a Transdev Services, Inc.
- 2. Receive and file a Notice of Appeal from a Decision of a Local Governing Body Pursuant to N.D.C.C. § 28-34-01 - Liquid Hospitality, LLC d/b/a Windbreak Saloon v. Board of City Commissioners of the City of Fargo.
- 3. Direct the City Attorney to amend Fargo Municipal Codes 25-1501 and 25-1503 to define the stream of service, to clarify server training requirements and to clarify the age to be employed where alcohol is served.
- 4. Direct the City Attorney to amend Fargo Municipal Code 25-1504.1 to allow for annual background checks on licensees, and to require notification and background checks when managers change.
- 5. Concur with the findings of staff and the Liquor Control Board and apply the penalty matrix of a \$500.00 fine for a first failure to the liquor license violations identified at Royal Liquors.
- 6. Concur with the findings of staff and the Liquor Control Board and apply the penalty matrix of a \$500.00 fine for a first failure to the liquor license violations and a \$500.00 fine for failing to have employees server trained all identified at Pho D'licious.
- 7. Agreement for Special Improvements with County 20 Storage & Transfer, Inc. for municipal improvements in the 46th Avenue Industrial Park Addition (Special Improvement District No. BN-23-J1).
- 8. Receive and file the Amendment to the Franchise Agreement with Cass County Electric Cooperative adding the area annexed by the City of Fargo on 2/23/24.
- 9. Site Authorizations for Games of Chance:
 - a. Plains Art Museum at Wild Bill's Sports Saloon.
 - b. Plains Art Museum at Big Top Bingo.
 - c. Plains Art Museum at Blue Wolf Casino (West Acres Bowl).

10. Applications for Games of Chance:
 - a. North Dakota Autism Center, Inc. for raffle on 4/5/24.
 - b. Knights of Columbus - 6570 for a calendar raffle from 5/1/24 - 5/31/24.
 - c. Fargo Lions for a calendar sports pool from 9/9/24 - 12/30/24.
 - d. El Zagal Escort Motor Patrol for a raffle on 3/23/24.
 - e. United Way of Cass-Clay for a raffle on 3/28/24.
 - f. Anne Carlsen for a raffle on 4/27/24.
 - g. Carson Glore Foundation for a raffle and raffle board on 5/20/24.
 - h. TNT Kid's Fitness and Gymnastics for a raffle on 4/4/24.
11. Developer Agreements with ARD Properties, LLC and Storage Kings ND, LLC for Interstate Business District Addition.
12. Right of Way Use Agreement with EOLA Landholdings, LLC for 4470 24th Avenue South.
13. Bid award to Roers Construction Company LLC in the amount of \$460,483.45 for Project No. SR-24-A1.
14. Negative Final Balancing Change Order No. 2 in the amount of -\$128,978.24 for Improvement District No. BR-23-H1.
15. Change Order No. 3 in the amount of \$35,632.37 and a time extension to Substantial and Final Completion dates of 10/13/23 and 11/12/24 for Improvement District No. BR-23-E1.
16. Memorandum of Offer to Landowner for Easement (Temporary Construction Easement) with New Millennium Real Estate Partners, LLP (Improvement District No. BR-23-G2).
17. Bid award to Northern Improvement Company in the amount of \$2,430,023.07 for Improvement District No. BN-23-J1.
18. Create Improvement District No. BN-23-G (New Paving and Utility Construction).
19. Create Improvement District No. BN-24-A (New Paving and Utility Construction).
20. Create Improvement District No. BR-24-F (Paving and Utility Rehab/Reconstruction).
21. Create Improvement District No. NR-23-C (Storm Sewer Lift Station Rehab/Reconstruction and Incidentals).
22. Create Improvement District No. PR-24-G (Asphalt Mill and Overlay).
23. Contract and bond for Project No. FM-24-A1.
24. Contract and bond for Project No. NR-24-B3.
25. Contract and bond for Improvement District No. BR-24-C1.
26. Lease with Option to Purchase Agreement Nos. 40005534 and 40005536 with CapFirst Equipment Finance, Inc. for copiers at Fire Station No. 1 and the Public Safety Building (RFP23131).
27. Change Order Nos. 10 and 11 in the amount of \$17,956.00 for Fire Station No. 8.
28. Change Order No. 2 in the amount of \$3,443.00 for Fire Station No. 8.

29. Addendum to Purchase of Service Agreement with Cass Human Service Zone.
30. Request for out-of-grade pay for Hunter Hubrig, Emergency Prep Environmental Health Practitioner II, effective 1/1/24 to 3/3/24.
31. Piggyback purchase through the State of North Dakota contract with CODE 4 Services for the purchase of 60 Panasonic Toughbook computers for the Police Department (PBC24143).
32. Set April 1, 2024 at 5:15 p.m. as the date and time for a Public Hearing on a dangerous building located at 1022 9th Avenue North.
33. Direct the City Attorney to amend Fargo Municipal Code Article 13-09 to include a definition for "inoperative."
34. Resolution approving Plat of Autumn Fields Third Addition.
35. Resolution approving Plat of Laverne's Fourth Addition.
36. Extension of unpaid leave for Wayne Hegseth through 5/31/24.
37. Bid award to Northdale Oil, Inc. for fuel purchasing in the 3rd and 4th Quarters of 2024 and execute the Forward Fuel Contract (RFP24111).
38. Services Agreement – Lawn Maintenance Services with Valley Green and Associates (RFP22037).
39. Services Agreement – Lawn Maintenance Services with JT Lawn Services (RFP23056).
40. Easement (Temporary Construction Easement) with the Municipal Airport Authority of the City of Fargo, Cass County, ND.
41. Reject the bids for Waste Water Treatment Plant Flood Protection Improvements Project No. WW1707 and rebid the project.
42. Bills.

REGULAR AGENDA:

43. **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).**

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

44. **PUBLIC HEARING** – Plat of Meadow View Second Addition (6704-6794 Meadow View Drive South); approval recommended by the Planning Commission on 10/3/23.
45. **PUBLIC HEARING** – Interstate Business District Addition (4753 45th Street North and 4269 40th Avenue North); approval recommended by the Planning Commission on 2/6/24:
 - a. Growth Plan Amendment from Residential Area, Lower-to-Medium Density, Commercial and Proposed Park to Industrial and Commercial.

- b. Zoning Change from AG, Agricultural and LI, Limited Industrial with a C-O, Conditional Overlay to LI, Limited Industrial with a C-O, Conditional Overlay, GC, General Commercial with a C-O, Conditional Overlay and P/I, Public and Institutional.
- c. 1st reading of rezoning Ordinance.
- d. Plat of Interstate Business District Addition.

- 46. **PUBLIC HEARING** - Plat of Alex's First Addition (5080 38th Street South).
- 47. **PUBLIC HEARING** - Application filed by Border States Industries, Inc. for a Payment in Lieu of Tax Exemption (PILOT) for a project to be located at 3181, 3101 and 3303 43rd Street North and 3030, 3100 and 3190 42nd Street North which the applicant will use primarily for a distribution center.
- 48. Presentation from czb, LLC on the progress of the Growth Plan 2024.
- 49. Presentation of the Annual Review of F-M Ambulance, Inc. d/b/a Sanford Ambulance – Fargo.
- 50. Presentation of the 2023 Police Department's Annual Report.
- 51. Applications for Property Tax Exemptions for Improvements Made to Buildings:
 - a. Erik Barner and Whitney Schreiber Beck Barner, 312 Southwood Drive South (5 years).
 - b. Trevor and Kathryn Christianson, 222 Linden Avenue South (5 years).
 - c. Richard and Kathleen Lee, 4334 Carrie Rose Lane South (5 years).
 - d. Tom and Kelly Borgen, 1006 South Drive South (5 years).
 - e. Bradley and Ann Williams, 4336 Carrie Rose Lane South (5 years).
 - f. Patrick and Natasha Thomas, 1707 9th Street South (5 years).
 - g. Jane Grove, 4332 Carrie Rose Lane South (5 years).
 - h. Brian Trauman, 812 7th Street North (5 years).
 - i. Richard and Jo Ellen Solberg, 4330 Carrie Rose Lane South (5 years).
 - j. David and Rebecca Berg, 4402 Carrie Rose Lane South (5 years).
 - k. Dustin Marlatt and Morgan Dewitt, 1614 4th Avenue South (5 years).
 - l. Jeannine Galbreath, 4410 Carrie Rose Lane South (5 years).
- 52. Set 7:30 a.m., Tuesday, April 9, 2024, as the date for the Board of Equalization to meet.
- 53. Liaison Commissioner Assignment Updates.

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

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



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CITY ATTORNEY**

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CITY ATTORNEY

Nancy J. Morris

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ASSISTANT CITY ATTORNEYS

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

March 14, 2024

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

RE: David Herring et al. vs. First Transit, Inc., et al./3:23-CV-00206

Dear Mayor and Commissioners,

Please find attached for receive and file a Summons and Complaint relating to the David Herring et al. vs. First Transit, Inc., et al. litigation matter. The City is not a party to the action, but rather the North Dakota Insurance Reserve Fund is providing the defense for the driver's operation of the vehicle pursuant to the contract for driver services.

SUGGESTED MOTION: I move to receive and file the following Summons and Complaint relating to the David Herring et al. vs. First Transit, Inc., et al. litigation matter.

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

Sincerely,

Nancy J. Morris

NJM/lmw
Enclosures

Local AO 440 (Rev. 01/23) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of North Dakota

David Herring and Patricia Frazier,
individually and as husband and wife,

Plaintiff

v.

First Transit, Inc., d/b/a Transdev Services,
Inc., an Ohio corporation licensed to do
business in North Dakota,

Defendant

Civil Action No. 3:23-cv-206

SUMMONS IN A CIVIL ACTION

To: Above Named Defendant(s)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Thomas W. Fuller
Hunegs, LeNeave & Kvas
1000 Twelve Oaks Center Drive, Suite 101
Wayzata, MN 55391

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

KARI M. KNUDSON, CLERK OF COURT

/s/ Sarah Cook, Deputy Clerk

Date: October 18, 2023



Signature of Clerk or Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

David Herring and Patricia Frazier,
individually and as husband and wife,

Case No. _____

Plaintiffs,

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

vs.

First Transit, Inc., d/b/a Transdev Services,
Inc., an Ohio corporation licensed to do
business in North Dakota,

Defendant.

COMES NOW Plaintiffs David Herring (“Mr. Herring”) and Patricia Frazier (“Ms. Frazier”) for their claim and cause of action against Defendant First Transit, Inc., d/b/a Transdev Services, Inc. (referred to collectively as “Defendant” or “First Transit” throughout) states and alleges as follows:

PRELIMINARY STATEMENT

1. This is an action brought by Mr. Herring and Ms. Frazier against Defendant First Transit to recover damages for personal injuries suffered on or about August 18, 2021, as a pedestrian lawfully utilizing a marked crosswalk in the City of Fargo, North Dakota. While Mr. Herring was attempting to cross the controlled intersection of 4th Avenue and Broadway North, he was negligently hit by a bus. The bus was operated by an employee and agent of Defendant First Transit, a private corporation headquartered in Ohio and an independent contractor hired by the City of Fargo to provide and manage driver services.

PARTIES

2. At all times relevant, Mr. Herring and Ms. Frazier were residents of Minneapolis, Minnesota.

3. At all times relevant, Defendant First Transit is a private for-profit corporation and employer duly organized and existing under the laws of the State of Ohio and was engaged as a common carrier in interstate commerce in and through the State of North Dakota.

4. At all times relevant, Defendant First Transit, in its capacity as a private corporation, contracted with the MATBUS Fargo-Moorhead, a public transportation entity comprised of and operated by the City of Fargo, North Dakota and the City of Moorhead, Minnesota, to provide and manage all driver services in Fargo and Moorhead from January 1, 2020 to December 31, 2023.

5. At all times relevant and upon information and belief, Defendant First Transit, in its capacity as a private corporation, was an independent contractor providing and managing all driver services, including the hiring, training, supervising, retaining and controlling of bus drivers and operators, for the City of Fargo and the City of Moorhead transit systems (MATBUS).

6. Upon information and belief, Defendant First Transit was acquired by Transdev Services, Inc. in 2023. First Transit and Transdev Services, Inc. are now comprised of one private entity operating under the Transdev brand as one of the largest private operators of transportation in the United States.

7. Transdev Services, Inc. is a private for-profit corporation and employer duly organized and existing under the laws of the State of Illinois and is engaged as a common carrier in interstate commerce in and throughout the state of North Dakota.

JURISDICTION AND VENUE

8. That the Court has subject matter jurisdiction based on diversity of citizenship, and that matter in controversy exceeds \$75,000 exclusive of interest and costs as required under 28 U.S.C. § 1332(a).

9. That the Court has personal jurisdiction over Defendant First Transit because it purposely availed itself of the privilege of conducting activities in the State of North Dakota, maintained minimum contacts sufficient to confer jurisdiction over it, and the incident in question happened in North Dakota.

10. That venue is proper under 28 U.S.C. § 1391(b)(2)..

11. That Mr. Herring and Ms. Frazier's claims against Defendant First Transit are timely commenced under N.D. Cent. Code § 28-01-16.

FACTS

12. On or about August 18, 2021, Mr. Herring was in Fargo, North Dakota standing on the north side of 4th Avenue North and Broadway North. The intersection is controlled by a stop light and contains marked crosswalks.

13. When the pedestrian control signal on the stop light at 4th Avenue North and Broadway North displayed the word "walk," indicating it was safe for pedestrians to enter the marked crosswalk on the roadway, Mr. Herring lawfully stepped into the intersection located at 4th Avenue North and Broadway North.

14. As Mr. Herring lawfully attempted to cross the street, a MATBUS transit bus managed and operated by Defendant First Transit employee Mr. Jeffery Lee Gamer (Mr. Gamer) was traveling west on 4th Avenue North approaching the controlled intersection at 4th Avenue North and Broadway North.

15. First Transit employee and driver Mr. Gamer made an illegal right turn from 4th Avenue North traveling into the intersection on North Broadway.

16. Defendant First Transit employee Mr. Gamer struck Mr. Herring with the transit bus, running him over and causing catastrophic life altering permanent injuries and damages.

17. At the time of the incident, and immediately prior thereto, Defendant First Transit employee Mr. Gamer committed careless and negligent acts in violation of State laws and regulations, including but not limited to the failure to yield to a pedestrian in a crosswalk as required by N.D. Cent. Code § 39-10-05 and as further set forth below.

18. At the time of the incident, and immediately prior thereto, First Transit employee Mr. Gamer operated the transit bus within the course and scope of his employment as a bus operator for Defendant First Transit when traveling from 4th Avenue North and into the controlled intersection on 4th Avenue North and Broadway North.

19. The careless and negligent acts of Mr. Gamer, an employee of Defendant First Transit while acting within the scope of his employment with Defendant First Transit and under the control and charge of First Transit, caused Mr. Herring to suffer severe and permanent injuries and damages, including but not limited to the crushing, de-gloving and partial amputation of his right foot as well as other severe injuries including but not limited to broken ribs, collapsed lung, broken left ankle, and permanent heart/cardiovascular damage.

CAUSES OF ACTION

COUNT ONE – AGENCY

20. Mr. Herring and Ms. Frazier re-allege all allegations contained in paragraph 1 through 19 and incorporate the said paragraphs by reference as though fully set forth, and further state and allege:

21. At all times relevant, Mr. Gamer was an employee and/or agent of Defendant First Transit, a private company and independent contractor.

22. At all times relevant, Defendant First Transit was Mr. Gamer's principal and controlled or had the right to control the performance of duties and tasks, and the details of such duties and tasks, of Mr. Gamer as its employee and/or agent.

23. The aforementioned negligent acts of Mr. Gamer were committed within the scope of Mr. Gamer's employment and/or agency relationship with Defendant First Transit and in furtherance of the business interests of Defendant First Transit.

24. As the principal for Mr. Gamer, Defendant First Transit is responsible for all acts committed by Mr. Gamer within the scope of their agency and/or employment relationship.

25. Mr. Gamer's negligence, which is imputed to Defendant First Transit based on their agency and/or employment relationship, consisted of, among other acts and/or omissions:

- a. Failing to comply with vehicle and traffic statutes, including but not limited to failing to exercise due care to avoid colliding with any pedestrian pursuant to N.D. Cent. Code § 39-10-030;
- b. Failing to yield to the right of way of a pedestrian lawfully within an intersection or crosswalk in violation of N.D. Cent. Code § 39-10-05.
- c. Driving while distracted through visual, manual, or cognitive means in violation of N.D. Cent. Code § 39-08-25;
- d. Turning a vehicle when such movement was not reasonably safe in violation of N.D. Cent. Code § 39-10-38(1);

- e. Failing to otherwise obey traffic laws; and
- f. Failing to otherwise be vigilant while driving.

26. As the principal for Mr. Gamer, Defendant First Transit is responsible for the acts and/or omissions of Mr. Gamer, who performed his driver duties and responsibilities in a negligent and careless manner while in the scope of their agency and/or employment relationship.

27. As a direct and proximate result of Mr. Gamer's negligent acts and/or omissions, Mr. Herring suffered permanent injuries and damages.

COUNT TWO
RESPONDEAT SUPERIOR – VICARIOUS LIABILITY

28. Mr. Herring and Ms. Frazier re-allege all allegations contained in paragraph 1 through 27 and incorporate the said paragraphs by reference as though fully set forth, and further state and allege:

29. At all times relevant, upon information and belief, Mr. Gamer was an employee and/or agent of Defendant First Transit, a private company and independent contractor, and Defendant First Transit controlled the performance of duties and tasks, and the details of such duties and tasks, of Mr. Gamer as its employee and/or agent.

30. Defendant First Transit, through its employment and/or agency relationship with Mr. Gamer, is vicariously liable for the negligent acts and/or omissions committed by Mr. Gamer within the scope and course of his employment and/or agency relationship with Defendant First Transit and on Defendant First Transit's behalf. Mr. Gamer's negligent acts and/or omissions include, but are not limited to, those described in paragraph 25, *supra*.

31. At all times relevant, the negligent acts and/or omissions of Mr. Gamer, including the negligent acts and/or omissions described in paragraph 25, are deemed the acts and/or

omissions of Defendant First Transit based on the doctrine of vicarious liability under the theory of respondeat superior.

32. As a direct and proximate result of Mr. Gamer's negligent and careless acts and/or omissions, Mr. Herring suffered severe injuries and damages.

**COUNT THREE
NEGLIGENT ENTRUSTMENT**

33. Mr. Herring and Ms. Frazier reallege all allegations contained in paragraphs 1 through 32 and incorporate the paragraphs by reference as though fully set forth and further state and allege:

34. At all times relevant, Defendant First Transit, having control and authority over the safe operation of the subject transit bus, negligently entrusted Mr. Gamer with the use and operation of the subject transit bus.

35. At all times relevant, Defendant First Transit owed Mr. Herring a duty to exercise reasonable care in entrusting the use and operation of the subject transit bus to its employees and/or agents.

36. At all times relevant, Defendant First Transit knew, or in the exercise of ordinary care should have known, that Mr. Gamer was incompetent to drive, use, and/or operate the subject bus, and that such incompetence created an unreasonable safety risk and/or risk of harm to others, including Mr. Herring.

37. As a direct and proximate result of Defendant First Transit negligently entrusting Mr. Gamer to drive, use, and/or operate the transit bus in a negligent and careless manner, Mr. Herring, without any contributory negligence, suffered injuries and damages.

**COUNT FOUR
NEGLIGENT HIRING, SUPERVISION/TRAINING, AND RETENTION**

38. Mr. Herring and Ms. Frazier re-allege all allegations contained in paragraphs 1 through 37 and incorporate the paragraphs by reference as though fully set forth and further state and allege:

39. At all times relevant and upon information and belief, Mr. Gamer served as an employee and/or agent of and for Defendant First Transit. Defendant First Transit owed Mr. Herring a duty to exercise reasonable care in the hiring and selecting of an employee and/or agent who was competent and fit to perform the duties required as an employee and/or agent of Defendant First Transit, and Defendant First Transit owed a duty to exercise reasonable care when supervising, training, and retaining its employees and/or agents, including Mr. Gamer.

40. Defendant First Transit knew, or in the exercise of ordinary care should have known, through reasonable and adequate hiring, supervision, training, and retention practices, that Mr. Gamer was incompetent and unfit for the duties required as an employee by Defendant First Transit, including the duties required of a driver or operator of a transit bus.

41. Defendant First Transit breached its duty to Mr. Herring by failing to exercise reasonable care when hiring, supervising, training, and retaining Mr. Gamer, an employee and/or agent who was incompetent and unfit to provide driver services or operate a transit bus.

42. Mr. Herring, as a pedestrian lawfully utilizing a marked crosswalk at a controlled intersection in the City of Fargo, was a foreseeable victim who was injured by the reasonably foreseeable harm of Defendant First Transit's negligence in hiring, supervising, training, and retaining Mr. Gamer, a driver and operator of a transit bus who negligently operated the bus in a manner dangerous to pedestrians such as Mr. Herring.

43. As a direct result of Defendant First Transit's negligence in hiring, supervising, training, and retaining Mr. Gamer, who performed his employment duties in a negligent and reckless manner, Mr. Herring, who without any contributory negligence, suffered severe injuries and damages.

**COUNT FIVE
LOSS OF CONSORTIUM**

44. That by reason of Mr. Herring sustaining injuries as herein before stated, Ms. Frazier has in the past and will in the future be deprived of the services, society, comfort, companionship, and consortium of her husband, and by reason of the foregoing, has sustained damages in the past and will continue to sustain damages in the future.

JURY DEMAND

45. Mr. Herring and Ms. Frazier demand a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs David Herring and Patricia Frazier pray for judgment against Defendant First Transit in an amount greater than Seventy-Five Thousand 00/100 DOLLARS (\$75,000.00), together with interest, costs and disbursements incurred herein, and such further relief as the Court deems just and appropriate.

Dated: October 17, 2023

HUNEGS, LeNEAVE & KVAS, P.A.

/s/ Thomas W. Fuller

Cortney S. LeNeave, MN ID 018424X

Thomas W. Fuller, MN ID 0394778

Attorneys for Plaintiff

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ASSISTANT CITY ATTORNEYS

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

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March 14, 2024

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

RE: Liquid Hospitality, LLC, d/b/a Windbreak Saloon

Dear Mayor and Commissioners,

Please find attached for receive and file a Notice of Appeal from a Decision of a Local Governing Body Pursuant to N.D.C.C. § 28-34-01 in the Liquid Hospitality, LLC, d/b/a Windbreak Saloon litigation matter.

SUGGESTED MOTION: I move to receive and file the following Notice of Appeal from a Decision of a Local Governing Body Pursuant to N.D.C.C. § 28-34-01 relating to Liquid Hospitality, LLC, d/b/a Windbreak Saloon litigation matter.

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

Sincerely,



Nancy J. Morris

NJM/lmw
Enclosures

IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA

<p>Liquid Hospitality, LLC, d/b/a Windbreak Saloon,</p> <p style="text-align: center;">Appellant,</p> <p style="text-align: center;">v.</p> <p>Board of City Commissioners of the City of Fargo, a North Dakota municipal corporation</p> <p style="text-align: center;">Appellee.</p>	<p>Civil No. _____</p> <p style="text-align: center;">NOTICE OF APPEAL FROM A DECISION OF A LOCAL GOVERNING BODY PURSUANT TO N.D.C.C. § 28-34-01</p>
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[¶1] PLEASE TAKE NOTICE that, pursuant to North Dakota Century Code section 28-34-01, Appellant, Liquid Hospitality, LLC, d/b/a Windbreak Saloon (“Windbreak”), hereby appeals the Board of City Commissioners, City of Fargo, North Dakota’s (“City Commission”) February 20, 2024 Findings, Conclusions and Order, finding Appellant in violation of Fargo Municipal Code section 25-1509.2, and imposing the penalty set forth in Fargo Municipal Code section 25-1512(F). A true and accurate copy of the City Commission’s Findings, Conclusions and Order is attached hereto as Exhibit A. Appellant’s counsel received service of the February 20, 2024 Findings, Conclusions and Order on or about February 23, 2024 via email; the email indicated a copy of the Findings, Conclusions and Order was mailed to Appellant via certified mail on or about February 23, 2024.

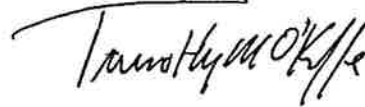
[¶2] Appellant appeals on the following specifications of error:

1. Appellant’s due process rights were violated when Chief of Police David Zibolski was allowed to present evidence of the alleged events from August 18, 2023, even though he was not the officer that reviewed the surveillance footage from the Windbreak and thus did not have first-hand personal knowledge of the contents of the footage that the City Commission relied on in reaching their conclusion.

2. The City Commission's findings that the behaviors exhibited by the patron are consistent with the indicators of intoxication or impairment stated in Fargo Municipal Code section 25-1509.2 was arbitrary, capricious, or unreasonable.
3. There is no substantial evidence to support the City Commission's findings that the behaviors exhibited by the patron are consistent with the indicators of intoxication or impairment stated in Fargo Municipal Code section 25-1509.2.
4. The City Commission's findings that Appellant provided alcohol to a person who had become overly intoxicated was arbitrary, capricious, or unreasonable.
5. There is no substantial evidence to support the City Commission's findings that Appellant provided alcohol to a person who had become overly intoxicated.
6. The City Commission's findings that Appellant violated Fargo Municipal Code section 25-1509.2 was arbitrary, capricious, or unreasonable.
7. There is no substantial evidence to support the City Commission's findings that Appellant violated Fargo Municipal Code section 25-1509.2
8. The City Commission's decision to impose the penalty set forth in Fargo Municipal Code section 25-1512(F) was arbitrary, capricious, or unreasonable.
9. There is no substantial evidence to support the City Commission's decision to impose the penalty set forth in Fargo Municipal Code section 25-1512(F).
10. The City's Commission's actions and decisions were arbitrary, oppressive, and unreasonable, and application of its methods and policies was unfair, unjust, and inequitable.
11. Appellant reserves the right to supplement its objections and bases for appeal noted herein.

Dated this 6th day of March, 2024.

O'KEEFFE O'BRIEN LYSON LTD.

A handwritten signature in black ink, appearing to read "Timothy M O'Keefe". The signature is written in a cursive style with a horizontal line above it.

TIMOTHY M. O'KEEFFE (ND ID # 05636)
MADISON D. MARCHUS (ND ID #09747)
720 Main Avenue
Fargo, ND 58103
Phone: (701) 235-8000
Fax: (701) 235-8023
tim@okeeffeattorneys.com
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Attorneys for Appellant



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CITY ATTORNEY
Nancy J. Morris

ASSISTANT CITY ATTORNEYS
Ian R. McLean • Allissa R. Farol • William B. Wischer

February 15, 2024

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APPROVED BY THE BOARD OF CITY COMMISSIONERS

2-20-24

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

RE: Findings, Conclusions and Order of the Board of City Commissioners of the city of Fargo regarding the Windbreak

Mayor and Commissioners,

Presented for your consideration and approval please find Findings, Conclusions and Order in accordance with Fargo Municipal Code § 25-1513 regarding your previous unanimous decision finding Windbreak in violation of Fargo Municipal Code § 25-1509.2.

Suggested Motion: I move to adopt the Finding, Conclusion and Order regarding the Windbreak license violation, as presented.

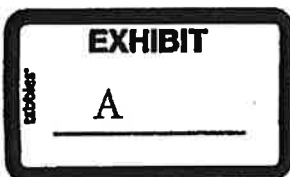
Please feel free to contact me should you have any questions, comments, or concerns.

Regards,

[Handwritten signature of Nancy J. Morris]

Nancy J. Morris

cc: Steve Sprague
Chief David Zibolski



Findings, Conclusions and Order of the Board of City Commissioners of the city of Fargo regarding the License Violation of Windbreak

The matter before the board of City Commissioners of the city of Fargo (City Commission) is whether or not there is a factual basis to find that it is more likely than not that Liquid Hospitality, LLC, d/b/a Windbreak Saloon (hereinafter Windbreak or Licensee) violated Fargo Municipal Code §25-1509.2 on August 18, 2023. If the City Commission finds a violation to have occurred, the administrative penalty(s) in accordance with Fargo Municipal Code §25-1512 shall be applied. The Licensee received notice of the asserted violation and was heard by the Liquor Control Board on October 24, 2023, and the City Commission at a Special Meeting on January 23, 2024.

Fargo Police Chief David Zibolski and Sgt. Aldin Golos presented the factual basis to the Liquor Control Board recommending a finding of a violation of Fargo Municipal Code §25-1509.2. This section states:

25-1509.2. - Restrictions on obviously intoxicated or impaired persons.

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

- A. Problems with, or inability to maintain, balance, i.e., stumbling, swaying, staggering gait, bumping into furniture while walking, falling against bar or off stool, resting head on bar;
- B. Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change;

- C. Delayed responses, rambling, disorientation, and mental confusion;
- D. Strong smell of alcohol;
- E. Unusual or distorted speech, i.e., slurred, thick tongue, uncontrollable voice pitch, muttering;
- F. Bloodshot, watery, or glassy eyes, flushed face;
- G. Condition of clothes and hair, i.e., soiled clothing, urinated upon clothing, disheveled;
- H. Unusual behavior, i.e., vomiting, profanity, crying, hiccups, fighting, loud, boisterous, obnoxious behavior, sleeping or unconscious;
- I. Anxious, scratching, paranoia, dry mouth, or dilated pupils.

Violation of this ordinance may result in sanctions as prescribed in Section 25-1512(F). Violations may be established with direct and indirect evidence.

Chief Zibolski presented the factual basis to the City Commission due to Sgt. Golos' inability to attend the January hearing.

The Licensee was represented by attorney Timothy O'Keeffe before both the Liquor Control Board and City Commission. The City Commission further considered the submitted documents, the recommendation of the Liquor Control Board, arguments of counsel and all documents presented.

The City Commission makes the following Findings of Fact, Conclusions and Order in accordance with Fargo Municipal Code §25-1513.

FINDINGS OF FACT

1. By notice dated October 5, 2023, City Auditor Steven Sprague advised Licensee Windbreak Saloon he had determined that Windbreak Saloon "violated liquor license requirements as defined in section 25-1509.2 of the Fargo Municipal Code, including overserving an obviously intoxicated patron."

2. City Auditor Sprague had received information from the Fargo Police Department on which he based this determination, including Police Department Liquor Establishment Report Forms, a Memorandum regarding Windbreak liquor establishment form follow up from Sgt. Aldin Golos to Captain Helmick and Lt. Berner dated August 31, 2023, email correspondence from Sgt. Golos to Michael Hlebechuk dated September 1, 2023 containing a detailed timeline of events, and Michael Hlebechuk's email correspondence in response dated September 2, 2023. These documents were provided to the Liquor Control Board and Licensee.
3. The Liquor Control Board met and heard evidence of the liquor license violation on October 24, 2023.
4. Chief of Police David Zibolski and Sgt. Aldin Golos presented a detailed factual recitation of the events that occurred in the Windbreak on August 18, 2023. The facts are presented in the form of a timeline from Sgt. Golos's review of the video from the Windbreak, with a particular time designation. Sgt. Golos described in detail the behaviors exhibited by the patron alleged to have been over served which led him to conclude that a liquor violation had occurred:
 - 2247 hours: Female arrives alone to Windbreak (as she said). She enters, her ID is checked, she pays the cover charge, and is given a wristband (said she wasn't). The female was walking normally and doesn't appear impaired.
 - 2255 hours: Female orders a mixed drink which is poured into a small glass. Female said she drinks whisky waters. The female pays cash.
 - 2259 hours: Female takes her drink and goes to the dance floor. She is dancing and appears fine, not impaired.
 - 2301 hours: Female sets her drink on a table and continues to dance. Nobody tampers with the drink.
 - 2302 hours: Staff member takes the drink (presumably empty).

- 2308 hours: Female leaves the dance floor.
- 2310 hours: Female buys another drink. Small glass again.
- 2311 hours: Female goes to a random male's table and they talk.
- 2314 hours: They try each other's drinks. Nobody tampers with her drink.
- 2315 hours: Goes into smoking area.
- 2316 hours: Comes back into establishment from smoking area, no drink in hand (presumably left it in smoking area).
- 2317 hours: Leaves the business and goes to her vehicle (presumably, no video of where vehicle was parked). She walks to her vehicle without issues.
- 2318 hours: Back inside Windbreak.
- 2318 hours: Goes back to the smoking area.
- 2319 hours: Walks back inside, now with her drink in hand.
- 2321 hours: Goes to the dance floor with her drink.
- 2322 hours: Leaves her drink at the same table.
- 2323 hours: Sits at the table where she set her drink. There is a male at this table. He doesn't tamper with her drink.
- 2328 hours: Leaves table with drink in hand.
- 2331 hours: Walks to the bar, chats with an individual, and takes two big sips of his drink.
- 2331 hours: Goes to the smoking area with her drink in hand.
- 2337 hours: Comes back inside the establishment with Brian (manager). Brian walks her to the bar and makes her a drink free of charge. The drink is in a large glass, one they use to pour beer. Female claimed to me she took two sips of it, it was too strong, set it down by the dance floor, and didn't drink anymore of it. This is not true. She continued to drink it the rest of the night.
- 2338 hours: Goes to the dance floor with the drink.
- 2340 hours: Goes to the pool area with the drink.
- 2341 hours: Talks to another individual, takes a sip of his drink.
- 2341 hours: Goes to a different individual in the pool area and takes a sip of his drink.
- 2347 hours. Server brings her another drink (appears to be a tall drink). This drink was paid for by one of the males at the pool table. The female now has two drinks. The bartender should have seen this.

- 2354 hours: Takes both drinks with her and leaves the pool area.
- 2355 hours: Walks by the bar area and shows, shows both drinks to the bartender (I can't tell if it's Brian), and appears to say thank you (body language).
- 2355 hours: Female is on the dance floor and sets both drinks at the same table. She takes a drink from one and starts dancing. Her dancing is strange. Dancing by herself, lot of movement, movement becomes more exaggerated as the night goes on. The same male is sitting at the table. He has his hands in his lap and seems to be there for the band. Nobody tampers with her drinks.
- 0002 hours: Takes one of her drinks and sets it by the stage to dance.
- 0012 hours: Still dancing. At this point she looks intoxicated. Movements are exaggerated and slower. She sets her head on the stage in what appears to be a resting position.
- 0016 hours: Goes to the smoking area.
- 0036 hours: Comes back inside the establishment with a black male (the male who was in her vehicle at time of crash and just before arrest). She takes a hit from her vape pen.
- 0037 hours: The black male takes her to the bar and orders drinks for them. While the drinks are being made, the female is hugging the male from behind and thrusting his behind/back. Her actions indicate she is impaired. They are kissing and all over each other. The female is continuously adjusting her hair.
- The bartender gives them three drinks. A tall beer for the male. A shot (unknown if single or double) and a mixed drink in a small glass for the female. The female chugs the shot immediately. She sips the mixed drink (I think).
- 0054 hours: The black male is at the bathroom at this time. The female moves the beer closer to her but doesn't drink it. A security guard comes over and determines she's too intoxicated. He takes the beer away from her and they give her a water. The black male returns, has a short conversation with the security guard and walks away with the beer and mixed drink.
- 0058 hours: Two security guards walk the female outside. She can't walk on her own and they have to escort her.
- 0100 hours: Female is outside and walks towards her vehicle. She has poor balance and isn't walking straight. Security goes back inside the establishment.
- 0104 hours: Security comes outside and walks towards where female's vehicle is. Goes back inside the Windbreak shortly after.
- 0122 hours: Security comes outside and walks towards where female's vehicle is.
- 0126 hours: Security goes back inside.
- 0130 hours: Security comes outside and walks towards where female's vehicle is.

0134 hours: Security goes back inside

5. The Liquor Control Board considered all the evidence and recommended a finding of a violation of Fargo Municipal Code § 25-1509.2 against the Windbreak on August 18, 2023.
6. The Windbreak requested a hearing before the City Commission following the Liquor Control Board recommendation. A special City Commission hearing was held on January 23, 2024.
7. Chief Zibolski presented the factual basis in the form of a detailed summary of the timeline and description of the video review provided by Sgt. Golos for consideration by the City Commission to independently find a violation of Fargo Municipal Code § 25-1509.2.

CONCLUSIONS

The board of City Commissioners of the city of Fargo finds that Liquid Hospitality, LLC, d/b/a Windbreak Saloon provided alcohol to a person who had become overly intoxicated on August 18, 2023, in violation of FMC § 25-1509.2. The behaviors exhibited by the patron over the course of the evening, including but not limited to erratic and exaggerated dancing, laying her head on the stage, possession of multiple drinks at one time, Sgt. Golos's testimony and observation that the patron "looks intoxicated" at 0012 hours, and her behavior observed at 0037 hours, are consistent with the "indicators of intoxication or impairment" stated in the ordinance. Despite these indicators of intoxication, the Windbreak allowed the patron to continue to consume additional alcohol, as observed by Sgt. Golos at 0037 hours.

ORDER

After considerable discussion, questions and thorough review of all of the evidence, including arguments by counsel, Commissioner Preston moved to support the recommendation of the Liquor Control Board and further find that a violation of Fargo Municipal Code § 25-1509.2, is factually supported, and to impose a \$500 administrative penalty.

Commissioner Piepkorn seconded the motion. On roll call vote, the motion was passed unanimously.

DATED this 20 day of February, 2024.

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

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

ATTEST:

 _____
Steven Sprague, City Auditor

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Date: March 4, 2024

To: Fargo City Commission

From: Steven Sprague, City Auditor

Re: Ordinance Amendment - Recommendation define Stream of Service for Server Training

Recently, the Liquor Control Board was presented with a case where there was uncertainty if the door attendant was required to have server training and what the required age should be. After months of discussion the Liquor Control board is requesting the City Commission direct the City Attorney to amend the ordinances to more clearly define what positions are in the stream of service and who should be 21 or older as well as who should be required to have server training.

RECOMMENDED MOTION

DIRECT THE CITY ATTORNEY TO AMEND FARGO MUNICIPAL CODE 25-1501 and 15-1503 TO DEFINE THE STREAM OF SERVICE AND CLARIFY SERVER TRAINING REQUIREMENTS AND CLARIFY THE AGE TO BE EMPLOYED WHERE ALCOHOL IS SERVED

4

Date: March 4, 2024

To: Fargo City Commission

From: Steven Sprague, City Auditor

Re: Ordinance Amendment - Recommendation annual background checks and manager change notification requirements

The Liquor Control Board has been considering changes to the ordinance making a requirement to report changes in managers and submit the new manager for a background check. In addition, The Liquor Control Board would like to require annual background checks on all owners.

RECOMMENDED MOTION

DIRECT THE CITY ATTORNEY TO AMEND FARGO MUNICIPAL CODE 25-1504.1 TO ALLOW FOR ANNUAL BACKGROUND CHECKS ON LICENSEES AND REQUIRE NOTIFICATION AND BACKGROUND CHECK WHEN MANAGER'S CHANGE

March 4, 2024

5

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Royal Liquors

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1509 of the Fargo Municipal Code. The Liquor Control Board meet on February 21, 2024 at 4:30 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended following the established penalty found in 25-1512. This is a first compliance check failure, the penalty is \$500.

The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the penalty for failing a compliance check found in FMC 25-1512 (\$500 administrative penalty, first failure) to the liquor license violations identified at Royal Liquors.

March 4, 2024



To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Pho D'Licious

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1509 of the Fargo Municipal Code. The Liquor Control Board meet on February 21, 2024 at 4:30 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended following the established penalty found in 25-1512. This is a first compliance check failure, the penalty is \$500. In addition, the server had not completed server training, a violation of 25-1503. The penalty for not being server trained is a \$500 administrative penalty.

The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the penalty for failing a compliance check found in FMC 25-1512 (\$500 administrative penalty, first failure) to the liquor license violations identified at Pho D'licious. Additionally, find a failure to have employees server trained (\$500 administrative penalty)



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AUDITOR'S OFFICE

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

MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Agreement for Special Improvements – County 20 Storage & Transfer, Inc.

DATE: March 6, 2024

County 20 Storage & Transfer, Inc. (Robert Nelson) has requested municipal improvements in 46th Avenue Industrial Park Addition. Attached is the Agreement for Special Improvements relating to improvement district #BN-23-J1. County 20 Storage & Transfer, Inc. has executed this agreement and provided the necessary Letter of Credit.

Recommended Motion:

Approve the agreement for special improvements between the City of Fargo and County 20 Storage & Transfer, Inc. for municipal improvements in 46th Avenue Industrial Park Addition Improvement District #BN-23-J1.

AGREEMENT FOR SPECIAL IMPROVEMENTS

THIS AGREEMENT, Made and entered into this 5 day of March, 2024, by and between THE CITY OF FARGO, a municipal corporation, hereinafter "CITY"; and County 20 Storage & Transfer, Inc., hereinafter "DEVELOPER",

WHEREAS, DEVELOPER has made request of CITY for Sanitary Sewer, Water Main, Asphalt Pavement and Incidentals hereinafter "Utilities", in 46th Avenue Industrial Park Addition, hereinafter "Development";

WHEREAS, CITY has approved the installation of Utilities in the Development with certain conditions and requirements; and

WHEREAS, CITY will create Special Improvement District Number BN-23-J1 hereinafter "SID #BN-23-J1", for the purpose of constructing said Utilities; and

WHEREAS, a promise to pay the suitable security is required of DEVELOPER by CITY in order to insure payment of special assessments which will result from said Utilities; and,

WHEREAS, DEVELOPER has agreed to pay said special assessments and to provide security therefor,

NOW, THEREFORE, It is hereby agreed by and between the parties as follows:

1. CITY agrees to create SID #BN-23-J1 for purpose of constructing Utilities in the Development, to finance the Utilities through its municipal bonding authority, and to levy special assessments against said property for the payment of the bonds sold to finance the Utilities.

2. Subsequent to the execution of this Agreement and prior to the award of a contract for construction of the Utilities, DEVELOPER agrees to furnish to CITY, cash or other security in an amount equal to 50% of the estimated costs for the construction of the Utilities (as determined by CITY); said cash or other security to be retained and utilized by CITY pursuant to this Agreement or to be returned to DEVELOPER upon satisfaction of all of the terms and conditions of this agreement as hereinafter provided. The security, other than cash, which is furnished to CITY may be certificates of deposit, negotiable instruments, or a letter of credit, provided that the form and sufficiency thereof shall be subject to the approval of CITY, and CITY may, in its sole discretion, accept or reject the form of security which is offered by DEVELOPER.

3. DEVELOPER shall have the right to cancel this agreement at any time prior to the award of a contract for construction of the Utilities; provided, that written notice of such cancellation shall be delivered to CITY at least 72 hours prior to the time scheduled for such contract award and provided further, that DEVELOPER pays to CITY, at the time of delivery of such written notice, an amount which is equal to 0.5% of the estimated costs for the construction of said Utilities (as determined by CITY) or \$1,000, whichever is greater. The parties hereto

understand and agree that CITY has incurred substantial administrative, engineering and other expenses for preparation of plans, solicitation of bids and other tasks and that the amount of such expenses would be impossible to ascertain with certainty and that the cancellation payment as hereinabove provided constitutes liquidated damages and is fair and reasonable compensation for such expenses. It is further understood and agreed that in the event that DEVELOPER cancels this agreement without making payments as hereinabove provided, CITY may draw upon the letter of credit or other security which has been furnished pursuant to paragraph 2 of this agreement for such liquidated damages.

4. DEVELOPER agrees, for and on behalf of itself and its successors and assigns, to keep all property taxes current and to pay on or before October 15th of each year, the current annual installment of special assessments and any accrued penalties on each and every unimproved lot located in the Development. It is understood and agreed that a transfer of any of said lots from DEVELOPER to third parties shall not relieve DEVELOPER of its obligation to make certain the annual installments of special assessments are paid in full as hereinabove set forth.

5. A letter of credit which is furnished as security by DEVELOPER pursuant to paragraph 2 above shall be irrevocable without the express written consent of CITY. Provided that the letter of credit may provide that it will expire 60 days after written notice is given to CITY by certified mail, return receipt requested.

6. In the event that DEVELOPER, or its successor, fails to pay on or before October 15th of each year, annual installments of special assessments and any accrued penalties as provided in paragraph 4 above, CITY may utilize the cash or other security which has been furnished to CITY or may draw upon the letter of credit, and apply said funds to pay all or part of the special assessments and accrued penalties which have been levied against said property but have not been certified for collection. Any amount remaining after payment of all uncertified special assessments may, in the discretion of CITY, be retained for future use as security and subsequently be applied toward future special assessments that are not paid when they become due as set forth in this Agreement or such remaining funds may be applied to current annual installments of special assessments. Provided, that CITY shall not utilize the cash or other security, or draw upon the letter of credit without first giving DEVELOPER ten (10) days' written notice of its intent to do so, said notice being deemed to be delivered when it is addressed to the DEVELOPER and is deposited in the regular U.S. Mail system.

7. In the event that DEVELOPER fails to pay on or before October 15th of each year, annual installments of special assessments as provided in paragraph 4 above, and if the amount of cash or other security which has been furnished to CITY is not sufficient to pay all special assessments which have been levied against said property, whether or not said assessments have been certified for collection, CITY shall have a cause of action against DEVELOPER for the remaining balance of all unpaid special assessments on all unimproved lots located in the Development.

The parties hereto understand and agree that this Agreement is made as an inducement for installation of Utilities in the Development by CITY and that the remedy provided herein is

in addition to any and all statutory remedies provided for collection of delinquent taxes and special assessments.

8. Upon improvement of all lots located in the Development, or upon payment of the entire balance of special assessments levied against said property, whether certified for collection or not, CITY shall return to DEVELOPER, any cash or other security which has been furnished to CITY, or any remaining and unused portion thereof. It is specifically understood and agreed that "improvement" means issuance of a permit for construction of a building such as a house, apartment building, office building or commercial structure or other principal building reflecting the intended use of the property.

9. The security provided in this agreement may be released or reduced by a) improvement of the lots as described in 8 above, b) payment of all certified and uncertified special assessments, c) once the balance of uncertified special assessments for all unimproved lots is less than the total amount of security provided, in which case the security may be reduced to an amount equal to the uncertified special assessment of all unimproved lots.

10. In the event of expiration of the letter of credit upon written notice as provide in paragraph 5 of this Agreement, if any lots in the Development are not improved or if all special assessments are not paid, all as set forth in paragraph 8 above, then, and in that event, CITY may draw upon the letter of credit and the proceeds thereof shall be applied first toward unpaid special assessments levied against said property which have not been certified for collection. Any amount remaining after application of funds to uncertified special assessments shall be applied to special assessments which have been certified for collection. It shall be in the sole discretion of CITY whether any remaining funds shall be applied uniformly to all unimproved lots in said development, or selectively to any particular lot or lots. If the amount of cash available from the letter of credit is not sufficient to pay all special assessments on all unimproved lots in the Development, CITY shall have a cause of action against DEVELOPER for the deficiency, all as provided in paragraph 7 hereof.

11. DEVELOPER hereby agrees to indemnify the CITY for any expenses involved in the enforcement of this Agreement, including, but not limited to, reasonable attorneys fees and costs.

12. This Agreement shall be binding upon the parties hereto and their respective successors and assigns. Transfer or conveyance of any or all of the lots in the Development shall not relieve DEVELOPER of any of its responsibility under the terms of this Agreement. This Agreement shall be deemed to be separable, and the failure of any of its terms shall not constitute failure of the remaining terms of the Agreement, and the terms and conditions of this Agreement shall be interpreted in accordance with the laws of the State of North Dakota.

Dated the day and year first above written.

THE CITY OF FARGO, a municipal corporation

By _____
Tim Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

DEVELOPER

Agent of Ballman POA for
By *Robert J. Nelson*
Its *President*

8

MEMORANDUM

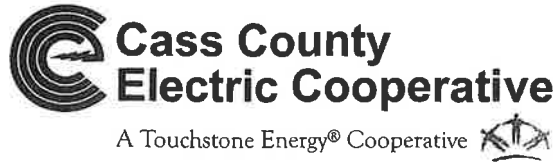
TO: Board of City Commissioners
FROM: Steven Sprague, City Auditor
SUBJECT: Cass County Electric Franchise Agreement
DATE: March 11, 2024

Pursuant to a limited franchise agreement between the City of Fargo and Cass Country Electric entered into in July 1995 and amended December 2016, Cass County Electric is required to provide written notice of the intention to service areas annexed into the City of Fargo. Attached is the required notice referring to the annexation of February 23, 2024.

Please receive and file the amendment to the limited franchise agreement adding the area annexed by the City of Fargo on February 23, 2024.

Recommended Motion:

Receive and file the amendment to the limited franchise agreement between the City of Fargo and Cass County Electric adding the area annexed by the City of Fargo on February 23, 2024.



March 6, 2024

Susan Thompson
Finance Director
City of Fargo
225 4th Street North
Fargo, ND 58102

<CERTIFIED MAIL>

Dear Ms. Thompson,

This letter is in reference to the franchise agreement that the City of Fargo granted to Cass County Electric Cooperative, Inc. in December 2016.

In paragraph eleven (11), the agreement refers to a written notice required to add designated areas (annexed property being served by the Cooperative) to this agreement.

Please note the designated areas identified below, which are hereby identified as additional annexed areas in which Cass County Electric Cooperative Inc. will provide service to existing and new customers:

- 1) That part of the Northwest Quarter of Section 14, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, being more fully described in the Annexation plat Document #1706817.

Said part of Section 14 as described in the annexation plat, contains 14.20 acres, more or less.

This area was annexed into the City of Fargo and recorded at the Cass County Recorder's office on February 23, 2024, at 02:30 PM, Document No. 1706817.

- 2) That part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, AND the East 100 feet of the Southeast Quarter of Section 29, Township 140N, Range 49W of the Fifth Principal Meridian, Cass County, North Dakota, AND the North 100 feet of the Northeast Quarter of Section 32, Township 140N, Range 49W of the Fifth Principal Meridian, Cass County, North Dakota being more fully described in the Annexation plat Document #1693834.

Said part of Section 28,29, and 32 as described in the annexation plat, contains 80.40 acres more or less.

Ms. Susan Thompson
March 6, 2024
Page 2

This area was annexed into the City of Fargo and recorded at the Cass County Recorder's office on July 24, 2023, at 01:34 PM, Document No. 1693834.

Sincerely,

A handwritten signature in cursive script that reads "Jodi Bullinger".

Jodi Bullinger, PE
VP Engineering & Operations
Cass County Electric Cooperative

Cc: Marshal Albright, CEO Cass County Electric Cooperative
Ms. Tami Norgard, Vogel Law, Attorney for Cass County Electric Cooperative, Inc.



9a

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

Full, Legal Name of Gaming Organization
Plains Art Museum

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

Name of Location
Wild Bill's Sports Saloon

Street 1776 45 St S	City Fargo	ZIP Code 58103	County Cass
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Beginning Date(s) Authorized 07/01/24	Ending Date(s) Authorized 06/30/25	Number of Twenty-One tables, if zero, enter "0" 1
---	--	---

Specific location where games of chance will be conducted and played at the site (required)
Entire Facility-Excluding Offices and Restrooms

If conducting Raffle or Poker activity provide date(s) or month(s) of the event(s) if known

RESTRICTIONS FOR CITY/COUNTY USE ONLY

The organization **must** provide the City/County a list of game types included in their Internal Control Manual and have the manual available upon request. The manual must thoroughly explain each game type to be conducted. The City/County can only approve these games at the site.

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

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

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

If any information above is false, it is subject to administrative action on behalf of the State of North Dakota Office of Attorney General

APPROVALS

Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

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



96

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

Full, Legal Name of Gaming Organization
Plains Art Museum

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

Name of Location
Big Top Bingo

Street 901 25 St S	City Fargo	ZIP Code 58103	County Cass
------------------------------	----------------------	--------------------------	-----------------------

Beginning Date(s) Authorized 07/1/2024	Ending Date(s) Authorized 06/30/2025	Number of Twenty-One tables, if zero, enter "0" 0
--	--	---

Specific location where games of chance will be conducted and played at the site (required)
Entire Facility-Excluding Offices and Restrooms

If conducting Raffle or Poker activity provide date(s) or month(s) of the event(s) if known

RESTRICTIONS FOR CITY/COUNTY USE ONLY

The organization **must** provide the City/County a list of game types included in their Internal Control Manual and have the manual available upon request. The manual must thoroughly explain each game type to be conducted. The City/County can only approve these games at the site.

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

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

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

If any information above is false, it is subject to administrative action on behalf of the State of North Dakota Office of Attorney General

APPROVALS

Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

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



AG

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

Full, Legal Name of Gaming Organization

Plains Art Museum

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

Name of Location

Blue Wolf Casino (West Acres Bowl)

Street 3402 Interstate Blvd S	City Fargo	ZIP Code 58103	County Cass
Beginning Date(s) Authorized 07/01/24	Ending Date(s) Authorized 06/30/25	Number of Twenty-One tables, if zero, enter "0" 6	

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

Entire Facility-Excluding Offices and Restrooms

If conducting Raffle or Poker activity provide date(s) or month(s) of the event(s) if known

RESTRICTIONS FOR CITY/COUNTY USE ONLY

The organization **must** provide the City/County a list of game types included in their Internal Control Manual and have the manual available upon request. The manual must thoroughly explain each game type to be conducted. The City/County can only approve these games at the site.

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

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

Days of week of gaming operations (if restricted)

Hours of gaming (if restricted)

If any information above is false, it is subject to administrative action on behalf of the State of North Dakota Office of Attorney General

APPROVALS

Attorney General	Date
Signature of City/County Official	Date
PRINT Name and official position of person signing on behalf of city/county above	

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



Page 44 APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (9-2023)

Handwritten initials 'Joa' in a circle



Applying for (check one)
[X] Local Permit [] Restricted Event Permit*
Games to be conducted: [] Bingo [X] Raffle [] Raffle Board [] Calendar Raffle [] Sports Pool [] Poker* [] Twenty-One* [] Paddlewheels*

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

ORGANIZATION INFO

Name of Organization or Group: North Dakota Autism Center, Inc
Dates of Activity: 04/05/2024
Organization or Group Contact Person: Kayla Farahmand
E-mail: kfarahmand@ndautismcenter.org
Telephone Number: 701-532-4585
Business Address: 647 13th Ave E
City: West Fargo
State: ND
ZIP Code: 58078

SITE INFO

Site Name: Holiday Inn Fargo
County: Cass
Site Physical Address: 3808 13th Ave S
City: Fargo
State: ND
ZIP Code: 58103
Provide the exact date(s) & frequency of each event & type: 04/05/2024

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

Table with 3 columns: Game Type, Description of Prize, Exact Retail Value of Prize. Row 1: 50/50/ Raffle, Half or earned amount, 1,200.00. Total (limit \$40,000 per year) \$ 1,200.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds: Community Programs
Does the organization presently have a state gaming license? [X] No
Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30? [X] No
Has the organization or group received a local permit from any city or county for the fiscal year July 1 - June 30? [X] Yes - Total Retail Value: 2,200.00
Is the organization or group a state political party or legislative district party? [X] No

Printed Name of Organization Group's Permit Organizer: Kayla Farahmand
Telephone Number: 701-532-4585
E-mail Address: kfarahmand@ndautismcenter.org
Signature of Organization Group's Permit Organizer: Kayla Farahmand
Title: Mission Development Administrator
Date: Mar 8, 2024

APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (4-2023)

106

Applying for (check one)

Local Permit Restricted Event Permit*

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

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

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

ORGANIZATION INFO

Name of Organization or Group Knights of Columbus - 6570		Dates of Activity (Does not include dates for the sales of tickets) (5-1)-(5-31)		701-235-2484	
Organization or Group Contact Person Mike O'Leary		E-mail olearyandconn@gnm.com		Telephone Number	
Business Address 1825 11th Street South		City Fargo		State ND	
Mailing Address (if different)		City		ZIP Code 58103	

SITE INFO

Site Name North Church of Fargo		County Cass	
Site Physical Address 1825 11th Street South		City Fargo	
State ND		ZIP Code 58103	
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) Daily Raffle - May 1st - 31st			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	\$250 x 22 days	\$5500
✓	\$50 x 4	\$200
✓	\$100 x 4	\$400
✓	\$500 x 1	\$500
Total (limit \$40,000 per year)		\$ 16500

Intended Uses of Gaming Proceeds
Church Furnace repairs

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

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

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

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

Name Mike O'Leary	Title Chair	Telephone Number 701-235-2484	E-mail Address olearyandconn@gnm.com
Signature of Organization or Group's Top Official <i>[Signature]</i>		Title Chair Person	Date 3/21/2024

APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (9-2023)

100

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

Bingo Raffle Raffle Board Calendar Raffle Sports Pool ^{calendar} Poker* Twenty-One* Paddlewheels*

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

ORGANIZATION INFO

Name of Organization or Group Fargo Lions		Dates of Activity (Does not include dates for the sales of tickets) 9-9-24 to 12-30-24	
Organization or Group Contact Person Trent Freier	E-mail Fargo.Lions.Treasure@outlook.com	Telephone Number 701-226-1475	
Business Address PO Box 21	City Fargo	State ND	ZIP Code 58102-0021
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Fargo Lions c/o Trent Freier	County Cass
Site Physical Address 4853 Woodhaven Dr	City Fargo
	State ND
	ZIP Code 58104

Provide the exact date(s) & frequency of each event & type (Ex Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)
Every Monday 9-9-24 thru 12-30-24

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

Game Type	Description of Prize	Exact Retail Value of Prize
Sports pool	Cash. Monday Night Football (NFL) caledar sports pool. Cash prize of \$50	\$10,200.00
	each game per board. 17 game in season for total prizes of \$850 per	
	set (book)sold. Maximum 12 sets of books for \$10,200 payouts	
Total (limit \$40,000 per year)		\$ 10,200.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Lions Club Charitable programs which includes paying for eye exams and eye glasses for those without insurance coverage

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

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

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

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

Printed Name of Organization Group's Permit Organizer Jane Pettinger	Telephone Number 701-306-4495	E-mail Address pettingercrew@outlook.com
Signature of Organization Group's Permit Organizer 	Title President	Date 3/11/2024



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (9-2023)

Yod

Applying for (check one)

Local Permit Restricted Event Permit*

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

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

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.

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

ORGANIZATION INFO

Name of Organization or Group El Zagal Escort Motor Patrol		Dates of Activity (Does not include dates for the sales of tickets) 3-23-24	
Organization or Group Contact Person Scotty Uhrich	E-mail suhrich5361@gmail.com	Telephone Number 701-261-7978	
Business Address 1429 3rd St N	City Fargo	State ND	ZIP Code 58102
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name El Zagal Shrine Temple	County Cass
Site Physical Address 1429 3rd St N	City Fargo
	State ND
	ZIP Code 58102

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

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

Game Type	Description of Prize	Exact Retail Value of Prize
50/50 raffle	cash	\$1,000.00
Total (limit \$40,000 per year)		\$ 1,000.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Temple operations

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

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

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

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

Printed Name of Organization Group's Permit Organizer Scotty Uhrich	Telephone Number 701-261-7978	E-mail Address suhrich5361@gmail.com
Signature of Organization Group's Permit Organizer 	Title Raffle Chairman	Date 3-12-24



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (9-2023)

100

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

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

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

ORGANIZATION INFO

Name of Organization or Group United Way of Cass-Clay		Dates of Activity (Does not include dates for the sales of tickets) Thursday, March 28, 2024	
Organization or Group Contact Person Briana Nupdal	E-mail bnupdal@unitedwaycassclay.org	Telephone Number 701-532-4615	
Business Address 4351 23rd Avenue South	City Fargo	State ND	ZIP Code 58104
Mailing Address (if different) P.O. Box 1609	City Fargo	State ND	ZIP Code 58107

SITE INFO

Site Name Delta Hotels by Marriott Fargo	County Cass		
Site Physical Address 1635 42nd St SW	City Fargo	State ND	ZIP Code 58103

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

1 Raffle Drawing during United Way Community Celebration and Annual Meeting event for United Way, with drawing during social hour following program that evening (03/28/2024).

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Tickets to Various Concerts and Shows Locally	1,382.88
Total (limit \$40,000 per year)		\$ 1,382.88

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Proceeds will benefit United Way of Cass-Clay in our efforts towards our three Bold Community Goals - Preventing Hunger and Homelessness

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

Yes No

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

Yes No

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

No Yes - Total Retail Value: **16,336** (This amount is part of the total prize limit for \$40,000 per fiscal year)

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

Yes No

Printed Name of Organization Group's Permit Organizer Karla Isley	Telephone Number 701-237-5050	E-mail Address kisley@unitedwaycassclay.org
Signature of Organization Group's Permit Organizer <i>Karla Isley</i>	Title President & CEO	Date 03/07/2024



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (9-2023)

70F

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

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

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

ORGANIZATION INFO

Name of Organization or Group Anne Carlsen		Dates of Activity (Does not include dates for the sales of tickets) 4.27.24	
Organization or Group Contact Person Becky Aamodt	E-mail rebecca.aamodt@annecenter.org	Telephone Number 1-800-568-5175	
Business Address 701 3rd St NW	City Jamestown	State ND	ZIP Code 58401
Mailing Address (if different) PO Box 8000	City Jamestown	State ND	ZIP Code 58401

SITE INFO

Site Name Holiday Inn Fargo	County Cass
Site Physical Address 3803 13th Ave S	City Fargo
	State ND
	ZIP Code 58103

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)
Raffle - April 27, 2024 - one time

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	1. wine and wine glasses 2. Circul water bottle and flavor pods	1. \$100 2. \$64.90
	3. Cooler Bag and Happy Harry's Gift Card 4. Portable Speaker	3. \$85.99 4. \$159.99
	5. Smart Pen and Smart Writing Board	5. \$99.95
Total (limit \$40,000 per year)		\$ 510.83

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
All funds raised at the event will be used to provide services and supports to children and young adults with disabilities or delays

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 for \$40,000 per fiscal year)

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

Printed Name of Organization Group's Permit Organizer Rebecca Aamodt	Telephone Number 701 403 9887	E-mail Address rebecca.aamodt@annecenter.org
Signature of Organization Group's Permit Organizer 	Title Events and Special Projects Coordinor	Date 3.12.24



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (9-2023)

100%

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* Paddlewheel

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.

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

ORGANIZATION INFO

Name of Organization or Group Carson Glore Foundation		Dates of Activity (Does not include dates for the sales of tickets) May 20, 2024	
Organization or Group Contact Person Nathan Nerland	E-mail nathannerland@gmail.com	Telephone Number 612-619-5109	
Business Address 6155 Westbrook Rd	City Minneapolis	State MN	ZIP Code 55422
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Osgood Golf Course	County Cass		
Site Physical Address 4400 Clubhouse Drive S	City Fargo	State ND	ZIP Code 58104
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) Raffle 05/20/2024			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Ryobi One Plus HP 18V Brushless Cordless Miter Saw Kit	\$349.00
Raffle	Toro Ultimate 22 inch Mowing Machine	\$579.00
Raffle	Toro Recycler 21 inch Lawn Mower	\$499.00
Total (limit \$40,000 per year)		\$

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Build schools, fresh water wells, latrines, educate and provide safety for a whole generation in areas of Kenya and Uganda

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 for \$40,000 per fiscal year)

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

Printed Name of Organization Group's Permit Organizer Faith H Simonson	Telephone Number 701-367-3568	E-mail Address speechylady@gmail.com
Signature of Organization Group's Permit Organizer <i>Faith H. Simonson</i>	Title Raffle Volunteer	Date 03 13 2024



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (9-2023)

402

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

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

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

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

ORGANIZATION INFO

Name of Organization or Group TNT Kid's Fitness and Gymnastics		Dates of Activity (Does not include dates for the sales of tickets) 04/04/2024	
Organization or Group Contact Person Janine Wolf	E-mail janine@tntkidsfitness.org	Telephone Number 701-551-5004	
Business Address 2800 Main Ave	City Fargo	State ND	ZIP Code 58103
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Brewhalla - Market / Events / Hotel		County Cass	
Site Physical Address 1702 1st Ave N	City Fargo	State ND	ZIP Code 58103
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc) 4/4/2024			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Date Night Package if Local Gift Cards	500.00
Raffle	Elena K Photography Package	500.00
Raffle	Suite shots Experience	1,000.00
Total (limit \$40,000 per year)		\$ 2,000.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Funds raised are dedicated to programming and allow us to increase capacity to serve more children and include partner programs

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

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

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

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

Printed Name of Organization Group's Permit Organizer Janine Wolf	Telephone Number 701-551-5004	E-mail Address janine@tntkidsfitness.org
Signature of Organization Group's Permit Organizer 	Title Director Business Operations	Date 3/14/2024

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

11

Type: Developer Agreements

Location: Interstate Business District Addition

Date of Hearing: 3/11/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/18/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Nathan Boerboom</u>

The Committee reviewed the accompanying correspondence from Division Engineer, Nathan Boerboom, regarding Developer Agreements for Interstate Business District Addition with ARD Properties, LLC and Storage Kings, LLC.

Staff have been coordinating with the two property owners who have developed the proposed plat. As a result of this coordination, we have developed two Developer Agreements to accompany the plat. Both agreements consider the eventual construction of 45th Street North, adjacent to the west side of this Addition. The construction of 45th Street North is not immediately required to support the development of this Addition, but instead will be constructed at a future date to be determined by the City. Due to this delay in construction, these Agreements include the two property owners agreeing to waive their right to protest the resolution of necessity for the future project.

The Agreement with ARD Properties also includes provisions for the regional storm water pond dedication. The agreement with Storage Kings allows for a driveway that will serve an existing building and will be allowed to remain until the land east of 44th Street North is annexed and platted.

On a motion by Steve Sprague, seconded by Michael Redlinger, the Committee voted to recommend approval of the Developer Agreements with ARD Properties, LLC and Storage Kings, LLC for Interstate Business District Addition.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Developer Agreements with ARD Properties, LLC and Storage Kings, LLC for Interstate Business District Addition.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

	<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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Michael Redlinger
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"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


 Tom Knakmuhs, P.E.
 City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC
From: Nathan Boerboom, Assistant City Engineer
Date: March 6, 2024
Re: Developer Agreement for Interstate Business District Addition

Background:

Staff has been coordinating with the two property owners (ARD Properties, LLC and Storage Kings, LLC) who have developed the proposed plat for the Interstate Business District Addition. As a result of this coordination, we have developed two Developer Agreements to accompany the plat.

Both Developer Agreements consider the eventual construction of 45th Street North, adjacent to the west side of this Addition. The construction of 45th Street North is not immediately required to support the development of this Addition, but instead will be constructed at a future date to be determined by the City. Due to this delay in construction, these Agreements include the two property owners agreeing to waive their right to protest the resolution of necessity for the future project. Staff is recommending approval of this Agreement so that there is certainty to being able to construct the future project, 45th Street North, when it is determined necessary without the risk of it being protested.

Additionally, the Developer Agreement for ARD Properties includes provisions for the regional storm water pond dedication. Within the plat for this Addition is the dedication of Lot Two, Block One to the City for the purpose of providing a regional storm water retention pond. Due to this pond providing benefit to more than just the property owned by ARD Properties, it is proposed that the City will purchase the portion of land within Lot Two, Block One that will be serving properties not owned by ARD Properties. The purchase price of this land will be special assessed back to the properties benefiting from the pond.

Finally, the Developer Agreement for Storage Kings allows for a driveway, heading east off of 44th Street North, to be constructed within the platted negative access easement. This driveway will serve an existing building and will be allowed to remain until the land east of 44th Street North is annexed and platted. Once annexed and platted, the driveway will be required to be relocated outside of the negative access easement.

Attached with this Memorandum are the full versions of the Developer Agreements with ARD Properties and Storage Kings, which provides further information on the items that the City and property owners agree upon to serve the Interstate Business District Addition with City infrastructure.

Recommended Motion:

Approve the two Developer Agreement with ARD Properties, LLC and Storage Kings, LLC for the Interstate Business District Addition.

NAB/klb
Attachments

Developer Agreement

This Agreement, made and entered into between ARD Properties, LLC, a North Dakota limited liability company (“Developer”) and the City of Fargo, a municipal corporation (“City”), is for the purpose of establishing public infrastructure for the property identified and legally described on the attached Exhibit A (the “Development Property”). For good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Developer holds all right, title and interest in the following portions of the Development Property: Lots Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten, Eleven, Twelve, Thirteen, Fourteen, and Fifteen in Block One of the Interstate Business District Addition in the City of Fargo, Cass County, North Dakota. Developer intends to develop these portions of the Development Property. The parties hereby acknowledge that Developer intends to dedicate Lot Eight in Block One of the Interstate Business District Addition to Southeast Cass Water Resource District upon recording of the plat.
2. Developer agrees to make a request for infrastructure to the City for the bidding and construction administration of public infrastructure of 44th Street North within the Development Property. The funding of this initial request for infrastructure will follow the City’s Infrastructure Funding Policy in effect at the time of creation of the improvement district for this project.
3. City shall complete street construction and improvements of 45th Street North, from 40th Avenue North to 52nd Avenue North, at a future date to be determined by the City, at its sole discretion. The funding of the future 45th Street North improvements will follow the City’s Infrastructure Funding Policy in effect at the time of creation of the improvement district for this project, and the lots within the Development Property will be assessed per the Arterial Indirect category of the City’s Infrastructure Funding Policy.

4. Developer agrees to dedicate 203,080 square feet of Lot Two, Block One to the City for the purpose of providing a regional storm water retention pond for the Development Property as well as the unplatted land located at 5151 45th Street North, (the “Opp Property”) and the unplatted land south of Lot Fifteen, Block One, north of 40th Avenue North (the “Knutson Property”). Due to the regional storm water retention pond providing benefit to properties not owned by the Developer (Lot 1, Block 1 of Development Property, Opp Property, & Knutson Property), the City agrees to purchase the remainder, 95,564 square feet, of Lot Two, Block One of the Development Property. This area equates to the land necessary to provide storm water retention for those properties not owned by the Developer. The purchase price shall be \$1.75 per square foot, for a total of \$167,237.00.
5. Developer agrees to dedicate an access and utility easement along the western property line of Lot Nine, Block One for the use of the unplatted land located at 5151 45th Street North (the Opp Property), as well as, access to the existing Billboard Easement as shown on the plat.
6. Developer hereby waives its right to protest the resolution(s) of necessity for the infrastructure and improvements for which such resolutions are required pursuant to North Dakota Century Code, Section 40-22-17, and specifically consents to the construction of the infrastructure and improvements as described in Paragraphs 2 and 3 above, and to the assessment of the costs thereof to the Development Property. Developer further waives its right to protest the amount, benefit, or any other assessment attribute related to the installation and construction of the infrastructure and improvements as described in Paragraphs 2 and 3 above. Project costs which may be assessed against the Development Property include all costs of completing the construction of the infrastructure and improvements.
7. This Agreement shall be binding upon the respective successors and assigns of the parties hereto, including a purchaser of any portion of the Development Property. Developer agrees to inform any purchasers of the Development Property of the existence and context of this Agreement. Developer also hereby agrees to notify the City no later than 10 days prior to an assignment or sale of the Development Property.
8. The parties hereby agree that this Agreement may be recorded against the Development Property.
9. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal

jurisdiction.

10. The failure or delay of a party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver by that party of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right of the party to enforce each and every term of this Agreement.
11. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.
12. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.
13. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.

[The remainder of this page intentionally left blank – signature pages follow]

Developer

ARD Properties, LLC

Dated: March 13, 2024

By: [Signature]

Its: President

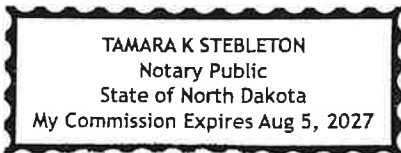
STATE OF ND)
) ss.
COUNTY OF Cass)

On this 13th day of March, 2024, before me, a notary public in and for said county and state, personally appeared Trent Duda, an authorized signatory of ARD Properties, LLC, the person described in and that executed the within and foregoing instrument, and acknowledged to me that said person executed the same.

[Signature: Tamara K. Stebleton]

Notary Public
Cass County, ND
My Commission expires:

(SEAL)



City of Fargo, a municipal corporation

Dated: _____

Timothy J Mahoney, Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2024, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY 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)

Exhibit A- Development Property

Lots One, Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten, Eleven, Twelve, Thirteen, Fourteen, and Fifteen in Block One of the Interstate Business District Addition in the City of Fargo, Cass County, North Dakota

Developer Agreement

This Agreement, made and entered into between Storage Kings ND, LLC, a North Dakota limited liability company (“Developer”) and the City of Fargo, a municipal corporation (“City”), is for the purpose of establishing public infrastructure for the property identified below and legally described on the attached Exhibit A (the “Development Property”). For good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Developer holds all right, title and interest in the following portions of the Development Property: Lot One in Block One of the Interstate Business District Addition in the City of Fargo, Cass County, North Dakota (“Lot 1”). Developer intends to participate in the development of the Development Property, which shall include Lot 1.
2. Developer also holds all right, title and interest to unplatted real property located to the east of Lot 1 of the Interstate Business District Addition. The legal description for the unplatted real property is described in the attached Exhibit B and shall be referred to herein as the “Unplatted Property.”
3. Developer agrees to make a request for infrastructure to the City for the bidding and construction administration of public infrastructure of 44th Street North within the Development Property. The funding of this initial request for infrastructure will follow the City’s Infrastructure Funding Policy in effect at the time of creation of the improvement district for this project.
4. As part of the development, the City will require a negative access easement from the north right-of-way line of 40th Avenue North continuing to the north approximately 275 feet. This 275-foot negative access easement is depicted within the Interstate Business District plat. Developer hereby agrees that as part of the development it will relocate the existing driveway access to the Unplatted Property from 40th Avenue North to 44th Street North. The City will allow Developer to relocate the driveway access to

be within the negative access easement on the condition that Developer must remove the driveway access from the negative access easement and relocate the driveway upon annexation and platting of the Unplatted Property.

5. City shall complete street construction and improvements of 45th Street North, from 40th Avenue North to 52nd Avenue North, at a future date to be determined by the City, which shall be determined at the sole discretion of the City. The funding of the future 45th Street North improvements will follow the City's Infrastructure Policy in effect at the time of creation of the improvement district for this project.
6. Developer hereby waives its right to protest the resolution(s) of necessity for the infrastructure and improvements for which such resolutions are required pursuant to North Dakota Century Code, Section 40-22-17, and specifically consents to the construction of the infrastructure and improvements as described in Paragraphs 2 and 3 above, and to the assessment of the costs thereof to the Development Property. Developer further waives its right to protest the amount, benefit, or any other assessment attribute related to the installation and construction of the infrastructure and improvements as described in Paragraphs 3, 4, and 5 above. Project costs which may be assessed against the Development Property include all costs of completing the construction of the infrastructure and improvements.
7. This Agreement shall be binding upon the respective successors and assigns of the parties hereto, including a purchaser of Lot 1 or the Unplatted Property. Developer agrees to inform any purchasers of Lot 1 or the Unplatted Property of the existence and context of this Agreement. Developer also hereby agrees to notify the City no later than 10 days prior to an assignment or sale of Lot 1 and/or the Unplatted Property.
8. The parties hereby agree that this Agreement may be recorded against the Development Property and the Unplatted Property.
9. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.
10. The failure or delay of a party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver by that party of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not

affect the validity of this Agreement, or the right of the party to enforce each and every term of this Agreement.

- 11. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.
- 12. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.
- 13. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.

Developer

Storage Kings ND, LLC

Ronald Knutson

By: Ronald Knutson

Its: President

Dated: 3-7-24

STATE OF North Dakota)
) ss.
COUNTY OF Burleigh)

On this 7 day of March, 2024, before me, a notary public in and for said county and state, personally appeared Ronald Knutson, an authorized signatory of Storage Kings ND, LLC, the person described in and that executed the within and foregoing instrument, and acknowledged to me that said person executed the same.



Alicia Rogstad

Notary Public
Cass County, ND
My Commission expires:

City of Fargo, a municipal corporation

Dated: _____

Timothy J Mahoney, Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2024, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY 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)

Exhibit A- Development Property

Lots One, Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten, Eleven, Twelve, Thirteen, Fourteen, and Fifteen in Block One of the Interstate Business District Addition in the City of Fargo, Cass County, North Dakota

Exhibit B – Unplatted Property Description

That part of the Southwest Quarter of Section 15, Township 140 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Southwest Quarter; thence North 87 degrees 58 minutes 39 seconds East, an assumed bearing, on the south line of said Southwest Quarter, 368.52 feet to the southwest corner of Auditor's Lot 1 of said Southwest Quarter of Section 15, on file and of record in the Office of the County Recorder of said Cass County, as Document Number 631117; thence North 02 degrees 35 minutes 17 seconds West on the east line of said Auditor's Lot 1, a distance of 1,050.05 feet to the north line of the South 1,050.00 feet of said Southwest Quarter; thence North 87 degrees 58 minutes 39 seconds East on said North Line, 691.48 feet to a point, said point being a point of intersection with a line parallel with the west line of said Southwest Quarter passing through a point which is located on the south line of said Southwest Quarter, 1,060.00 feet from the southwest corner of said Southwest Quarter, and said point also being the northeast corner of a parcel of land as described in document number 1702196, on file and of record in the Office of said County Recorder, and the POINT OF BEGINNING hereof; thence South 02 degrees 35 minutes 17 seconds East on said parallel line, also being the east line of said parcel, 950.05 feet to a point 100.00 feet northerly of the south line of said Southwest Quarter; thence North 87 degrees 58 minutes 39 seconds East, parallel with and 100.00 feet northerly of said south line being a northerly line of said parcel, 1,005.67 feet to the westerly right-of-way line of Interstate Highway 29; thence North 05 degrees 54 minutes 08 seconds East on said westerly right-of-way line, 714.41 feet to an angle point of said right-of-way line; thence North 22 degrees 01 minute 44 seconds West on said westerly right-of-way line, 257.99 feet to a point of intersection with the said north line of the South 1,050.00 feet of said Southwest Quarter; thence South 87 degrees 58 minutes 39 seconds West on said north line, 1,025.29 feet to the POINT OF BEGINNING.

Tract contains 23.14 acres, more or less.

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

12

Type: Right of Way Use Agreement

Location: 4470 24th Ave S

Date of Hearing: 3/11/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/18/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Matt Jennings</u>

The Committee reviewed a communication from Civil Engineer, Matt Jennings, regarding a Right of Way Use Agreement for the new EOLA development at 4470 24th Avenue South.

The Contractor building the new EOLA development requested using a portion of 24th Avenue South as a tagging area as they construct the adjacent buildings. EOLA Landholdings, LLC will be responsible for any damage they cause on 24th Avenue South. The primary use will be for job trailers, dumpsters, boom truck operations and light material storage.

On a motion by Ben Dow, seconded by Steve Sprague, the Committee voted to recommend approval of the Right of Way Use Agreement with EOLA Landholdings, LLC.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Right of Way Use Agreement with EOLA Landholdings, LLC.

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>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Brenda Derrig, Assistant City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Tom Knakmuhs, City Engineer
 Susan Thompson, Finance Director

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

ATTEST:


 Tom Knakmuhs, P.E.
 City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC
From: Matthew Jennings, ROW Management
Date: March 7, 2024
Re: EOLA Right of Way Use Agreement 4470 24th Ave S

Background:

The Contractor building the new EOLA development at 4470 24th Avenue South requested using a portion of 24th Avenue South as a staging area as they construct the adjacent buildings. Attached is the agreement to use the ROW during construction. EOLA Landholdings, LLC will be responsible for any damage they cause on 24th Avenue South. The primary use will be for job trailers, dumpsters, boom truck operations and light material storage.

EOLA Landholdings, LLC will perform street maintenance such as sweeping, snow removal and hauling until the ROW Use Agreement expires. This agreement has the option to be extended depending on the contractors needs for right of way use and construction timeline.

Recommended Motion:

Approve the ROW Use Agreement with EOLA Landholdings, LLC.

Right of Way Use Agreement

This Agreement, made and entered into between EOLA Landholdings, LLC a North Dakota Limited Liability Company (“Owner”), and the City of Fargo, a North Dakota municipal corporation (“City”), is for the purpose of providing Owner the use of the Public Right of Way (“PROW” or “right of way”) adjacent to Owner’s property located in Fargo, North Dakota, described below.

For good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Owner is the fee title owner of the following described real property:

Lot 3, Block 1, EOLA Second Addition, Fargo, Cass County

2. Owner shall be permitted to exercise control over the PROW adjacent to the intended construction activity on the Development Property, under certain terms and conditions as stated herein. Owner shall be responsible for ensuring all construction and restoration work in the 24th Avenue South PROW complies with all City Construction Standards and Specifications, which can be found at: <https://fargond.gov/city-government/departments/engineering/design-construction/construction-specifications>.
3. Owner shall be permitted use of the PROW in such a manner as described in this Agreement until October 1, 2024 and as modified from time to time by written agreement of the parties hereto. Any request for extension of the term of this Agreement must be made in writing at least thirty (30) days’ prior to the expiration to allow City adequate time to consider the request. Owner shall be required to meet the timeframes for interim and final completion as stated in this Agreement.

4. Owner is required to obtain all permits required for working in PROW. As part of the permit review process for work in the PROW, City Engineering must approve proposed design documents for construction and improvements in the PROW. Any change, modification, or alteration to the proposed design documents for construction and improvements after initial approval by City Engineering must be submitted to City Engineering for review and approval no less than 30 days prior to commencement of any work.
5. Owner agrees to comply with all City ordinances, policies and regulations to minimize noise impacts to the neighborhood surrounding the Development Property between the hours of 10:00 p.m. and 7:00 a.m.
6. Owner shall be responsible for all snow plow operations within the PROW until the expiration of the Right of Way Use Agreement. Owner agrees to be responsible for stockpiling or hauling snow off the avenue and along the PROW it occupies. Snow removal operations shall be started after each snow event or as directed by the City Engineer or designee.
7. Parking Impacts – Owner will be allowed to close the parking along 24th Avenue South adjacent to the Development Property until expiration of the Right of Way Use Agreement.
8. Any change to dates of impacts must first be approved by City Engineering. Impacts that are not identified in this Agreement must first be approved by City Engineering. City Engineering reserves the right to obtain Commission approval of impacts if in the sole discretion of City Engineering the impacts are too large for City Engineering to decide without Commission approval. Any impacts requiring Commission approval will require an amendment to this agreement.
9. Owner shall be responsible for all private utilities affected by their construction activities, and shall notify the utility provider of proposed impacts. Owner shall be solely responsible for contracting with the private utility providers and for payment to all parties involved. City shall have no responsibility for the reestablishment of private utility disruptions caused by Owner's construction activities.
10. Owner hereby grants to City a right of entry and access to the Development Property, in the event City must enter the workspace to remedy a public safety concern, provide fire protection to the site and adjoining properties, or for any reason as determined in City's sole discretion. Owner agrees and understands that City is not responsible for construction delay or conflicts occasioned by the City's need to protect the public under any circumstances. City agrees to make a reasonable attempt to contact the Owner and its ~~Construction Manager prior to City entry to the construction site, except in case of an~~ emergency as defined and determined solely by City.
11. Owner will, during any use of PROW, use due care to protect City streets, utilities and all other public property and private utilities occupying the PROW. Extraordinary or excessive damage caused by Owner's construction activities shall be remedied immediately, at the sole discretion of City. All costs incurred by the City to remedy the damage will be billed to the

Owner. Payment is due within 30 days. If payment is not received within 30 days, interest will accrue at a rate of 1.5% per month.

Owner agrees that failure to secure acceptance from City of the restored infrastructure and improvements shall result in the establishment of a special assessment district consisting solely of the Development Property, for the purpose of financing the Owner's payment responsibilities to the City. City will levy special assessments against the Development Property to recover all costs of the Project, in accordance with Chapter 40-22 of the North Dakota Century Code and the City of Fargo Infrastructure Funding Policy. Owner waives its right to protest the resolution of necessity for the improvements for which such resolutions are required pursuant to North Dakota Century Code section 40-22-17, and specifically consents to the construction of the improvements and to the assessment of all costs thereof to the Development Property. Owner further waives its right to protest the amount, benefit or any other assessment attribute related to the work completed by City. Project costs, which may be assessed against the Development Property, include all costs of completing the work required in accordance with the terms of this Agreement.

12. Owner accepts and shall be responsible for all maintenance of the street, curb, adjoining green space and all other City infrastructure, which may be impacted by Owner's work in the PROW. Owner shall undertake all maintenance activities, including sweeping, snow removal and hauling, along the PROW and within the construction site, all to the satisfaction of the City Engineer or designee.
13. At its discretion, City may terminate this Agreement should it view the public infrastructure or public health to be at a greater risk than is acceptable to the City. City shall give Owner thirty (30) days' notice to vacate the PROW if such condition is found to exist. However, in the event of an emergency, as determined in the sole discretion of City, City may immediately terminate Owner's use of the PROW and direct Owner to restore the PROW to the City's control.
14. Notices required by this Agreement shall be given as follows:

As to the Owner:

Epic Companies
Blake Nybakken
blake@epiccompaniesnd.com
3140 Bluestem Dr #101
West Fargo, ND 58078
(701) 866-1006

As to the City:

City of Fargo Engineering
attn.: Matt Jennings
feng@fargond.gov
225 4th St N
Fargo, ND 58102
(701) 241-1545

15. Owner agree to hold the City harmless against any and all expenses, demands, claims or losses of any kind that may be sustained by City, its officers, agents and employees, its property, streets, sidewalks, or any other municipal improvements by reason of the Owner's use of the PROW. Owner agrees to secure liability insurance for at least \$500,000, and name City as an additional insured on such policy. Owner shall provide a Certificate

of Insurance evidencing the City's insured status in advance of any construction activity in the PROW.

16. It is understood and agreed by and between the parties that this Agreement is given subject to any limitation on the authority of City to grant such permission, which may now or hereafter exist.
17. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.
18. The failure or delay of City to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right of the City to enforce each and every term of this Agreement.
19. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable. This Agreement is to be construed as if drafted by all parties.
20. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.
21. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.
22. It is specifically agreed between the parties that this Right of Way Use Agreement or a Memorandum of this Agreement may be recorded.
23. This Agreement shall be binding on the parties' successors and assigns, and may not be transferred or assigned without the prior written consent of the parties hereto.
24. The City and Owner wish to work together to provide an acceptable finished product. Owner shall provide to City a deposit in the amount of \$10,000 to cover all expenses that may be incurred by City as a result of Owner's work in the PROW.

~~Failure of the Owner to pay any billings provided for herein within 30 days from the due date shall result in City reducing the deposit for the amount(s) billed.~~

When a corrective measure is required by the City, City will notify Owner by phone and email. If the Owner fails to timely remedy and the City incurs the expense, the amount of deposit shall be reduced accordingly. If at any time the amount of the deposit is reduced to less than \$5,000, Owner shall replenish the deposit to \$10,000.

Once the project is finished and final acceptance is given by the City, the Owner shall request reimbursement of the remaining deposit in writing. Any deposit remaining at the end of the construction project and acceptance by City of the return of the right of way to City shall be refunded to Owner.

When the project is finished and all work has been accepted by the City, any unpaid costs incurred by the City that are the responsibility of the Owner will be assessed to the Development Property. The Owner hereby expressly waives any protest of this assessment.

Dated this 29th day of February, 2024.

EOLA Landholdings, LLC
a North Dakota Limited Liability Company

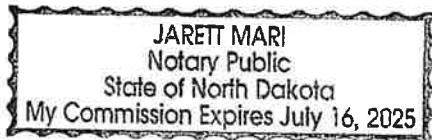

Blake Nybakken

Its: Vice President

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

On this 29th day of February, 2024, before me personally appeared Blake Nybakken of EOLA Landholdings, LLC, a North Dakota Limited Liability Company that is described in, and that executed the foregoing instrument, and acknowledged to me that such limited liability company executed the same.

(SEAL)





Notary Public

Dated this ____ day of _____, 2024.

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 _____, 2024, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:

The legal description was prepared by:
City of Fargo Engineering Department

This document was prepared by:
Kasey D. McNary
Assistant City Attorney
Serkland Law Firm
10 Roberts St N
Fargo, ND 58108
701-232-8957
kmcnary@serklandlaw.com



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

March 13, 2024

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Project No. SR-24-A1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, March 13, 2024, for Sidewalk & Shared Use Path Rehab/Reconstruction, Project No. SR-24-A1, located at Various Areas City Wide.

The bids were as follows:

Roers Construction Company LLC	\$460,483.45
Master Construction Co Inc	\$581,966.00
Ti-Zack Concrete Inc	\$695,340.72
Engineers Estimate	\$703,555.00

Private financial security is not needed.

No protests have been received.

This office recommends award of the contract to Roers Construction Company LLC. in the amount of \$460,483.45 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE
City Engineer

**Engineer's Statement Of Cost**

Project # SR-24-A1

Sidewalk & Shared Use Path Rehab/Reconstruction

Various Areas City Wide

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

NOW THEREFORE Thomas Knakmuhs, do hereby certify as follows:

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

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

Sidewalk & Shared Use Path Rehab/Reconstruction Project # SR-24-A1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
Assessed					
1	Rem & Repl Sidewalk 4" Thick Reinf Conc	SY	1,267.00	91.00	115,297.00
2	Rem & Repl Sidewalk 6" Thick Reinf Conc	SY	50.00	120.00	6,000.00
3	Rem & Repl Driveway 6" Thick Reinf Conc	SY	40.00	120.00	4,800.00
4	F&I Sidewalk 4" Thick Reinf Conc	SY	2,190.00	65.50	143,445.00
5	F&I Sidewalk 6" Thick Reinf Conc	SY	40.00	90.00	3,600.00
6	Sodding	SY	20.00	54.60	1,092.00
7	Topsoil - Strip & Spread	CY	50.00	151.63	7,581.50
8	Fill - Contractor Supply	CY	120.00	98.26	11,791.20
9	Remove Tree	EA	8.00	485.25	3,882.00
Assessed Total					297,488.70
City Paid					
10	Rem & Repl Curb & Gutter	LF	160.00	72.80	11,648.00
11	Rem & Repl Sidewalk 4" Thick Reinf Conc	SY	185.00	91.00	16,835.00
12	Rem & Repl Sidewalk 6" Thick Reinf Conc	SY	50.00	120.00	6,000.00
13	F&I Sidewalk 4" Thick Reinf Conc	SY	115.00	65.50	7,532.50
14	F&I Sidewalk 6" Thick Reinf Conc	SY	95.00	100.00	9,500.00
15	F&I Det Warn Panels Cast Iron	SF	128.00	166.00	21,248.00
16	Casting to Grade - w/Conc	EA	4.00	2,123.00	8,492.00
17	GV Box to Grade - w/Conc	EA	5.00	909.75	4,548.75
18	Curb Stop Box to Grade	EA	8.00	909.75	7,278.00
19	Remove Sidewalk All Thicknesses All Types	SY	40.00	25.50	1,020.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
20	Remove Driveway All Thicknesses All Types	SY	20.00	36.40	728.00
21	Mulching Type 1 Hydro	SY	2,900.00	4.25	12,325.00
22	Seeding Type B	SY	2,900.00	4.25	12,325.00
23	Irrigation Repair	EA	10.00	1,213.00	12,130.00
24	Rem & Repl Pavement 9" Thick Asph	SY	20.00	182.00	3,640.00
25	Topsoil - Import Special	CY	150.00	151.63	22,744.50
26	Traffic Control - Type 1	LS	1.00	5,000.00	5,000.00
City Paid Total					162,994.75
Total Construction in \$					460,483.45

Engineering	10.00%	46,048.35
Admin	4.00%	18,419.34
Legal	3.00%	13,814.50
Interest	4.00%	18,419.34
Contingency	5.00%	23,024.18
Total Estimated Costs		580,209.16
Sidewalk Assessments		374,835.77
Sales Tax Funds - Infrastructure - 420		205,373.39
Unfunded Costs		0.00

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

Date: 03/13/2024



Thomas Knakmuhs
City Engineer



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

14

Improvement District No. BR-23-H1 Type: Negative Final Balancing Change Order #2

Location: 25th St., Main Ave – 1st Ave N Date of Hearing: 3/11/2024

<u>Routing</u>	<u>Date</u>
City Commission	3/18/2024
PWPEC File	X
Project File	<u>Jeremy Engquist</u>

The Committee reviewed the accompanying correspondence from Project Manager, Jeremy Engquist, regarding Negative Final Balancing Change Order #2 in the amount of \$-128,978.24, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Negative Final Balancing Change Order #2 in the amount of \$-128,978.24, bringing the total contract amount to \$2,394,119.60.

On a motion by Steve Dirksen, seconded by Steve Sprague, the Committee voted to recommend approval of Negative Final Balancing Change Order #2 to Master Construction.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #2 in the amount of \$-128,978.24, bringing the total contract amount to \$2,394,119.60 to Master Construction.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Prairie Dog Funds & Special Assessments


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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<input checked="" type="checkbox"/>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Michael Redlinger
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"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, P.E.
 City Engineer

Memorandum

To: Members of PWPEC
From: Jeremy Engquist, Project Manager
Date: February 28, 2024
Re: Improvement District No. BR-23-H1 – Final Balancing Change Order #2

Background:

Improvement District No. BR-23-H1 is for the replacement of the storm sewer inlets & leads, concrete curb & gutter, concrete pavement, sidewalks, pedestrian railing, and traffic signal improvements on 25th Street from Main Avenue to 1st Avenue North.

Master Construction is the Prime Contractor on this project.

Attached is the Final Balancing Change Order in the amount of -\$128,978.24. In addition, Change Order #2 for the amount of \$17,475.76 is encompassed in with this Final Balancing Change Order and includes the following four items:

1. (Added new bid item #20) Traffic Control Type 1 - additional traffic control was required on Main Ave to complete the Abandon Manhole Work on 25th St (CO #1 - Item #18).

Total = \$1,738.00

2. (Added new bid item #21) Repair Feed Point - installed new power feed to existing signal cabinet for existing traffic signal located at 1st Avenue North & 25th Street South intersection.

Total = \$4,523.20

3. (Added new bid item #22) Special Bid Item A - includes the installation of new traffic signal mast arm signs to 1st Avenue North & 25th Street North existing traffic signals (Sign Items).

Total = \$6,066.56

4. (Added new bid item #23) Special Bid Item B - includes various conduit and pull box repairs needed to utilize existing traffic signal system located at 1st Avenue North & 25th Street South intersection. (Traffic Signal Repair Items).

Total = \$5,148.00

Total cost of Change Order #2 = \$17,475.76

The Contractor met the requirements of the contract and it has been accepted by the City. This FBCO reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

Original Contract:	\$ 2,506,678.00
Change Order #1	\$ 16,419.84
Change Order #2 (FBCO)	\$ -128,978.24
Total Contract:	\$ 2,394,119.60

Recommended Motion:

Approve Final Balancing Change Order #2 in the amount of (neg.) -\$128,978.24 to Master Construction for Improvement District No. BR-23-H1.

JJE/jmg
Attachment



CHANGE ORDER REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-H1
25TH STREET - MAIN AVE TO 1ST AVE N

Final Balancing
Change Order

Change Order No 2 Change Order Date 2/5/2024
 Contractor Master Construction Co Inc

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

EXPLANATION OF CHANGE Change Order # 2

Item #20 Traffic Control Type 1 - additional traffic control was required on Main Ave to complete the Abandon Manhole Work on 25th St (CO #1 - Item #18), Item #21 Repair Feed Point - installed new power feed to existing signal cabinet, Item #22 Special Bid Item A - includes the installation of new traffic signal mast arm signs to 1st Ave N & 25th St N existing traffic signals (Sign Items), Item #23 Special Bid Item B - includes various conduit and pull box repairs needed to utilize existing traffic signal system (Traffic Signal Repair Items).

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Paving		Temp Construction Entrance	EA	2		2	-2	0	\$1,250.00	-\$2,500.00
		Sediment Control Log 6" to 8" Dia	LF	1100		1100	-1100	0	\$5.00	-\$5,500.00
Storm Sewer		Connect Pipe to Exist Pipe	EA	5		5	-5	0	\$1,500.00	-\$7,500.00
		F&I Inlet - Round (RDI) Reinf Conc	EA	1		1	-1	0	\$3,000.00	-\$3,000.00
				Storm Sewer Sub Total					-\$10,500.00	
Paving		Mill / Grind Conc Pvmnt	SY	4500		4500	-4500	0	\$12.50	-\$56,250.00
		Weed Control Type B	SY	2800		2800	-2800	0	\$0.10	-\$280.00
				Paving Sub Total					-\$56,530.00	
Storm Sewer	3	Clean Pipe All Sizes All Types	LF	300	0	300	-37	263	\$10.00	-\$370.00
	4	F&I Pipe w/GB SDR 26 - 6" Dia PVC	LF	10	0	10	30	40	\$110.00	\$3,300.00

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 (\$)
	5	F&I Pipe w/GB SDR 26 - 8" Dia PVC	LF	10	0	10	-5	5	\$120.00	-\$600.00
	6	F&I Pipe w/GB SDR 26 - 15" Dia PVC	LF	203	0	203	-19	184	\$160.00	-\$3,040.00
	11	Remove Inlet	EA	11	0	11	-1	10	\$700.00	-\$700.00
	12	Connect Pipe to Exist Structure	EA	4	0	4	-1	3	\$2,100.00	-\$2,100.00
	13	Remove Pipe All Sizes All Types	LF	425	0	425	-38	387	\$20.00	-\$760.00
	14	F&I Pipe w/GB 36" Dia Reinf Conc	LF	8	0	8	-3	5	\$400.00	-\$1,200.00
Change Order 2	18	Traffic Control - Type 1	LS	0	0	0	1	1	\$1,738.00	\$1,738.00
	19	Repair Feed Point	EA	0	0	0	1	1	\$4,523.20	\$4,523.20
	20	Special Bid Item A	LS	0	0	0	1	1	\$6,066.56	\$6,066.56
	21	Special Bid Item B	LS	0	0	0	1	1	\$5,148.00	\$5,148.00
							Change Order 2 Sub Total	340	\$4.00	-\$1,640.00
Paving	23	Temp Fence - Safety	LF	750	0	750	-67	5133	\$30.00	-\$2,010.00
	24	Remove Pavement All Thicknesses All Types	SY	5200	0	5200	30	80	\$55.00	\$1,650.00
	25	Topsoil - Import	CY	50	0	50	-465	535	\$4.00	-\$1,860.00
	26	Boulevard Grading	SY	1000	0	1000	-118	982	\$17.00	-\$2,006.00
	27	Excavation	CY	1100	0	1100	124	1024	\$12.00	\$1,488.00
	28	Subcut	CY	900	0	900	-506	1994	\$4.00	-\$2,024.00
	29	Subgrade Preparation	SY	2500	0	2500	-506	1994	\$3.00	-\$1,518.00
	30	F&I Woven Geotextile	SY	2500	0	2500	-506	1994	\$24.00	-\$12,144.00
	31	F&I Class 5 Agg - 12" Thick	SY	2500	0	2500	-506	1994	\$24.00	-\$12,144.00
							Storm Sewer Sub Total	5133	\$30.00	-\$2,010.00
							Change Order 2 Sub Total	340	\$4.00	-\$1,640.00
							Change Order 2 Sub Total	5133	\$30.00	-\$2,010.00
							Change Order 2 Sub Total	340	\$4.00	-\$1,640.00
							Change Order 2 Sub Total	5133	\$30.00	-\$2,010.00

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 (\$)
	32	Salvage Gravel	SY	3100	0	3100	417	3517	\$12.00	\$5,004.00
	33	F&I Edge Drain 4" Dia PVC	LF	1360	0	1360	-53	1307	\$17.00	-\$901.00
	34	F&I Curb & Gutter Standard (Type II)	LF	1450	0	1450	86	1536	\$45.00	\$3,870.00
	35	Remove Curb & Gutter	LF	1450	0	1450	86	1536	\$10.00	\$860.00
	36	F&I Pavement 9" Thick Reinf Conc	SY	170	0	170	-33	137	\$200.00	-\$6,600.00
	37	F&I Pavement 11" Thick Doweled Conc	SY	5200	0	5200	-67	5133	\$200.00	-\$13,400.00
	38	F&I Sidewalk Curb	LF	40	0	40	45.5	85.5	\$100.00	\$4,550.00
	39	F&I Sidewalk 5" Thick Reinf Conc	SY	650	0	650	-32	618	\$95.00	-\$3,040.00
	40	F&I Sidewalk 6" Thick Reinf Conc	SY	120	0	120	-21	99	\$110.00	-\$2,310.00
	41	Remove Sidewalk All Thicknesses All Types	SY	945	0	945	-51	894	\$15.00	-\$765.00
	42	F&I Impressed 6" Thick Reinf Conc	SY	175	0	175	17	192	\$120.00	\$2,040.00
	43	F&I Det Warn Panels Cast Iron	SF	72	0	72	-4	68	\$65.00	-\$260.00
	44	F&I Casting - Std Manhole	EA	2	0	2	1	3	\$900.00	\$900.00
	45	F&I Casting - Floating Manhole	EA	6	0	6	-2	4	\$1,900.00	-\$3,800.00
	46	Casting to Grade - w/Conc	EA	18	0	18	3	21	\$700.00	\$2,100.00
	48	GV Box to Grade - w/Conc	EA	3	0	3	2	5	\$300.00	\$600.00
	49	F&I Traffic Surface Gravel	Ton	500	0	500	-250	250	\$35.00	-\$8,750.00
	50	Mulching Type 1 Hydro	SY	400	0	400	-140	260	\$2.00	-\$280.00
	51	Mulching Type 2 Hydro	SY	2400	0	2400	-440	1960	\$2.00	-\$880.00
	52	Seeding Type C	SY	2800	0	2800	-580	2220	\$1.50	-\$870.00
	54	Inlet Protection - New Inlet	EA	11	0	11	2	13	\$250.00	\$500.00

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 (\$)
	55	Inlet Protection - Existing Inlet	EA	13	0	13	-2	11	\$200.00	-\$400.00
	57	Construction Signing	SF	200	0	200	-175	25	\$7.00	-\$1,225.00
	58	Flagging	MHR	1200	0	1200	-1168.5	31.5	\$40.00	-\$46,740.00
	59	Traffic Control - Changeable Message Board	EA	4	0	4	-1	3	\$4,000.00	-\$4,000.00
Signing	61	F&I Diamond Grade Cubed	SF	62.8	0	62.8	0.7		Paving Sub Total	-\$93,861.00
								63.5	\$50.00	\$35.00
									Signing Sub Total	\$35.00
Pavement Marking	63	Obtiterate Pavement Markings	SF	40	0	40	20	60	\$11.00	\$220.00
	64	F&I Contrast Tape Messages	SF	190	0	190	56	246	\$70.00	\$3,920.00
	65	F&I Grooved Plastic Film 16" Wide	LF	160	0	160	27	187	\$40.00	\$1,080.00
	66	F&I Grooved Plastic Film 24" Wide	LF	220	0	220	-40	180	\$60.00	-\$2,400.00
	67	F&I Grooved Contrast Film 7" Wide	LF	1850	0	1850	1194	3044	\$21.00	\$25,074.00
	68	F&I Grooved Contrast Film 11" Wide	LF	1100	0	1100	178	1278	\$27.00	\$4,806.00
Traffic Signals	77	F&I Signal Cable AWG 14/2	LF	403	0	403	-3	400	\$3.00	-\$9.00
	78	F&I Signal Cable AWG 14/3	LF	307	0	307	-7	300	\$3.00	-\$21.00
	79	F&I Signal Cable AWG 14/20	LF	490	0	490	-40	450	\$8.00	-\$320.00
	80	F&I Signal Cable 3M Opticom	LF	1245	0	1245	-245	1000	\$3.00	-\$735.00
	81	F&I Signal Cable CAT 6	LF	176	0	176	-26	150	\$4.00	-\$104.00
	82	F&I Signal Cable Loop Lead-in	LF	2186	0	2186	-386	1800	\$3.00	-\$1,158.00
	83	F&I Signal Cable #6 RHW	LF	474	0	474	26	500	\$4.00	\$104.00
	84	F&I Conduit 1.5" Dia	LF	71	0	71	-21	50	\$60.00	-\$1,260.00
									Pavement Marking Sub Total	\$32,700.00

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 (\$)
	86	F&I Ped Push Button Post	EA	3	0	3	1	4	\$2,500.00	\$2,500.00
	87	F&I Pull Box	EA	3	0	3	-1	2	\$3,000.00	-\$3,000.00
								Traffic Signals Sub Total		-\$4,003.00
Miscellaneous	90	F&I Railing	LF	333	0	333	-3	330	\$275.00	-\$825.00
								Miscellaneous Sub Total		-\$825.00

Summary.

Source Of Funding	Prairie Dog Funds and Special Assessments
Net Amount Change Order # 2 (\$)	-\$128,978.24
Previous Change Orders (\$)	\$16,419.84
Original Contract Amount (\$)	\$2,506,678.00
Total Contract Amount (\$)	\$2,394,119.60

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

APPROVED
For Contractor
Title


Jake Antony
Controller

APPROVED DATE
Department Head
Mayor
Attest



PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

15

Improvement District No. BR-23-E1
Location: 8th St S, 9th - 13th Ave, 10th Ave S, 7th - 9th St, 12th Ave S, 7th - 9th St

Type: Change Order #3 & Time Extension
Date of Hearing: 3/11/2024

Routing Date
City Commission 3/18/2024
PWPEC File X
Project File Brian Skanson

The Committee reviewed the accompanying correspondence from Project Manager, Brian Skanson, related to Change Order #3 in the amount of \$35,632.37, for additional work and the associated time extension as shown below:

Table with 2 columns: Original Completion Dates, Revised This Memo. Rows show Substantial and Final completion dates for 2023 and 2024.

Staff is recommending approval of Change Order #3 in the amount of \$35,632.37, which brings the total contract amount to \$3,902,792.26 and the associated time extension.

On a motion by Steve Dirksen, seconded by Steve Sprague, the Committee voted to recommend approval of Change Order #3 and the associated time extension to Border States Paving.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #3 in the amount of \$35,632.37, bringing the total contract amount to \$3,902,792.26 and the associated time extension to the Substantial and Final Completion Dates adjusting them to October 13, 2023 and November 12, 2023 to Border States Paving.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Special Assessments

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

COMMITTEE

Tim Mahoney, Mayor
Nicole Crutchfield, Director of Planning
Steve Dirksen, Fire Chief
Brenda Derrig, Assistant City Administrator
Ben Dow, Director of Operations
Steve Sprague, City Auditor
Tom Knakmuhs, City Engineer
Susan Thompson, Finance Director

Table with 4 columns: Present, Yes, No, Unanimous. Rows correspond to committee members with checkboxes for their votes.

ATTEST:

C: Kristi Olson

Signature of Tom Knakmuhs, P.E.
Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Brian Skanson, Project Manager
Date: February 29, 2024
Re: Improvement District No. BR-23-E1 – Change Order #3 & Time Extension

Background:

Border States Paving Inc. is the Prime Contractor for Improvement District BR-23-E1 on 8th Street South from 9th Avenue to 13th Avenue; 10th Avenue South from 7th Street to 9th Street; 12th Avenue South from 7th Street to 9th Street.

The attached Change Order #3 in the amount of \$35,632.37 (0.93% of the original contract) increases the total contract amount to \$3,902,792.26. In addition, to complete the additional work associated with this change order the Substantial Completion Date will be extended an additional 13 days. The justification for Change Order # 3 is as follows:

Change Order #3

- 1.) The Contractor had to remove a crossing chamber in the intersection of 11th Avenue and 8th Street to allow for the new sanitary sewer to be placed as planned. This work cost an additional \$1,611.60 and added 3 days to the contract.
- 2.) The Contractor had to purchase and place 20’ of 33” RCP to reconnect the storm pipe after the crossing chamber was removed. This work cost an additional \$2,788.40 and added 4 days to the contract
- 3.) The Contractor had to remove and haul out an additional 6” of clay on 12th Avenue between 7th Street and 9th Street because the subgrade was unsuitable for street subgrade. This work cost an additional \$26,896.02 and added 5 days to the contract.
- 4.) To help with the subgrade base the Contractor used Geogrid instead of our standard Woven Geotextile. This work cost an additional \$4,336.35 and added 1 day to the contract.

Recommended Motion:

It is my recommendation to modify the project completion dates as shown below and approve Change Order #3 in the amount of \$35,632.37 to Border States Paving Inc.

Current Completion Dates	Revised This Memo
Substantial – September 30, 2023 Final – October 30, 2023	Substantial – October 13, 2023 Final – November 12, 2023

**CHANGE ORDER REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-E1**

ON 8 ST S FROM 9 AVE S TO 13 AVE S. ON 10 AVE S FROM 9 ST S TO 7 ST S. ON 12 AVE S FROM 9 ST S TO 7 ST S.

Change Order No 3 **Change Order Date** 2/28/2024
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

Time and materials to remove a crossing chamber in the intersection of 11th Ave and 8th St S. The contractor also had to purchase 20' of 33" RCP to reconnect the storm pipe after the crossing chamber was removed. Also, additional work and materials to stabilize the subgrade on 12th Ave between 7th and 9th St S.

Section	Line No	Item Description	Unit	Orig Cont		Prev C/O		Prev Cont		Curr C/O		Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
				Qty	Price	Qty	Price	Qty	Price	Qty	Price			
Change Order 3	19	Remove Manhole	EA	0		0		0		1		1	\$1,611.60	\$1,611.60
	20	F&I Pipe 33" Dia	LF	0		0		0		20		20	\$139.42	\$2,788.40
	21	Site Grading	LS	1		0		0		2		2	\$13,448.01	\$26,896.02
	22	F&I Geogrid - Subgrade Reinf	SY	1135.17		0		0		2270.34		2270.34	\$1.91	\$4,336.35
												Change Order 3 Sub Total	\$35,632.37	

Summary

Source Of Funding	Special Assessment
Net Amount Change Order # 3 (\$)	\$35,632.37
Previous Change Orders (\$)	\$25,406.18
Original Contract Amount (\$)	\$3,841,753.71
Total Contract Amount (\$)	\$3,902,792.26

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

CONTRACT DATES

Current Substantial Completion Date
9/30/2023

Additional Days Substantial Completion
13

New Substantial Completion Date
10/13/2023

Current Final Completion Date
10/30/2023

Additional Days Final Completion
13

New Final Completion Date
11/12/2023

Interim Completion Dates

APPROVED
For Contractor
Title

Joel Paur 2-28-2024
Border States Paving Inc.

Joel Paur

APPROVED DATE
Department Head
Mayor
Attest

TRC

16

March 4, 2024

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

**Re: Memorandum of Offer to Landowner
Temporary Easement – Improvement District #BR-23-G2**

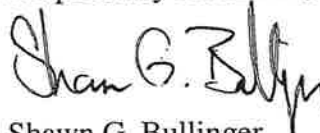
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a temporary easement in association with Improvement District #BR-23-G2. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a temporary easement from **New Millennium Real Estate Partners, LLP** in association with Improvement District #BR-23-G2 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Jeremy Gorden
Nancy J. Morris

MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project BR-23-G2	County Cass	Parcel(s) 115
Landowner New Millennium Real Estate Partners LLP		
Mailing Address 4942 Ulrich Rd Garrison, ND 58540		

The following-described real property and/or related temporary easement areas are being acquired for project purposes:

See attached exhibit(s) to the easements accompanying this Memorandum of Offer.

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 1,314.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$ _____
Easement and Access Control	\$ <u>1,314.00</u>
Improvements on Right of Way*	\$ _____
Damages to Remainder	\$ _____
Total Offer	\$ <u>1,314.00</u>

*Description of Damages to Remainder are as follows:

Boyd Anderson
 Owner Signature
 Signature hereby constitutes acceptance of offer as presented above.

Shawn G. Bullinger
 Shawn G. Bullinger
 Land Acquisition Specialist, City of Fargo

Fargo City Commission has considered the offer and approves the same:



Timothy J. Mahoney
 MAYOR

 SIGNATURE

 DATE

EASEMENT
(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that **NEW MILLENNIUM REAL ESTATE PARTNERS, LLP** a North Dakota limited liability partnership, whether one or more, hereinafter referred to as "Grantor", for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00), to him 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 temporary construction easement over, upon and in land hereinafter described for the purpose of street and utility construction and activities appurtenant thereto, said land being more fully described, to-wit:

A temporary easement, over, under and across that part of Lot 3, Block 1, **SOUTHGATE PLAZA ADDITION** to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The North 30.00 feet of the East 15.00 feet of the said Lot 3.

Said parcel contains 450 square feet, more or less, and is subject to all existing easements of record.

Said parcel is pictorially represented in Exhibit "A" hereto and made a part hereof.

Grantor, his successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times, when necessary or convenient to do so, go over and upon said above-described parcel of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, his successors and assigns, further agrees they will not disturb, injure, molest or in any manner interfere with said parcel to be used for the storage of dirt and all other construction

activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcel so as to interfere in any manner with the said parcel to be used for the storage of dirt and all other construction activities during the construction phase of said project, 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 storage of dirt and all other construction activities was begun.

This easement shall terminate on June 30, 2026, or end of project, whichever occurs later.

(Signatures on following pages).

IN WITNESS WHEREOF, Grantor set its hand and caused this instrument to be executed this 27th day of February, ²⁰²⁴ ~~2023~~.

GRANTOR:

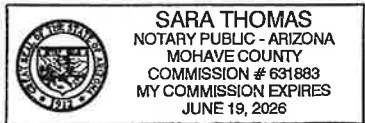
NEW MILLENNIUM REAL ESTATE PARTNERS, LLP
a North Dakota limited liability partnership

By: Boyd Anderson

Its: Managing Partner

Arizona
STATE OF ~~NORTH DAKOTA~~)
COUNTY OF ~~CASS~~ Mohave) ss.

On this 27th day of February, ²⁰²⁴ ~~2023~~, before me, a notary public in and for said county and state, personally appeared Boyd Anderson, the Partner of NEW MILLENNIUM REAL ESTATE PARTNERS, LLP, a North Dakota limited liability partnership, to me known to be the persons described in and who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same.



(SEAL)

[Signature]
Notary Public
~~Cass County, North Dakota~~
Mohave Arizona

IN WITNESS WHEREOF, Grantee has set its hand and caused this instrument to be executed this ____ day of _____, 2024.

GRANTEE:

City of Fargo, a North Dakota municipal corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steven Sprague, City Auditor

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

On this ____ day of _____, 2024, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

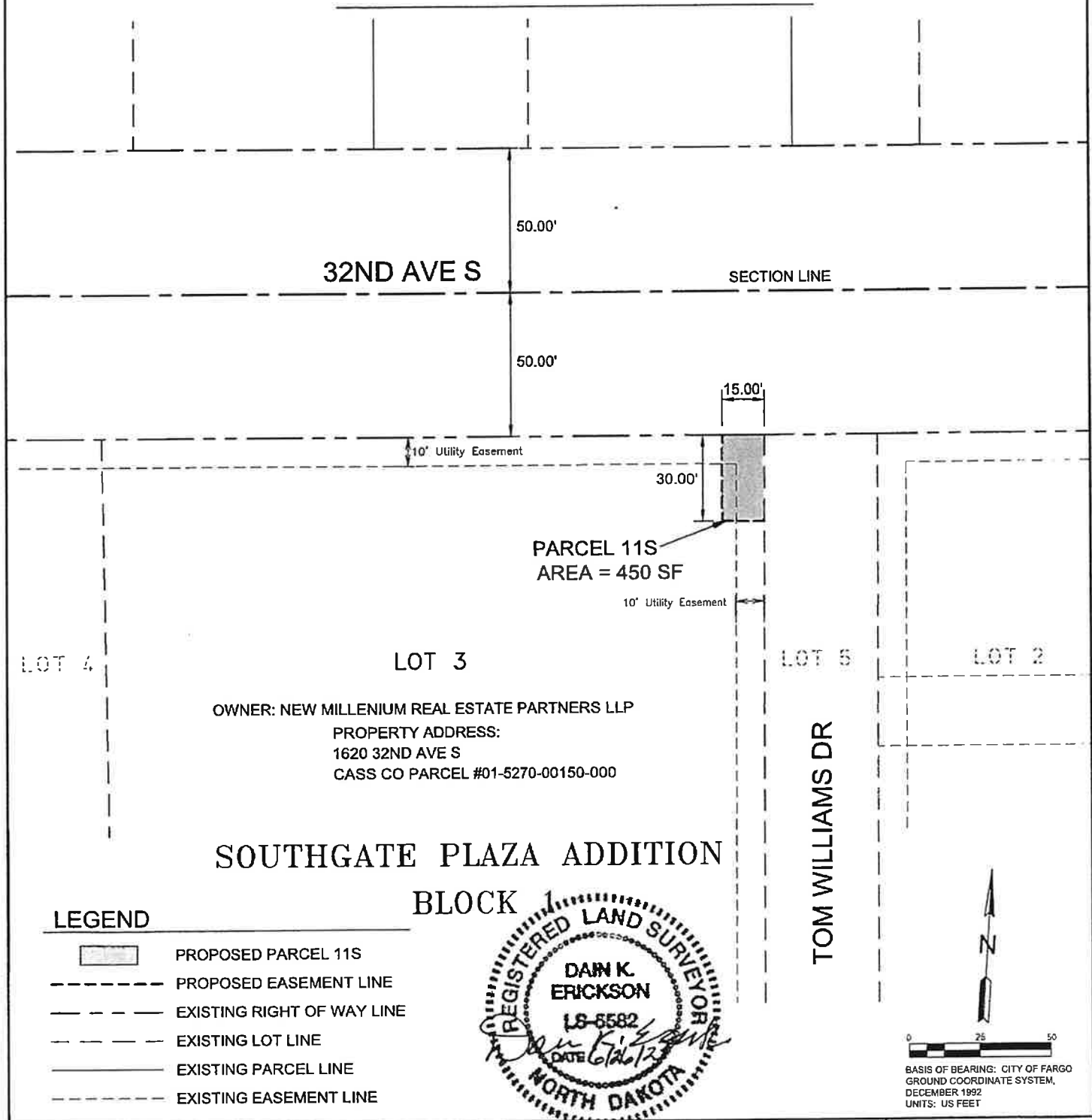
Notary Public
Cass County, ND
My Commission expires:

(SEAL)

The legal description was prepared by:
Dain K. Erickson
Registered Land Surveyor
LS-5582
Apex Engineering Group
4733 Amber Valley Parkway S.
Fargo, ND 58104
(701) 373-7980

This document was prepared by:
Nancy J. Morris
City Attorney
Serkland Law Firm
10 Roberts Street
Fargo, ND 58102
(701) 232-8957
nmorris@serklandlaw.com







EASEMENT EXHIBIT "A"

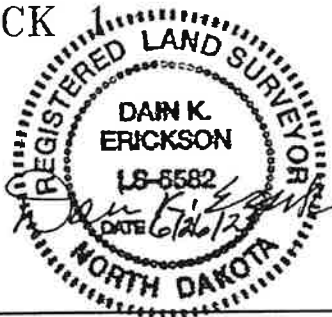


OWNER: NEW MILLENIUM REAL ESTATE PARTNERS LLP
 PROPERTY ADDRESS:
 1620 32ND AVE S
 CASS CO PARCEL #01-5270-00150-000

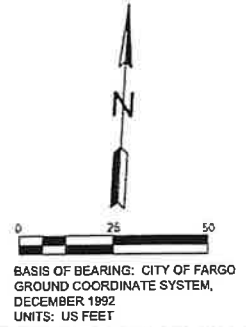
SOUTHGATE PLAZA ADDITION BLOCK 1

LEGEND

-  PROPOSED PARCEL 11S
-  PROPOSED EASEMENT LINE
-  EXISTING RIGHT OF WAY LINE
-  EXISTING LOT LINE
-  EXISTING PARCEL LINE
-  EXISTING EASEMENT LINE



TOM WILLIAMS DR



TEMPORARY EASEMENT - PARCEL 11S
 32ND AVE S RECONSTRUCTION
 LOT 3, BLOCK 1, SOUTHGATE PLAZA ADD.
 SECTION 25, T139N, R49W
 FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151
 Date: 03/15/2023
 Drawn By: Mike J
 Checked By: Dain E
 Approved By: Dain E

EASEMENT EXHIBIT "A"

Parcel 11S
(Temporary Easement)

A temporary easement, over, under and across that part of Lot 3, Block 1, SOUTHGATE PLAZA ADDITION to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The North 30.00 feet of the East 15.00 feet of the said Lot 3.

Said parcel contains 450 square feet, more or less, and is subject to all existing easements of record.

CERTIFICATION

I, Dain K. Erickson, hereby certify that I am a Licensed Land Surveyor in the State of North Dakota, that this survey was made by me or under my direction and supervision and that the survey is true and complete as shown.



Signed Dain K. Erickson Date 6/26/2023
Dain K. Erickson
North Dakota Professional Land Surveyor
License Number LS-5582



TEMPORARY EASEMENT - PARCEL 11S
32ND AVE S RECONSTRUCTION
LOT 3, BLOCK 1, SOUTHGATE PLAZA ADD.
SECTION 25, T139N, R49W
FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151
Date: 03/13/2023
Drawn By: Mike J
Checked By: Dain E
Approved By: Dain E

11

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

March 13, 2024

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Improvement District No. BN-23-J1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, March 13, 2024, for New Paving and Utility Construction, Improvement District No. BN-23-J1, located on 46th Avenue North between 33rd Street North and 37th Street North, 33rd Street North from 100' south of 46th Avenue North to 600' north of 46th Avenue North.

The bids were as follows:

Northern Improvement Co	\$2,430,023.07
Dakota Underground Co Inc	\$2,596,546.31
KPH, Inc.	\$2,679,997.58
Border States Paving Inc	\$2,693,599.58
Master Construction Co Inc	\$2,729,730.05
All Finish Concrete	\$2,940,167.00
Park Construction Company	\$3,124,025.17
Engineers Estimate	\$3,359,481.45

Private financial security is not needed.

No protests have been received.

This office recommends award of the contract to Northern Improvement Co. in the amount of \$2,430,023.07 as the lowest and best bid.

Sincerely,



Thomas Knakmuhs, PE
City Engineer



Engineer's Statement Of Cost
Improvement District # BN-23-J1
New Paving And Utility Construction

46th Avenue North between 33rd Street North and 37th Street
 North, 33rd Street North from 100' south of 46th Avenue North to
 600' north of 46th Avenue North.

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

NOW THEREFORE Thomas Knakmuhs, do hereby certify as follows:

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

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

New Paving and Utility Construction Improvement District # BN-23-J1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
Miscellaneous					
1	Remove Tree	EA	37.00	80.00	2,960.00
2	Topsoil - Strip & Spread	CY	7,600.00	6.05	45,980.00
3	Salvage Gravel	SY	3,330.00	3.25	10,822.50
4	Mulching Type 2 Straw	SY	6,666.00	0.17	1,133.22
5	Seeding Type C	SY	6,666.00	0.40	2,666.40
6	Stormwater Management	LS	1.00	4,000.00	4,000.00
7	Temp Construction Entrance	EA	2.00	1,775.00	3,550.00
8	Sediment Control Log 6" to 8" Dia	LF	60.00	4.20	252.00
9	Inlet Protection - New Inlet	EA	10.00	235.00	2,350.00
10	Inlet Protection - Existing Inlet	EA	2.00	195.00	390.00
Miscellaneous Total					74,104.12
Sanitary Sewer					
11	F&I Manhole GB	EA	6.00	3,000.00	18,000.00
12	F&I Manhole 4' Dia Reinf Conc	EA	6.00	4,950.00	29,700.00
13	F&I 1-1/4" Trench Found Rock 4" thru 12" Dia	LF	628.00	5.15	3,234.20
14	Connect Pipe to Exist Pipe	EA	1.00	2,150.00	2,150.00
15	F&I Pipe SDR 26 - 6" Dia PVC	LF	64.00	77.25	4,944.00
16	F&I Pipe SDR 26 - 8" Dia PVC	LF	30.00	77.25	2,317.50
17	F&I Pipe SDR 35 - 12" Dia PVC	LF	1,162.00	51.50	59,843.00
18	F&I Pipe w/GB SDR 26 - 8" Dia PVC	LF	48.00	82.40	3,955.20

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
19	F&I Pipe w/GB SDR 35 - 12" Dia PVC	LF	208.00	99.95	20,789.60
20	Connect Sewer Service	EA	2.00	1,800.00	3,600.00
21	Modify Gatewell	EA	1.00	8,850.00	8,850.00
22	F&I Casting - Floating Manhole	EA	2.00	2,000.00	4,000.00
Sanitary Sewer Total					161,383.50
Water Main					
23	F&I Fittings C153 Ductile Iron	LB	2,098.00	11.00	23,078.00
24	F&I Hydrant	EA	8.00	7,695.00	61,560.00
25	F&I Hydrant - Restrained Joint	EA	1.00	7,450.00	7,450.00
26	Connect Pipe to Exist Pipe	EA	3.00	1,855.00	5,565.00
27	F&I Pipe C900 DR 18 - 4" Dia PVC	LF	21.00	103.00	2,163.00
28	F&I Pipe C900 DR 18 - 6" Dia PVC	LF	77.00	103.00	7,931.00
29	F&I Pipe C900 DR 18 - 8" Dia PVC	LF	25.00	103.00	2,575.00
30	F&I Pipe C900 DR 18 - 12" Dia PVC	LF	2,708.00	61.80	167,354.40
31	Remove Pipe All Sizes All Types	LF	200.00	25.75	5,150.00
32	F&I Pipe w/GB C900 DR 18 - 12" Dia PVC	LF	94.00	140.00	13,160.00
33	F&I Gate Valve 4" Dia	EA	1.00	2,340.00	2,340.00
34	F&I Gate Valve 6" Dia	EA	8.00	2,575.00	20,600.00
35	F&I Gate Valve 8" Dia	EA	2.00	3,500.00	7,000.00
36	F&I Gate Valve 12" Dia	EA	3.00	5,930.00	17,790.00
37	F&I Hydrant Ext. 12" High	EA	2.00	1,980.00	3,960.00
38	F&I Hydrant Ext. 24" High	EA	1.00	2,475.00	2,475.00
39	Salvage Gravel	SY	280.00	3.25	910.00
40	Install Salvaged Gravel 8" Thick	SY	280.00	5.75	1,610.00
Water Main Total					352,671.40
Storm Sewer					
41	F&I Manhole GB	EA	2.00	1,545.00	3,090.00
42	F&I Saddle Manhole Reinf Conc	EA	2.00	7,210.00	14,420.00
43	Modify Manhole	EA	5.00	515.00	2,575.00
44	F&I Manhole 4' Dia Reinf Conc	EA	2.00	5,770.00	11,540.00
45	F&I Inlet - Single Box (SBI) Reinf Conc	EA	10.00	4,535.00	45,350.00
46	Connect Pipe to Exist Structure	EA	4.00	2,885.00	11,540.00
47	F&I Pipe 15" Dia	LF	371.00	40.75	15,118.25
48	F&I Pipe 24" Dia Reinf Conc	LF	25.00	90.75	2,268.75
49	F&I Pipe w/GB 15" Dia Reinf Conc	LF	250.00	154.50	38,625.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
50	F&I Pipe w/GB 24" Dia Reinf Conc	LF	45.00	115.00	5,175.00
51	F&I Casting - Std Manhole	EA	5.00	927.00	4,635.00
Storm Sewer Total					154,337.00
Paving					
52	Excavate & Haul - Excess Material	CY	5,124.00	7.00	35,868.00
53	Excavation	CY	4,200.00	6.25	26,250.00
54	Subcut	CY	3,885.00	5.50	21,367.50
55	Subgrade Preparation	SY	11,654.00	2.00	23,308.00
56	F&I Woven Geotextile	SY	11,654.00	1.75	20,394.50
57	F&I Class 5 Agg - 10" Thick	SY	11,654.00	12.50	145,675.00
58	F&I Edge Drain 4" Dia PVC	LF	4,712.00	10.85	51,125.20
59	F&I Curb & Gutter Standard (Type II)	LF	4,712.00	29.00	136,648.00
60	Remove Curb & Gutter	LF	10.00	25.00	250.00
61	F&I Pavement 10" Thick Doweled Conc	SY	9,826.00	85.50	840,123.00
62	Remove Pavement 10" Thick Conc	SY	25.00	20.00	500.00
63	F&I Sidewalk 4" Thick Reinf Conc	SY	1,424.00	64.85	92,346.40
64	F&I Sidewalk 6" Thick Reinf Conc	SY	40.00	78.00	3,120.00
65	F&I Driveway 7" Thick Reinf Conc	SY	762.00	80.50	61,341.00
66	F&I Det Warn Panels Cast Iron	SF	64.00	57.75	3,696.00
67	Casting to Grade - Blvd	EA	14.00	425.00	5,950.00
68	Casting to Grade - no Conc	EA	11.00	625.00	6,875.00
69	GV Box to Grade - Blvd	EA	14.00	175.00	2,450.00
70	Remove Pavement All Thicknesses Asph	SY	420.00	16.75	7,035.00
71	Mulching Type 1 Hydro	SY	35,295.00	0.47	16,588.65
72	Seeding Type B	SY	8,580.00	0.40	3,432.00
73	Seeding Type C	SY	26,715.00	0.40	10,686.00
Paving Total					1,515,029.25
Signing					
74	F&I Sign Assembly	EA	2.00	145.00	290.00
75	Relocate Sign Assembly	EA	3.00	285.00	855.00
76	F&I Sign Assembly & Anchor	EA	1.00	185.00	185.00
77	F&I High Intensity Prismatic	SF	20.00	26.00	520.00
78	F&I Barricade Type III	EA	3.00	735.00	2,205.00
Signing Total					4,055.00
Street Lights					

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
79	F&I Feed Point	EA	1.00	18,375.00	18,375.00
80	F&I Base 7' Deep Reinf Conc	EA	12.00	2,100.00	25,200.00
81	F&I Conductor #6 USE Cu	LF	6,858.00	2.60	17,830.80
82	F&I Innerduct 1.5" Dia	LF	2,370.00	12.60	29,862.00
83	F&I Innerduct 2" Dia	LF	75.00	21.00	1,575.00
84	F&I Luminaire Type A	EA	12.00	735.00	8,820.00
85	F&I Light Standard Type A	EA	12.00	5,565.00	66,780.00
Street Lights Total					168,442.80
Total Construction in \$					2,430,023.07

Engineering	10.00%	243,002.31
Admin	4.00%	97,200.92
Legal	3.00%	72,900.69
Interest	4.00%	97,200.92
Contingency	5.00%	121,501.15
Total Estimated Costs		3,061,829.06
Special Assessments		3,061,829.06
Unfunded Costs		0.00

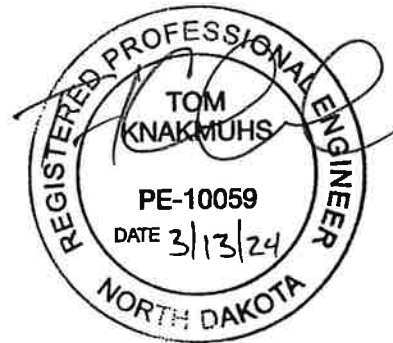
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 03/13/2024



Thomas Knakmuhs

City Engineer



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

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

New Paving and Utility Construction

18

Improvement
District No.

BN-23-G

Call For Bids	<u>March 18</u>	, <u>2024</u>
Advertise Dates	<u>March 27 & April 3</u>	, <u>2024</u>
Bid Opening Date	<u>April 24</u>	, <u>2024</u>
Substantial Completion Date	<u>September 14</u>	, <u>2024</u>
Final Completion Date	<u>October 12</u>	, <u>2024</u>

- N/A PWPEC Report (Part of 2024 CIP)
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Dan Eberhardt)
- N/A Supplemental Funding Language Included

Project Engineer Tyler Jacobs

Phone No. (701) 241-1545

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

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



**ENGINEER'S REPORT
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-23-G
VETERANS INDUSTRIAL PARK - ON 53RD STREET
NORTH & 23RD AVENUE NORTH BETWEEN 19TH AVENUE
NORTH AND 57TH STREET NORTH**

Nature & Scope

This project is for new construction of underground utilities, concrete pavement and incidentals on 53rd Street North & 23rd Avenue North.

Purpose

This project is to provide infrastructure for new development within the Veterans Industrial Park as requested by the Developer.

Special Assessment District

All properties within the Special Assessment District will benefit from the infrastructure improvements and were determined through consideration of the longevity, consistency, and uniformity of benefiting properties within the City of Fargo. Special Assessments will be levied to each property in accordance with the City's Infrastructure Funding Policy and are subject to the approval of the Special Assessment Commission and the City Commission.

Feasibility

The estimated cost of construction is \$3,403,996.00. The cost breakdown is as follows:

100% Special Assessment		
Construction Cost		\$3,403,996.00
Fees		
Admin	4%	\$136,159.84
Contingency	5%	\$170,199.80
Engineering	10%	\$340,399.60
Interest	4%	\$136,159.84
Legal	3%	\$102,119.88
Total Estimated Cost		\$4,289,034.96
Funding		
Special Assessments	100.00%	\$4,289,034.96

Project Funding Summary		
Special Assessments	100.00%	\$4,289,034.96
Total Estimated Project Cost		\$4,289,034.96

This project does not have any alternate or optional containers.

We believe this project to be cost effective.



TK

 Thomas Knakmuhs, PE
 City Engineer

**LOCATION AND COMPRISING
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-23-G
VETERANS INDUSTRIAL PARK**

LOCATION:

On 53rd Street North & 23rd Avenue North between 19th Avenue North and 57th Street North.

COMPRISING:

Lot 1 through 6, inclusive, Block 1.

Lot 1 through 3, inclusive, Block 2.

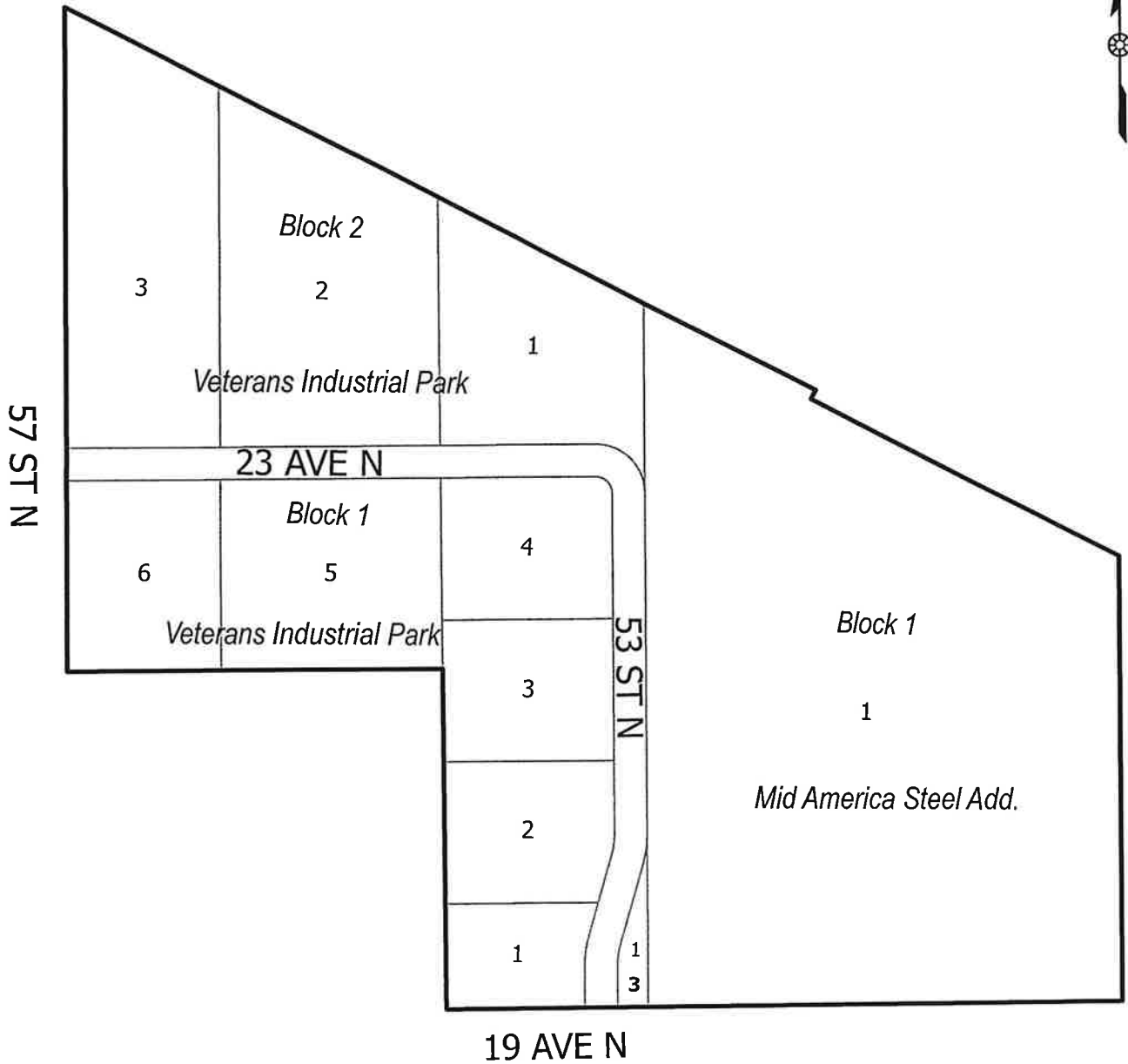
Lot 1, inclusive, Block 3.

All platted in the Veterans Industrial Park Addition.

Lot 1, Block 1

Platted in the Mid America Steel Addition.

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



CITY OF FARGO
ENGINEERING DEPARTMENT
LOCATION & ASSESSMENT AREA
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-23-G1

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

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

19

New Paving and Utility Construction

Improvement
District No.

BN-24-A

Call For Bids	<u>March 18</u>	, <u>2024</u>
Advertise Dates	<u>March 27 & April 3</u>	, <u>2024</u>
Bid Opening Date	<u>April 10</u>	, <u>2024</u>
Substantial Completion Date	<u>August 30</u>	, <u>2024</u>
Final Completion Date	<u>September 29</u>	, <u>2024</u>

- X PWPEC Report (Attach Copy)
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Dan Eberhardt)
- N/A Supplemental Funding Language Included

Project Engineer Michael Monson

Phone No. (701) 241-1545

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

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

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-24-A1

Type: Utility & Paving Infrastructure Request

Location: Alex's First Addition

Date of Hearing: 1/16/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/18/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Jason Leonard</u>

The Committee reviewed a communication from Division Engineer, Jason Leonard, regarding an infrastructure request for Alex's First Addition.

We have reviewed the requirements for infrastructure request and the Developer has met four of the seven requirements. The three remaining items are as follows:

- Plat Approval, including recordation
- Execution of the Special Assessment Security Agreement
- Letter of Credit.

Staff is recommending approval of the Infrastructure Request contingent upon plat recordation, execution of the Special Assessment Security Agreement, and Letter of Credit and direct Engineering to start design.

On a motion by Brenda Derrig, seconded by Steve Dirksen, the Committee voted to recommend approval of the Infrastructure Request contingent upon plat recordation, execution of the Special Assessment Security Agreement, and Letter of Credit and direct Engineering to start design.

RECOMMENDED MOTION


Concur with the recommendations of PWPEC to approve the Infrastructure Request contingent upon plat recordation, execution of the Special Assessment Security Agreement, and Letter of Credit and direct Engineering to start design.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project:	<u>Special Assessments</u>	<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 type="checkbox"/>	<input 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"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	


 Tom Knakmuhs, P.E.
 City Engineer

ATTEST:



**ENGINEER'S REPORT
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-24-A
ON ALEXANDER DRIVE SOUTH BETWEEN 38TH STREET
SOUTH AND 51ST AVE SOUTH.**

Nature & Scope

Infrastructure request to facilitate construction of new underground utilities, concrete pavement, and incidentals as requested by the Developer.

Purpose

This project is to provide City infrastructure for the development of new commercial properties within and surrounding Alex's First Addition.

Special Assessment District

All properties within the Special Assessment District will benefit from the infrastructure improvements and were determined through consideration of the longevity, consistency, and uniformity of benefiting properties within the City of Fargo. Special Assessments will be levied to each property in accordance with the City's Infrastructure Funding Policy and are subject to the approval of the Special Assessment Commission and the City Commission.

Feasibility

The estimated cost of construction is \$1,200,476.50. The cost breakdown is as follows:

Sanitary Sewer		
Construction Cost		\$178,700.00
Fees		
Admin	4%	\$7,148.00
Contingency	5%	\$8,935.00
Engineering	10%	\$17,870.00
Interest	4%	\$7,148.00
Legal	3%	\$5,361.00
Total Estimated Cost		\$225,162.00
Funding		
Special Assessments	100.00%	\$225,162.00

Water Main

Construction Cost		\$105,597.00
Fees		

Admin	4%	\$4,223.88
Contingency	5%	\$5,279.85
Engineering	10%	\$10,559.70
Interest	4%	\$4,223.88
Legal	3%	\$3,167.91

Total Estimated Cost		\$133,052.22
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Funding

Special Assessments	100.00%	\$133,052.22
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Storm Sewer

Construction Cost		\$185,892.00
Fees		

Admin	4%	\$7,435.68
Contingency	5%	\$9,294.60
Engineering	10%	\$18,589.20
Interest	4%	\$7,435.68
Legal	3%	\$5,576.76

Total Estimated Cost		\$234,223.92
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Funding

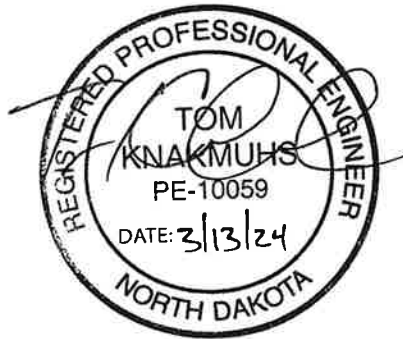
Special Assessments	100.00%	\$234,223.92
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Paving & Incidentals			
Construction Cost			\$730,287.50
Fees			
Admin	4%		\$29,211.50
Contingency	5%		\$36,514.38
Engineering	10%		\$73,028.75
Interest	4%		\$29,211.50
Legal	3%		\$21,908.63
Total Estimated Cost			\$920,162.26
Funding			
Special Assessments	100.00%		\$920,162.26

Project Funding Summary			
Special Assessments	100.00%		\$1,512,600.40
Total Estimated Project Cost			\$1,512,600.40

This project does not have any alternate or optional containers.

We believe this project to be cost effective.



Thomas Knakmuhs
 Thomas Knakmuhs, PE
 City Engineer



**LOCATION AND COMPRISING
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-24-A
ON ALEXANDER DRIVE SOUTH BETWEEN 38TH STREET
SOUTH AND 51ST AVE SOUTH.**

LOCATION:

On Alexander Drive South between 38th Street South and 51st Avenue South.

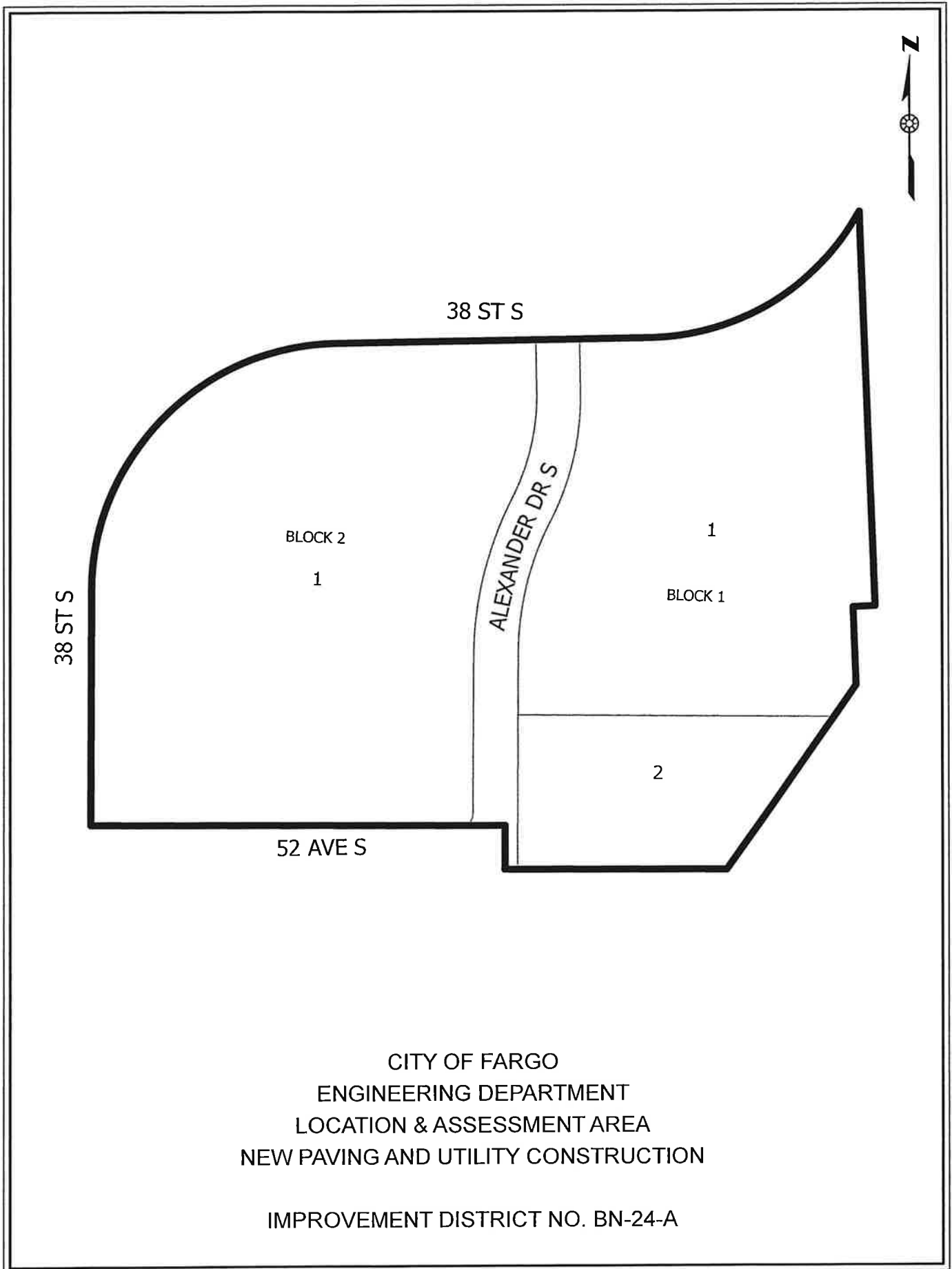
COMPRISING:

Lot 1 through 2, Block 1, Inclusive.

Lot 1, Block 2, Inclusive.

All platted within Alex's First Addition.

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



CITY OF FARGO
ENGINEERING DEPARTMENT
LOCATION & ASSESSMENT AREA
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-24-A

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

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

Paving and Utility Rehab/Reconstruction

20

Improvement
District No.

BR-24-F

Call For Bids	<u>March 18</u>	, <u>2024</u>
Advertise Dates	<u>March 27 & April 3</u>	, <u>2024</u>
Bid Opening Date	<u>April 24</u>	, <u>2024</u>
Substantial Completion Date	<u>August 17</u>	, <u>2024</u>
Final Completion Date	<u>September 17</u>	, <u>2024</u>

- X PWPEC Report (Attach Copy)
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Dan Eberhardt)
- N/A Supplemental Funding Language Included

Project Engineer Rick Larson

Phone No. (701) 241-1545

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

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

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-24-F1

Type: 2024 CIP Revision

Location: 8th St N, Main Ave – NP Ave

Date of Hearing: 3/11/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/18/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Tom Knakmuhs</u>

The Committee reviewed a communication from City Engineer, Tom Knakmuhs, regarding the addition of Improvement District BR-24-F1 to the 2024 CIP.

The proposed project has an estimated construction cost of \$2,044,710 and a total project cost, after markups and contingency, of \$2,576,333. In accordance with the Infrastructure Funding Policy, the project is to be funded by Special Assessments (\$579,003) and Prairie Dog Funds (\$1,997,330).

Engineering is seeking the addition of BR-24-F1 to the 2024 CIP.

On a motion by Susan Thompson, seconded by Ben Dow, the Committee voted to recommend approval of adding Improvement District No. BR-24-F1 to the 2024 CIP.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the addition of Improvement District No. BR-24-F1 to the 2024 CIP.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Special Assessments & Prairie Dog 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	<u> <input type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	
Nicole Crutchfield, Director of Planning	<u> <input checked="" type="checkbox"/> </u>	<u> <input checked="" type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	
Steve Dirksen, Fire Chief	<u> <input checked="" type="checkbox"/> </u>	<u> <input checked="" type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	
Brenda Derrig, Assistant City Administrator	<u> <input checked="" type="checkbox"/> </u>	<u> <input checked="" type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	<u>Michael Redlinger</u>
Ben Dow, Director of Operations	<u> <input checked="" type="checkbox"/> </u>	<u> <input checked="" type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	
Steve Sprague, City Auditor	<u> <input checked="" type="checkbox"/> </u>	<u> <input checked="" type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	
Tom Knakmuhs, City Engineer	<u> <input checked="" type="checkbox"/> </u>	<u> <input checked="" type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	
Susan Thompson, Finance Director	<u> <input checked="" type="checkbox"/> </u>	<u> <input checked="" type="checkbox"/> </u>	<u> <input type="checkbox"/> </u>	

ATTEST:

C: Kristi Olson



 Tom Knakmuhs, P.E.
 City Engineer



**ENGINEER'S REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-24-F
NORTHERN PACIFIC AVE N FROM 8TH ST TO 170' E OF
8TH ST N; 8TH ST N FROM BNSF RR TRACKS TO 100' N
OF NORTHERN PACIFIC AVE N.**

Nature & Scope

This project is for the replacement of the existing water main, sanitary sewer, storm sewer, concrete pavement, curb and gutter, sidewalks, driveway aprons, street lights, and for the installation of bike lanes.

Purpose

The existing water main on NP Avenue is CIP, which was installed over 100 years ago and is being replaced to minimize impacts and costs associated with breaks. As part of this, we will replace the water main services to the curb stop and the sanitary services from the main to behind the curb. The street reconstruction is necessary because the existing street section has deteriorated significantly and has exceeded its life expectancy. Reconstruction will include concrete street paving, gravel base, curb and gutter, storm sewer inlets and leads, driveway approaches, sidewalk, streetlights, and streetscape.

Special Assessment District

All properties within the Special Assessment District will benefit from the infrastructure improvements and were determined through consideration of the longevity, consistency, and uniformity of benefiting properties within the City of Fargo. Special Assessments will be levied to each property in accordance with the City's Infrastructure Funding Policy and are subject to the approval of the Special Assessment Commission and the City Commission.

Feasibility

The estimated cost of construction is \$2,080,744.40. The cost breakdown is as follows:

Sanitary Sewer

Construction Cost		\$90,015.00
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Fees

Admin	4%	\$3,600.60
Contingency	5%	\$4,500.75
Engineering	10%	\$9,001.50
Interest	4%	\$3,600.60
Legal	3%	\$2,700.45

Total Estimated Cost		\$113,418.90
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Funding

State Funds - Other ND	91.41%	\$103,677.90
Special Assessments	8.59%	\$9,741.00

Water Main

Construction Cost		\$349,980.00
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Fees

Admin	4%	\$13,999.20
Contingency	5%	\$17,499.00
Engineering	10%	\$34,998.00
Interest	4%	\$13,999.20
Legal	3%	\$10,499.40

Total Estimated Cost		\$440,974.80
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Funding

State Funds - Other ND	88.79%	\$391,550.26
Special Assessments	11.21%	\$49,424.54

Storm Sewer

Construction Cost		\$214,545.00
Fees		

Admin	4%	\$8,581.80
Contingency	5%	\$10,727.25
Engineering	10%	\$21,454.50
Interest	4%	\$8,581.80
Legal	3%	\$6,436.35

Total Estimated Cost		\$270,326.70
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Funding

State Funds - Other ND	50.00%	\$135,163.35
Special Assessments	50.00%	\$135,163.35

Paving and Incidentals

Construction Cost		\$1,349,744.40
Fees		

Admin	4%	\$53,989.78
Contingency	5%	\$67,487.22
Engineering	10%	\$134,974.44
Interest	4%	\$53,989.78
Legal	3%	\$40,492.33

Total Estimated Cost		\$1,700,677.95
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Funding

State Funds - Other ND	83.05%	\$1,412,342.79
Special Assessments	16.95%	\$288,335.16


Street Amenities			
Construction Cost			\$76,460.00
Fees			
Admin	4%		\$3,058.40
Contingency	5%		\$3,823.00
Engineering	10%		\$7,646.00
Interest	4%		\$3,058.40
Legal	3%		\$2,293.80
Total Estimated Cost			\$96,339.60
Funding			
Special Assessments	100.00%		\$96,339.60

Project Funding Summary			
State Funds - Other ND	77.92%		\$2,042,734.30
Special Assessments	22.08%		\$579,003.65
Total Estimated Project Cost			\$2,621,737.95

This project does not have any alternate or optional containers.

We believe this project to be cost effective.





 Thomas Knakmuhs, PE
 City Engineer



LOCATION AND COMPRISING
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-24-F
NORTHERN PACIFIC AVE N FROM 8TH ST TO 170' E OF
8TH ST N; 8TH ST N FROM BNSF RR TRACKS TO 100' N
OF NORTHERN PACIFIC AVE N.

LOCATION:

Northern Pacific Avenue North from 8th Street to 170' East of 8th Street; 8th Street North from BNSF RR Tracks to 100' North of Northern Pacific Avenue.

COMPRISING:

Lots 19 through 21 and the adjacent vacated Robert's Street, inclusive, Block 1.
All in Robert's First Addition.

Lots 1, 2, and the East 1/2 of the adjacent vacated alley, Block 6.
The South 37.5 feet of Lot 3 and the East 1/2 of the adjacent vacated alley of the South 7 feet, Block 6.
All in Robert's First Addition.

UNPLATTED, PT OF NW 1/4 OF SEC 7, TWP 139N, RGE 48W, DESC AS FOLL: BEG AT IINTER OF S R/W LN OF NP AVE & W R/W LN OF 8 ST N; THEN S 02 DEG 29 MIN 00 SEC W, ALG W LN OF 8 ST 194.81 FT; THEN N 87 DEG 30 MIN 57 SEC W, PARA WITH BNSF RAILWAY CO MAIN TRACK CENTERLINE 60 FT; THEN N 02 DEG 29 MIN 00 SEC E, PARA WITH W R/W LN OF 8 ST 190 FT TO A PT ON S LN OF NP AVE; THEN N 87 DEG 53 MIN 56 SEC E, ALG S LN OF NP AVE 60.19 FT TO PT OF BEG.

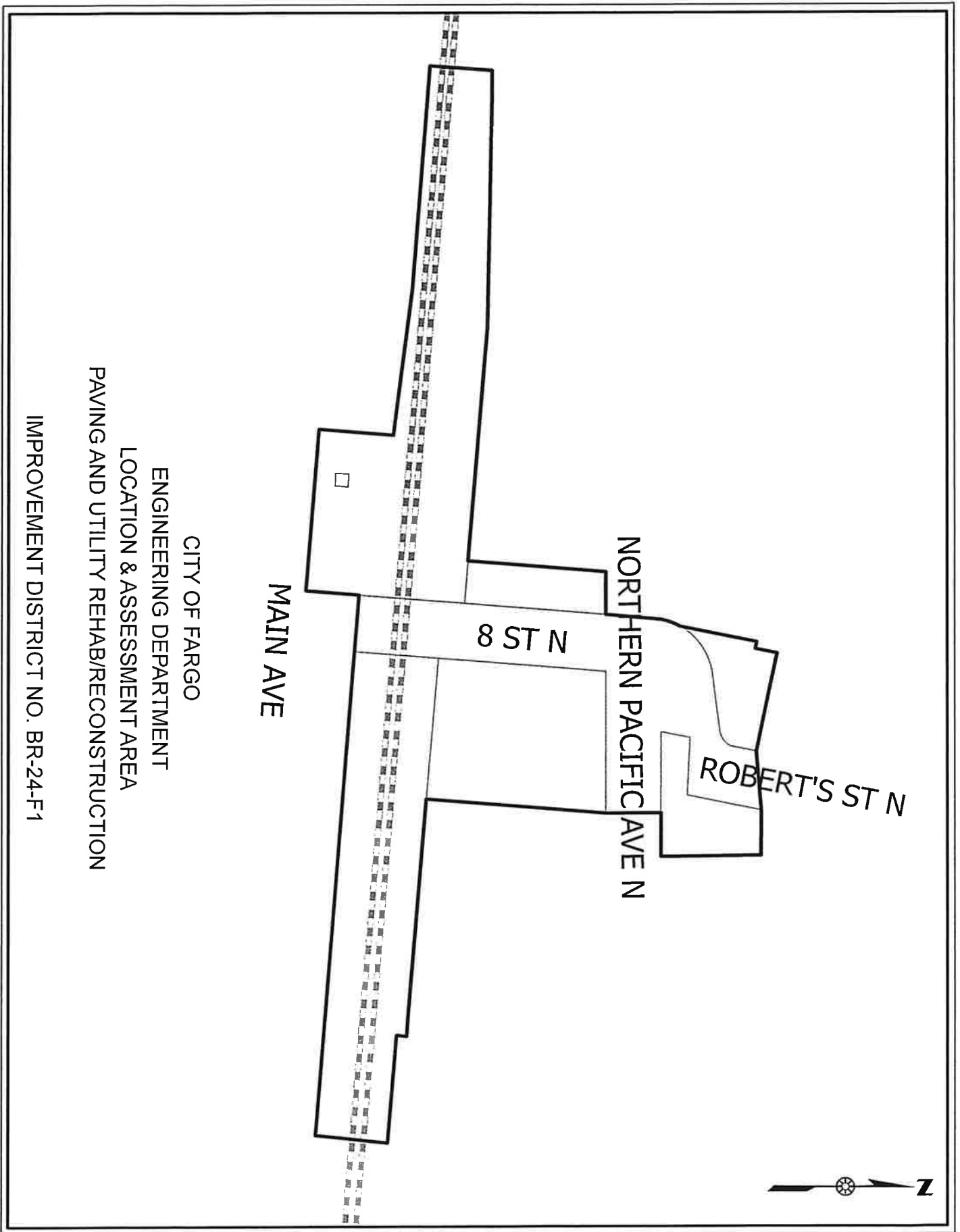
UNPLATTED, THAT PT OF NW 1/4 OF SEC 7, TWP 139N, RGE 48W, DESC AS FOLL: COMM AT NE COR OF SD NW 1/4; THEN S 87 DEG 53 MIN 56 SEC W (ASSMD BRG), ALG N LN OF SD NW 1/4, A DIST OF 754.23 FT TO NLY EXT OF E LN OF 80 FT WIDE 8 ST IN CITY OF FARGO; THEN S 02 DEG 29 MIN 00 SEC W, ALG SD NLY EXT, 44.84 FT TO A PT IN S LN OF NP AVE & TRUE PT OF BEG OF PARCEL OF LD BEING DESC; THEN N 87 DEG 47 MIN 33 SEC E, ALG SD S LN OF NP AVE, 176.48 FT; THEN S 02 DEG 29 MIN 00 SEC W 115.27 FT; THEN S 87 DEG 30 MIN 57 SEC E, 23.44 FT; THEN S 02 DEG 29 MIN 00 SEC W 132.83 FT TO INTER WITH A LN DRAWN PARA WITH & 50 FT NORMALLY DIST NLY FROM BNSF RAILWAY CO MOST NLY MAIN TRACK CENTERLINE, AS NOW LOC & CONST; THEN N 87 DEG 30 MIN 57 SEC W ALG SD PARA LN 199.33 FT TO E LN OF SD 8 ST; THEN N 02 DEG 29 MIN 00 SEC E 233.61 FT TO TRUE PT OF BEG & COMM AT NE COR OF SD NW 1/4; THEN S 87 DEG 53 MIN 56 SEC W (ASSMD BRG), ALG N LN OF SD NW 1/4, A DIST OF 754.23 FT TO NLY EXT OF E LN OF 80 FT WIDE 8 ST IN CITY OF FARGO; THEN S 02 DEG 29 MIN 00 SEC W, ALG SD NLY EXT, 44.84 FT TO A PT IN S LN OF NP AVE; THEN N 87 DEG 47 MIN 33 SEC E, ALG SD S LN OF NP AVE, 176.48 FT TO TRUE PT OF BEG. THEN N 87 DEG 47 MIN 33 SEC E, ALG SD S LN OF NP AVE, 23.52 FT; THEN S 02 DEG 29 MIN 00 SEC W 117.14 FT; THEN N 87 DEG 30 MIN 57 SEC W, 23.44 FT; THEN 02 DEG 29 MIN 00 SEC E 115.27 FT TO TRUE PT OF BEG.

NP RR R/W LYING IN NW 1/4 OF SEC 7, TWP 139N, RGE 48W, BETWEEN BDWY & 8 ST N, LESS PARCELS 920-1700 & 1701.

Page 124

NP RR R/W LYING IN NW 1/4 OF SEC 7, TWP 139N, RGE 48W, BETWEEN 8 ST N & 10 ST N.
All in NP Outlot #1 & R/W.

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



CITY OF FARGO
ENGINEERING DEPARTMENT
LOCATION & ASSESSMENT AREA
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-24-F1

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

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

Storm Sewer Lift Station Rehab/Reconstruction & Incidentals

21

Improvement
District No.

NR-23-C

Call For Bids	<u>March 18</u>	, <u>2024</u>
Advertise Dates	<u>March 27 & April 3</u>	, <u>2024</u>
Bid Opening Date	<u>April 24</u>	, <u>2024</u>
Substantial Completion Date	<u>May 31</u>	, <u>2025</u>
Final Completion Date	<u>June 30</u>	, <u>2025</u>

- X PWPEC Report (Attach Copy)
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Dan Eberhardt)
- N/A Supplemental Funding Language Included

Project Engineer Robert Hasey
 Phone No. (701) 241-1545

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

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

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. NR-23-C1

Type: 2024 CIP Revision

Location: Lift Stations #3, 10, 12, & 22

Date of Hearing: 3/11/2024

<u>Routing</u>	<u>Date</u>
City Commission	3/18/2024
PWPEC File	X
Project File	Jason Leonard

The Committee reviewed a communication from Division Engineer, Jason Leonard, regarding the addition of Project No. NR-23-C1 to the 2024 CIP.

Storm Sewer Lift Station Repair Project No. NR-23-C1 is to make repairs and modifications to existing Lift Stations #3, #10, #12, and #22. This project is necessary to keep our existing infrastructure operational. The estimated total cost for this project is \$1,200,000 to be funded by the Storm Sewer Utility Fund.

Engineering is seeking the addition of NR-23-C1 to the 2024 CIP.

On a motion by Michael Redlinger, seconded by Steve Sprague, the Committee voted to recommend approval of adding Project No. NR-23-C1 to the 2024 CIP.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the addition of Project No. NR-23-C1 to the 2024 CIP.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Storm Sewer Utility Fund

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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<input checked="" type="checkbox"/>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Michael Redlinger
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"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:



 Tom Knakmuhs, P.E.
 City Engineer

C: Kristi Olson



**ENGINEER'S REPORT
STORM SEWER LIFT STATION
REHAB/RECONSTRUCTION & INCIDENTALS
IMPROVEMENT DISTRICT NO. NR-23-C
STS LS #3, #10, #12 & #22**

Nature & Scope

The Fargo Street Department identified several storm sewer lift stations that are in need of repair and safety upgrades. The lift stations on this project include #3, #10 & #12.

Purpose

The purpose of this project is to make necessary repairs to the lift stations including pump repair, control panel replacement, adding safety features such as vector truck piping for yearly cleaning operations, replacing ladders, adding catwalks for safety and SCADA communication for remote monitoring. A City owned permanent generator will be installed at storm sewer lift station #3 located in the NW corner of the Main Avenue and 25th Street intersection. This lift station's sole purpose is to pump water in the 25th Street underpass. Installing the permanent generator at this location will allow this lift station to remain operational during a power outage. The City will also remove the old underpass lift station on the NE corner of the Main Avenue and 25th Street intersection as the lift station is no longer operational. The old underpass lift station was kept as a backup to the new lift station but the pumps have failed and it is no longer feasible to have two lift stations for this location.

Special Assessment District

All properties within the Special Assessment District will benefit from the infrastructure improvements and were determined through consideration of the longevity, consistency, and uniformity of benefiting properties within the City of Fargo. Special Assessments will be levied to each property in accordance with the City's Infrastructure Funding Policy and are subject to the approval of the Special Assessment Commission and the City Commission.

Feasibility

The estimated cost of construction is \$1,242,680.00. The cost breakdown is as follows:

Base Bid - 50% SA / 50% SSU

Construction Cost		\$939,530.00
Fees		
Admin	4%	\$37,581.20
Contingency	5%	\$46,976.50
Engineering	10%	\$93,953.00
Interest	4%	\$37,581.20
Legal	3%	\$28,185.90
Total Estimated Cost		\$1,183,807.80
Funding		
Special Assessments	50.00%	\$591,903.90
Utility Funds - Stormwater - 524	50.00%	\$591,903.90

Base Bid - 100% SSU

Construction Cost		\$303,150.00
Fees		
Admin	4%	\$12,126.00
Contingency	5%	\$15,157.50
Engineering	10%	\$30,315.00
Interest	4%	\$12,126.00
Legal	3%	\$9,094.50
Total Estimated Cost		\$381,969.00
Funding		
Utility Funds - Stormwater - 524	100.00%	\$381,969.00

Miscellaneous Costs

Outside Engineering		\$26,190.00
Total Miscellaneous Costs		\$26,190.00
Funding		
Special Assessments	46.68%	\$12,225.00
Utility Funds - Stormwater - 524	53.32%	\$13,965.00

Project Funding Summary

Special Assessments	37.95%	\$604,128.90
Utility Funds - Stormwater - 524	62.05%	\$987,837.90
Total Estimated Project Cost		\$1,591,966.80

Alternate - General Contract - 50% SA / 50% SSU

Construction Cost		\$739,530.00
Fees		
Admin	4%	\$29,581.20
Contingency	5%	\$36,976.50
Engineering	10%	\$73,953.00
Interest	4%	\$29,581.20
Legal	3%	\$22,185.90
Total Estimated Cost		\$931,807.80

Funding

Special Assessments	50.00%	\$465,903.90
Utility Funds - Stormwater - 524	50.00%	\$465,903.90

Alternate - General Contract - 100% SSU

Construction Cost		\$203,150.00
Fees		
Admin	4%	\$8,126.00
Contingency	5%	\$10,157.50
Engineering	10%	\$20,315.00
Interest	4%	\$8,126.00
Legal	3%	\$6,094.50
Total Estimated Cost		\$255,969.00

Funding

Utility Funds - Stormwater - 524	100.00%	\$255,969.00
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Alternate - Electrical Contract - 100% SSU

Construction Cost		\$100,000.00
Fees		

Admin	4%	\$4,000.00
Contingency	5%	\$5,000.00
Engineering	10%	\$10,000.00
Interest	4%	\$4,000.00
Legal	3%	\$3,000.00

Total Estimated Cost		\$126,000.00
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Funding

Utility Funds - Stormwater - 524	100.00%	\$126,000.00
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Alternate - Electrical Contract - 50% SA / 50% SSU

Construction Cost		\$200,000.00
Fees		

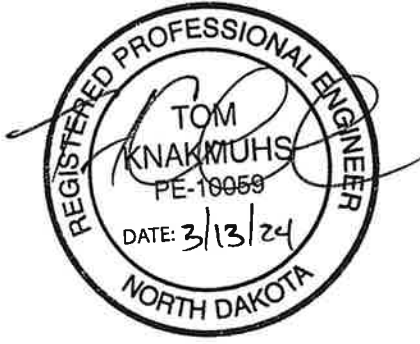
Admin	4%	\$8,000.00
Contingency	5%	\$10,000.00
Engineering	10%	\$20,000.00
Interest	4%	\$8,000.00
Legal	3%	\$6,000.00


Total Estimated Cost		\$252,000.00
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Funding

Special Assessments	50.00%	\$126,000.00
Utility Funds - Stormwater - 524	50.00%	\$126,000.00

We believe this project to be cost effective.





Thomas Knakmuhs, PE
City Engineer

**LOCATION AND COMPRISING
STORM SEWER LIFT STATION
REHAB/RECONSTRUCTION & INCIDENTALS
IMPROVEMENT DISTRICT NO. NR-23-C
STS LS #3, #10, #12 & #22**

LOCATION:

Location 1 (Site #1): Storm Sewer Lift Station #12 located on 45th Street North, north of 7th Avenue North.

Location 2 (Site #2): Storm Sewer Lift Station #10 located on 45th Street South, north of 17th Avenue South.

COMPRISING:

LOCATION 1 (SITE #1):

COMPRISING:

An area bound on the south by 7th Avenue North, bound on the east by Aggregate Industries Drive, bound on the north by 12th Avenue North and bound on the west by 45th Street North.

An area bound on the south by 7th Avenue North, bound on the east by Aggregate Industries Drive, bound on the north by 12th Avenue North and bound on the west by 45th Street North.

Lots 1 through 5, Inclusive, Block 1.

Lots 10 through 14, Inclusive, Block 1.

Lots 1 through 24, Inclusive, Block 2.

Lots 1 through 11, Inclusive, Block 3.

Lots 14 through 22, Inclusive, Block 3.

Lots 21 through 29, Inclusive, Block 4.

All located in E.G. Clapp's First Addition.

Lots 1 & 2, Block 3A.

Lots 1 through 7, Inclusive, Block 4A.

Lots 1 through 15, Inclusive, Block 5A.

Lots 1 through 18, Inclusive, Block 6A.

Lots 1 through 8, Inclusive, Block 7A.

Lots 1 through 23, Inclusive, Block 8A.

All located in Replat of Lots 12 and 13, Block 3 and Lots 18, 19, 20 and 30, 31, 32, 33, Block 4 of E.G. Clapp's First Addition.

Lots 1 through 3, Inclusive, Block 1.

All located in L & L Addition.

Lots 1 & 2, Block 1.

All located in Lucken Second Addition.

Lots 3 through 6, Inclusive.

Lots 11 through 14, Inclusive.

All located in Arndts Devener Addition.

Lot 1, Block 1.

Located in Gadberry's Addition.

Lot 1, Block 1.

Located in Galarneau Subdivision.

Lot 1, Block 1.

Located in Llad Subdivision.

Lot 1, Block 1.

Located in Persellin Addition.

Lots 3 & 4, Block 1.

All located in A. I. Subdivision.

LOCATION 2 (SITE #2):

COMPRISING:

Lot 1, Block 1.

Lots 1 through 33, Inclusive, Block 2.

Lots 1 through 33, Inclusive, Block 3.

Lots 1 through 17, Inclusive, Block 4.

All located in Dakota West Second Addition.

Lots 1 through 4, Inclusive, Block 1.

Lots 1 through 20, Inclusive, Block 2.

Lots 1 through 9, Inclusive, Block 3.

All located in Amber Fields First Addition.

Lots 1 through 11, Inclusive, Block 1.

Lots 1 through 16, Inclusive, Block 2.

All located in Amber Fields Second Addition.

Lots 1 & 2, Block 1.

All located in A Replat of Schatz First Addition.

Lot 1, Block 1.

Locate in Schatz Second Addition.

Lots 1 through 4, Inclusive, Block 1.

All located in Dakota West Addition.

Lot 1, Block 1.

Located in Replat of Home Depot Addition.

Lots 1 & 2, Block 1.

All located in Ramsey Addition.

Lot 1E, Block 4.

Lot 3, Block 5.

All located in Replat of Wells Fargo Addition.

Lots 3 & 4, Block 1.

All located in Skaff's Third Addition.

Lots 1 through 7, Inclusive, Block 1.

Lots 2 & 3, Block 2.

All located in West Acres Business Park Third Addition.

Lots 1 & 2, Block 1.

All located in Kelly Prairie Pasta Addition.

Lots 1 & 2, Block 1.

All located in GRB Subway Properties Addition.

Lots 1, 3 & 4, Block 1.

All located in West Acres Business Park Seventh Addition.

Lots 1 through 4, Inclusive, Block 1.

All located in Wes Acres Business Park First Addition.

Lots 1 & 2, Block 1.

All located in West Acres Business Park Fifth Addition.

Lot 1, Block 1.

Located in West Acres Business Park 6th Addition.

Lot 1, Block 1.

Located in West Acres Business Park 9th Addition.

Lot 1, Block 1.

Located in West Acres Business Park 8th Addition.

Lot 1, Block 1.

Located in Staybridge Addition.

Lots 1 through 3, Inclusive, Block 1.

All located in West Acres Business Park Fourth Addition.

Lots 5 & 6, Block 1.

Lots 3 through 12, Inclusive, Block 3.

Lots 1 through 10, Inclusive, Block 4.

Lots 1 through 5, Inclusive, Block 5.

Lot 9, Block 5.

Lots 13 through 15, Inclusive, Block 5.

Lots 1 through 10, Inclusive, Block 6.

Lots 1 through 10, Inclusive, Block 7.

Lots 1 through 5, Inclusive, Block 8.

All located in West Acres Fourth Addition.

Lots 1 through 8, Inclusive, Block 1.

Lots 1 through 7, Inclusive, Block 2.

Lots 1 through 3, Inclusive, Block 3.

All located in West Acres Second Addition.

Lot 1, Block 1.

Located in Crop Growers Subdivision.

Lots 2 & 3, Block 1.

All located in West Acres Business Park Second Addition.

Lots 1 through 3, Inclusive, Block 1.

All located in West Acres Business Park Tenth Addition.

Lots 1 & 2, Block 1.

All located in West Acres Seventh Addition.

Lots 1 & 2, Block 1.

All located in T Sloan Addition.

Lots 1 & 2, Block 1.

All located in AAA North Dakota Addition.

Lot 1, Block 1.

Located in Pinehurst First Addition.

Lots 1 & 2, Block 1.

All located in West Acres First Subdivision.

Lots 1 & 2, Block 1.

All located in Gehrig Addition.

Lots 3 through 7, Inclusive, Block 1.

All located in Dakota View Estates.

Lots 2 through 4, Inclusive, Block A.

All located in Dakota View Estates Second Addition.

Lots 1 through 3, Inclusive, Block 1.

All located in Ekman Addition.

Lots 1 & 2, Block 1.

All located in Ekman Dakota View Addition.

Lots 1 through 3, Inclusive, Block 1.

All located in Safari Addition.

Lots 1 through 20, Inclusive, Block 1.

All located in West Acres Mall Addition.

Block 4.

Located in West Acres Third Addition.

Lots 1, 13 & 14, Block 1.

Lots 1 & 2, Block 5.

Lot 1, Block 6.

All located in Village West.

Lots 1 through 7, Inclusive, Block 7.

Lots 13 through 18, Inclusive, Block 7.

All located in Rabanus Addition.

Lot 2, Block 1.

Located in TSPA Addition.

Lot 2, Block 1.

Located in William A. Schlossman Addition.

Lots 1 & 5, Block 1.

All located in Capital Square Addition.

Lots 1 through 3, Inclusive, Block 1.

All located in Capital Square Second Addition.

Lots 1 & 2, Block 1.

All located in Isaak-Dosch Addition.

Lot 1, Block 1.

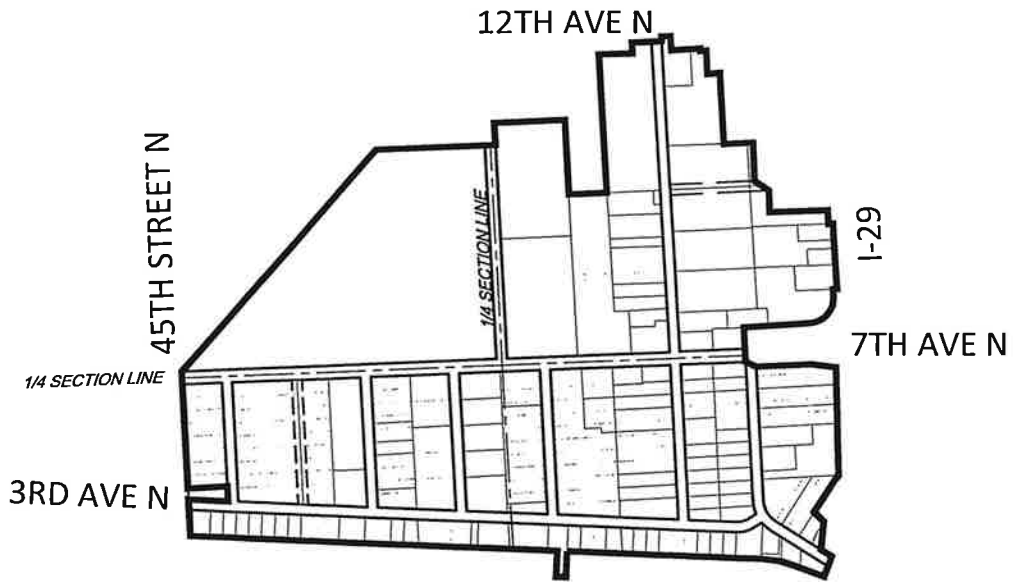
Located in Concierge Southwest Addition.

Lot 1, Block 1.

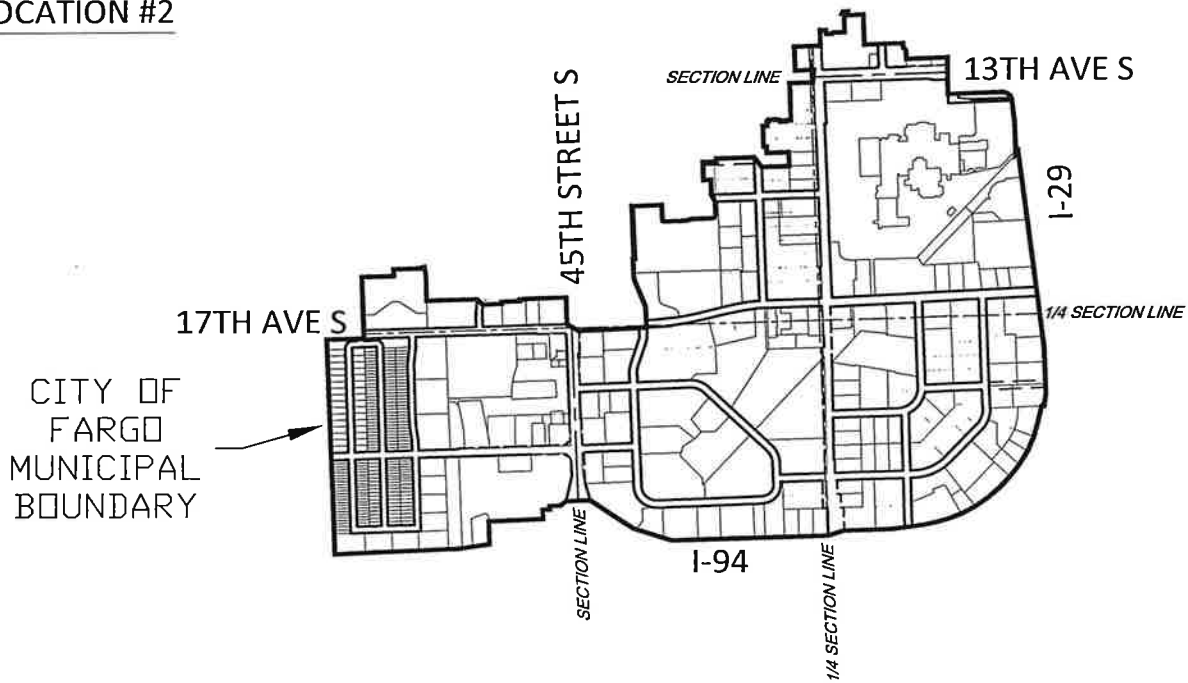
Located in Concierge Southwest Second Addition.

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

LOCATION #1



LOCATION #2



CITY OF FARGO ENGINEERING
DEPARTMENT

LOCATION & ASSESSMENT AREA

STORM SEWER LIFT STATION
REHAB/RECONSTRUCTION & INCIDENTALS

IMPROVEMENT DISTRICT NO. NR-23-C

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

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

Asphalt Mill & Overlay

22

Improvement
District No.

PR-24-G

Call For Bids	<u>March 18</u>	, <u>2024</u>
Advertise Dates	<u>March 27 & April 3</u>	, <u>2024</u>
Bid Opening Date	<u>April 24</u>	, <u>2024</u>
Substantial Completion Date	<u>September 27</u>	, <u>2024</u>
Final Completion Date	<u>October 28</u>	, <u>2024</u>

N/A PWPEC Report (Part of 2024 CIP)

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

X Notice to Property Owners (Dan Eberhardt)

N/A Supplemental Funding Language Included

Project Engineer Jason Hoogland

Phone No. (701) 241-1545

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

X Create District (Attach Copy of Legal Description)

X Order Plans & Specifications

X Approve Plans & Specifications

X Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

X Assessment Map (Attach Copy for Auditor's Office Only)



**ENGINEER'S REPORT
ASPHALT MILL & OVERLAY
IMPROVEMENT DISTRICT NO. PR-24-G**

SECTION 1 - 13TH AVE S TO 17TH AVE S BETWEEN 45TH ST S TO CITY LIMITS, SECTION 2 - 35TH ST S, 34TH ST S, & PRAIRIEWOOD CIR. S, SECTION 3 - 20TH AVE S & SUNDANCE CIR. S., SECTION 4 - 18TH ST. S & GOLD DR. S., SECTION 5 - 32 AVE S TO 37 1/2 AVE S BETWEEN 32ND ST. S. AND 36TH ST. S., SECTION 6 - 44TH AVE S., SECTION 7 - 25 AVE. N., 28TH AVE N AND 12TH ST. N

Nature & Scope

This project is part of the City's annual infrastructure improvement efforts and impacts multiple areas of Fargo each construction season. As part of the project, the Contractor will be mud-jacking sections of the curb and gutter in an effort to alleviate major drainage problems. The Contractor will replace areas of broken up pavement as well as a limited amount of curb and gutter. The Contractor will also be replacing some sections of sidewalk that need to be updated to meet new standards for the Americans with Disabilities Act. The Contractor will then mill & overlay the asphalt streets on the project. This project takes place in seven different areas of the City.

Purpose

This project is needed to correct deficiencies on the streets that have developed over time. By milling and overlaying the roads at this time, we can extend the life of the road and get a better riding street with improved drainage.

Special Assessment District

All properties within the Special Assessment District will benefit from the infrastructure improvements and were determined through consideration of the longevity, consistency, and uniformity of benefiting properties within the City of Fargo. Special Assessments will be levied to each property in accordance with the City's Infrastructure Funding Policy and are subject to the approval of the Special Assessment Commission and the City Commission.

Feasibility

The estimated cost of construction is \$3,008,263.75. The cost breakdown is as follows:

Section 1 Paving

Construction Cost		\$1,015,344.25
Fees		

Admin	4%	\$40,613.77
Contingency	5%	\$50,767.21
Engineering	10%	\$101,534.43
Interest	4%	\$40,613.77
Legal	3%	\$30,460.33

Total Estimated Cost		\$1,279,333.76
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Funding

Special Assessments	50.00%	\$639,666.88
Utility Funds - Street Lights - 528	4.91%	\$62,787.85
State Funds - Other ND	45.09%	\$576,879.03

Section 1 Storm Sewer

Construction Cost		\$21,600.00
Fees		

Admin	4%	\$864.00
Contingency	5%	\$1,080.00
Engineering	10%	\$2,160.00
Interest	4%	\$864.00
Legal	3%	\$648.00

Total Estimated Cost		\$27,216.00
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Funding

Special Assessments	50.00%	\$13,608.00
Utility Funds - Stormwater - 524	50.00%	\$13,608.00

Section 2 Paving

Construction Cost		\$412,507.50
Fees		

Admin	4%	\$16,500.30
Contingency	5%	\$20,625.38
Engineering	10%	\$41,250.75
Interest	4%	\$16,500.30
Legal	3%	\$12,375.23

Total Estimated Cost		\$519,759.46
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Funding

Special Assessments	50.00%	\$259,879.73
Utility Funds - Street Lights - 528	0.41%	\$2,112.71
State Funds - Other ND	49.59%	\$257,767.02

Section 2 Storm Sewer

Construction Cost		\$6,600.00
Fees		

Admin	4%	\$264.00
Contingency	5%	\$330.00
Engineering	10%	\$660.00
Interest	4%	\$264.00
Legal	3%	\$198.00

Total Estimated Cost		\$8,316.00
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Funding

Special Assessments	50.00%	\$4,158.00
Utility Funds - Stormwater - 524	50.00%	\$4,158.00

Section 3 Paving

Construction Cost		\$229,954.00
Fees		

Admin	4%	\$9,198.16
Contingency	5%	\$11,497.70
Engineering	10%	\$22,995.40
Interest	4%	\$9,198.16
Legal	3%	\$6,898.62

Total Estimated Cost		\$289,742.04
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Funding

Special Assessments	50.00%	\$144,871.02
Utility Funds - Street Lights - 528	0.33%	\$957.60
State Funds - Other ND	49.67%	\$143,913.42

Section 3 Storm Sewer

Construction Cost		\$17,200.00
Fees		

Admin	4%	\$688.00
Contingency	5%	\$860.00
Engineering	10%	\$1,720.00
Interest	4%	\$688.00
Legal	3%	\$516.00

Total Estimated Cost		\$21,672.00
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Funding

Special Assessments	50.00%	\$10,836.00
Utility Funds - Stormwater - 524	50.00%	\$10,836.00

Section 4 Paving

Construction Cost		\$279,055.00
Fees		

Admin	4%	\$11,162.20
Contingency	5%	\$13,952.75
Engineering	10%	\$27,905.50
Interest	4%	\$11,162.20
Legal	3%	\$8,371.65

Total Estimated Cost		\$351,609.30
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Funding

Special Assessments	50.00%	\$175,804.65
Utility Funds - Street Lights - 528	1.50%	\$5,272.47
State Funds - Other ND	48.50%	\$170,532.18

Section 4 Storm Sewer

Construction Cost		\$2,400.00
Fees		

Admin	4%	\$96.00
Contingency	5%	\$120.00
Engineering	10%	\$240.00
Interest	4%	\$96.00
Legal	3%	\$72.00

Total Estimated Cost		\$3,024.00
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Funding

Special Assessments	50.00%	\$1,512.00
Utility Funds - Stormwater - 524	50.00%	\$1,512.00

Section 5 Paving

Construction Cost		\$585,612.00
Fees		

Admin	4%	\$23,424.48
Contingency	5%	\$29,280.60
Engineering	10%	\$58,561.20
Interest	4%	\$23,424.48
Legal	3%	\$17,568.36

Total Estimated Cost		\$737,871.12
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Funding

Special Assessments	50.00%	\$368,935.56
Utility Funds - Street Lights - 528	0.26%	\$1,953.00
State Funds - Other ND	49.74%	\$366,982.56

Section 5 Storm Sewer

Construction Cost		\$14,400.00
Fees		

Admin	4%	\$576.00
Contingency	5%	\$720.00
Engineering	10%	\$1,440.00
Interest	4%	\$576.00
Legal	3%	\$432.00

Total Estimated Cost		\$18,144.00
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Funding

Special Assessments	50.00%	\$9,072.00
Utility Funds - Stormwater - 524	50.00%	\$9,072.00

Section 6 Paving

Construction Cost		\$175,651.00
Fees		

Admin	4%	\$7,026.04
Contingency	5%	\$8,782.55
Engineering	10%	\$17,565.10
Interest	4%	\$7,026.04
Legal	3%	\$5,269.53

Total Estimated Cost		\$221,320.26
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Funding

Special Assessments	28.05%	\$62,080.95
Utility Funds - Street Lights - 528	0.22%	\$476.28
State Funds - Other ND	71.73%	\$158,763.03

Section 6 Storm Sewer

Construction Cost		\$600.00
Fees		

Admin	4%	\$24.00
Contingency	5%	\$30.00
Engineering	10%	\$60.00
Interest	4%	\$24.00
Legal	3%	\$18.00

Total Estimated Cost		\$756.00
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Funding

Special Assessments	50.00%	\$378.00
Utility Funds - Stormwater - 524	50.00%	\$378.00

Section 7 Paving

Construction Cost		\$246,140.00
Fees		

Admin	4%	\$9,845.60
Contingency	5%	\$12,307.00
Engineering	10%	\$24,614.00
Interest	4%	\$9,845.60
Legal	3%	\$7,384.20

Total Estimated Cost		\$310,136.40
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Funding

Special Assessments	50.00%	\$155,068.20
Utility Funds - Street Lights - 528	1.18%	\$3,660.30
State Funds - Other ND	48.82%	\$151,407.90

Section 7 Storm Sewer

Construction Cost		\$1,200.00
Fees		

Admin	4%	\$48.00
Contingency	5%	\$60.00
Engineering	10%	\$120.00
Interest	4%	\$48.00
Legal	3%	\$36.00

Total Estimated Cost		\$1,512.00
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Funding

Special Assessments	50.00%	\$756.00
Utility Funds - Stormwater - 524	50.00%	\$756.00

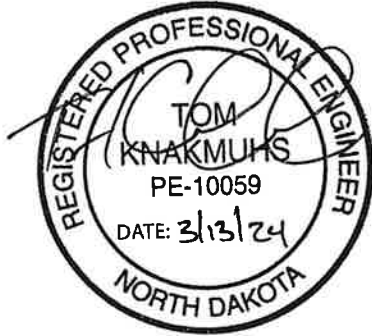
Project Funding Summary

Special Assessments	48.72%	\$1,846,626.99
Utility Funds - Stormwater - 524	1.06%	\$40,320.00
Utility Funds - Street Lights - 528	2.04%	\$77,220.21
State Funds - Other ND	48.18%	\$1,826,245.14

Total Estimated Project Cost		\$3,790,412.34
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This project does not have any alternate or optional containers.

We believe this project to be cost effective.




Thomas Knakmuhs, PE
City Engineer

**LOCATION AND COMPRISING
ASPHALT MILL & OVERLAY
IMPROVEMENT DISTRICT NO. PR-24-G**

SECTION 1 - 13TH AVE S TO 17TH AVE S BETWEEN 45TH ST S TO CITY LIMITS, SECTION 2 - 35TH ST S, 34TH ST S, & PRAIRIEWOOD CIR. S, SECTION 3 - 20TH AVE S & SUNDANCE CIR. S., SECTION 4 - 18TH ST. S & GOLD DR. S., SECTION 5 - 32 AVE S TO 37 1/2 AVE S BETWEEN 32ND ST. S. AND 36TH ST. S., SECTION 6 - 44TH AVE S., SECTION 7 - 25 AVE. N., 28TH AVE N AND 12TH ST. N

LOCATION:

LOCATION (Section 1):

On 14th Avenue South from 48th Street South to 50th Street South.
On 15th Avenue South from 45th Street South to 50th Street South.
On 16th Avenue South from 45th Street South to City of Fargo city limits.
On 17th Avenue South from 45th Street South to City of Fargo city limits.
On 47th Street South from 16th Avenue South to 17th Avenue South.
On 48th Street South from 13th Avenue South to 16th Avenue South.
On 50th Street South from 13th Avenue South to 15th Avenue South.
On 51st Street South from 16th Avenue South to 17th Avenue South.

LOCATION (Section 2):

On 35th Street South from 17th Avenue South to Prairiewood Circle South.
On 34th Street South from 17th Avenue South to 35th Street South.
On Prairiewood Circle South from Prairiewood Drive South to 35th Street South.

LOCATION (Section 3):

On 20th Avenue South from 17th Street South to 25th Street South.
On Sundance Circle South.

LOCATION (Section 4):

On 18th Street South from 25th Avenue South to 25th Street South.
On Gold Drive South from 21st Avenue South to 18th Street South.

LOCATION (Section 5):

On 33rd Avenue South from 32nd Street South to 33rd Street South.
On 35th Avenue South from 32nd Street South to 36th Street South.
On 35 ½ Court Avenue South from 32nd Street South to 33rd Street South.
On 36th Avenue South from 32nd Street South to 33rd Street South.
On 37th Avenue South from 32nd Street South to 33rd Street South.

On 37 ½ Avenue South from 32nd Street South to 33rd Street South.

On 33rd Street South from 32nd Avenue South to 37 ½ Avenue South.

LOCATION (Section 6):

On 44th Avenue South from 760' east of 52nd Street South to Veterans Boulevard South.

LOCATION (Section 7):

On 25th Avenue North from 10th Street North to University Drive North.

On 28th Avenue North from 10th Street North to University Drive North.

On 12th Street North from 256' south of 25th Avenue North to 28th Avenue North.

COMPRISING:

COMPRISING (Section 1):

Lot 1, Block 1, Roers 1st Addition.

Lots 1 through 7, Block 1.

Lots 1 through 3, Block 3.

All in Noridian Center Addition.

Lot 1, Block 1, Noridian Center 3rd Addition.

Lots 1 through 3, Wells Fargo Park.

Lots 4 through 5, Block 1.

Lots 1, 2 & 4, Block 3.

Lots 1A, 1B, 1C & 1E, Block 4.

Lots 2 & 3, Block 5.

All in Replat of Wells Fargo Addition.

Lots 1 & 2, Block 1, Scheels All Sports Center Addition.

Lots 1 through 16, Block 1, Skaff's 1st Addition.

Lots 1 through 12, Block 1, Skaff's 2nd Addition.

Lots 1 through 4, Block 1, Skaff's 3rd Addition.

Lots 1 & 2, Block 1, Ramsey Addition.

Lot 1, Block 1, Replat of Home Depot Addition.

Lot 1, Block 1, Dakota West Addition.

Lot 1, Block 1, Dakota West 2nd Addition.

COMPRISING (Section 2):

Lots 6 & 7, Block 1.

Lots 1 through 5, Block 2.

Lots 1, 2, 5 & 6, Block 3.

All in Dakota Land Addition.

Lots 1 through 5, Block 2, Dakota Land 2nd Addition.

Lots 2 through 9, Block 10, Replat of Blk. 10 of Prairiewood Addition.

Lots 1 through 25, Block 1, Replat of Lot 3 and the S. 85' of Lot 2, Blk. 3 of Dakota Land Addition.

Lots 1 through 16, Block 1, Points West Addition.

Lots 1 through 9, Points West 2nd Addition.

COMPRISING (Section 3):

Lots 28 through 36, Block 6A.

Lots 27 through 36, Block 12A.

Lots 1 through 6, Block 13A.

Lots 1 & 2, Block 14A.

Lots 13 through 24, Block 14A.

Lots 1, Block 15.

All in Replat of Part of Lot 16, Blk. 6, Part of Lot 19, Blk. 12, Lot 2 and Part of Lot 1, Blk. 13 and Ded. To St. of a Part of Lt 26, Blk. 12: Southview Villages Addition.

Lot 15, Block 10.

Lots 15 & 16, Block 11.

Lot 26, Block 12.

All in South View Villages.

Lots 1 through 3, Block 1.

Lot 16, Block 2.

Lot 17, Block 3.

All in Harold A. Johnson 3rd Addition.

Lot 19, Block 1, Replat of Harold A. Johnson's 1st Addition.

Lot 1, Block 1, Sunshine Village 1st Addition.

COMPRISING (Section 4):

Lot 1, Block 1.

Lots 1 through 5, Block 2.

All in J & R Addition.

Lot 10, Block 1.

Lots 12 through 15, Block 2.

Lots 1 through 6, Block 6.

Lot 16, Block 6.

Lots 1 through 8, Block 7.

All in Wentz' Addition.

Lot 1, Block 1, Goldmark Addition.

Lot 1, Block 1, Goldmark 2nd Addition.

Lots 3 & 4, Block 1, Replat of Mjelde Addition.

COMPRISING (Section 5):

Lots 4 & 5, Block 1.

Lots 1 & 3 through 6, Block 2.

Lots 1 through 14, Block 3.

All in Southwood Park.

Lots 6 through 10, Block 1.

Lots 2 through 4, Block 5.

All in Replat of Lots 6-17, Blk. 1, Lots 13 & 14. Blk. 3, Lots 1-6, Blk. 4 of Southwood Park.

Lots 2 & 3, Block 1, Valley Ford 1st Addition.

Lots 1 & 2, Block 1, Davron 1st Addition.

Lots 1 & 2, Block 1, Dauk's 1st Addition.

Lots 1 & 2, Block 1, MVM Addition.

Lots 1 through 11, Vincent Marie Addition.

Lots 1 through 21, Block 2.

Lots 1 through 18, Block 3.

Lots 1 through 19, Block 4.

Lots 1 through 20, Block 5.

All in Stonebridge Farms 4th Addition.

COMPRISING (Section 6):

Lots 1 through 11, Block 1.

Lot 13, Block 1.

Lots 15 through 27, Block 1.

Lots 1 through 36, Block 2.

Lots 1 through 34, Block 3.

Lots 1 through 35, Block 4.

Lots 1 through 46, Block 5.

Lot 48, Block 5.

Lots 1 through 19, Block 6.

Lots 1 through 13, Block 7.

Lots 1 through 10 & 15, Block 8.

Lots 3 through 12, Block 9.

All in Osgood Farms 1st Addition.

Lots 32 & 33, Block 1, Tuscan Villas at Osgood.

Lots 1 through 16, Block 1,

Lots 1 through 7, Block 2.

All in Tuscan Villas at Osgood 2nd Addition.

Lots 1 through 3, Block 1, Osgood Kindergarten Center and Park Addition.

Lots 1 & 2, Block 1, Osgood Farms 2nd Addition.

Lots 1 through 3, Block 1, Osgood Farms 3rd Addition.

Lots 1 & 2, Block 1, Bluestem Addition.

Lots 1 through 44, Block 1, Osgood Estates Addition.

Lots 1 through 51, Block 1, Osgood Estates 2nd Addition.

Lots 1 through 40, Block 1, Osgood Estates 3rd Addition.

COMPRISING (Section 7):

Lots 2 through 4, Block 1.

Lot 5, Block 2.

Lots 1 & 12, Block 3.

Lots 1 & 2, Block 4.

All in Airport 1st Addition.

Lots 1, 7 & 8, Block 1.

Lots 1 & 2, Block 2.

All in Replat of Airport 1st Addition.

Lot 1, Block 1, Yunker Farm Addition.

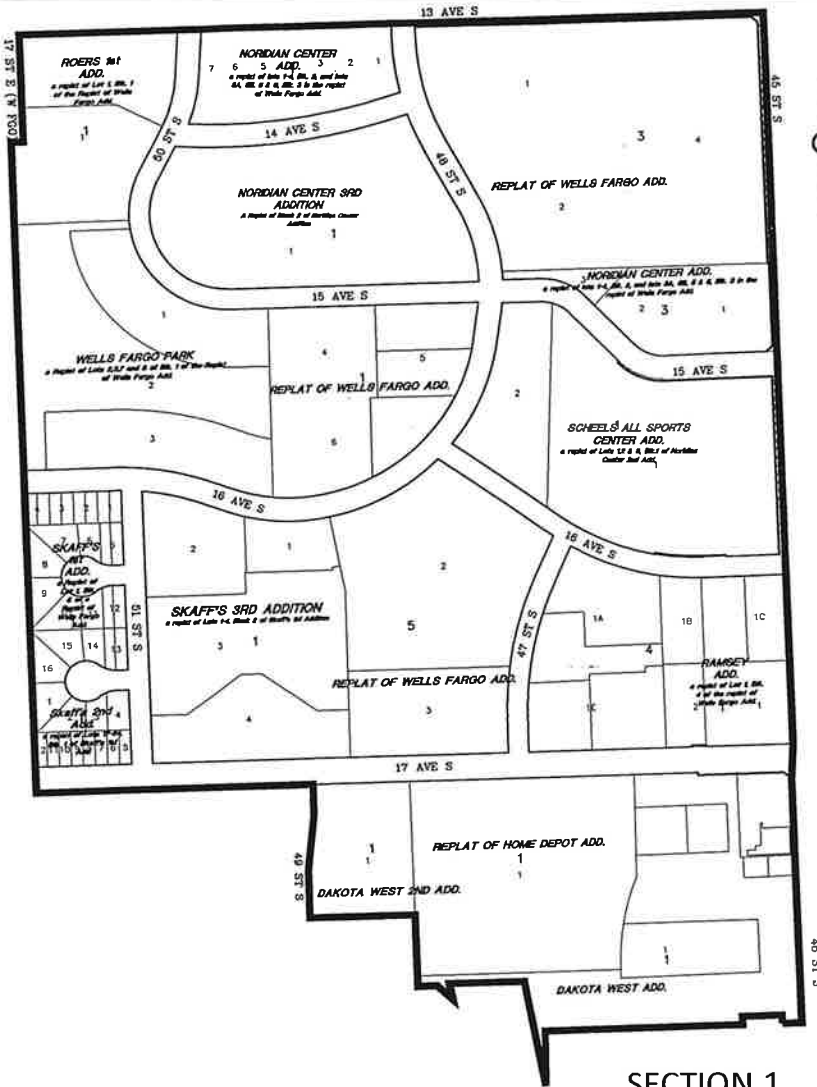
Lot 8, Block 8, Laurence Yunker 2nd Addition.

Lot 1, Block 6.

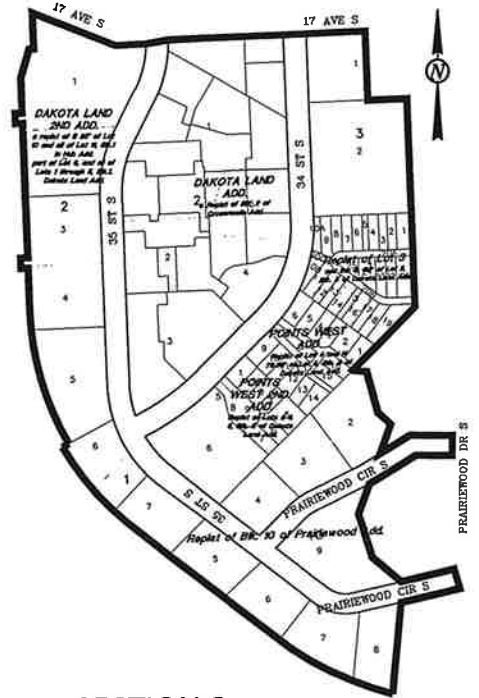
Lots 1 & 11, Block 10.

All in Peter Sway 5th Addition.

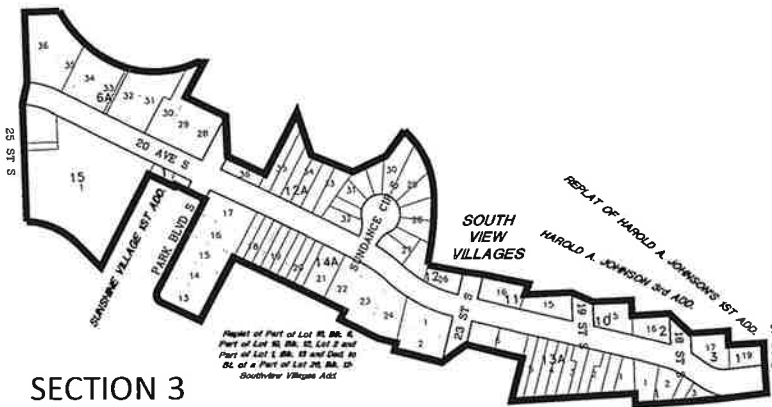
All of the foregoing is located in the City of Fargo, Cass County, North Dakota.



SECTION 1



SECTION 2



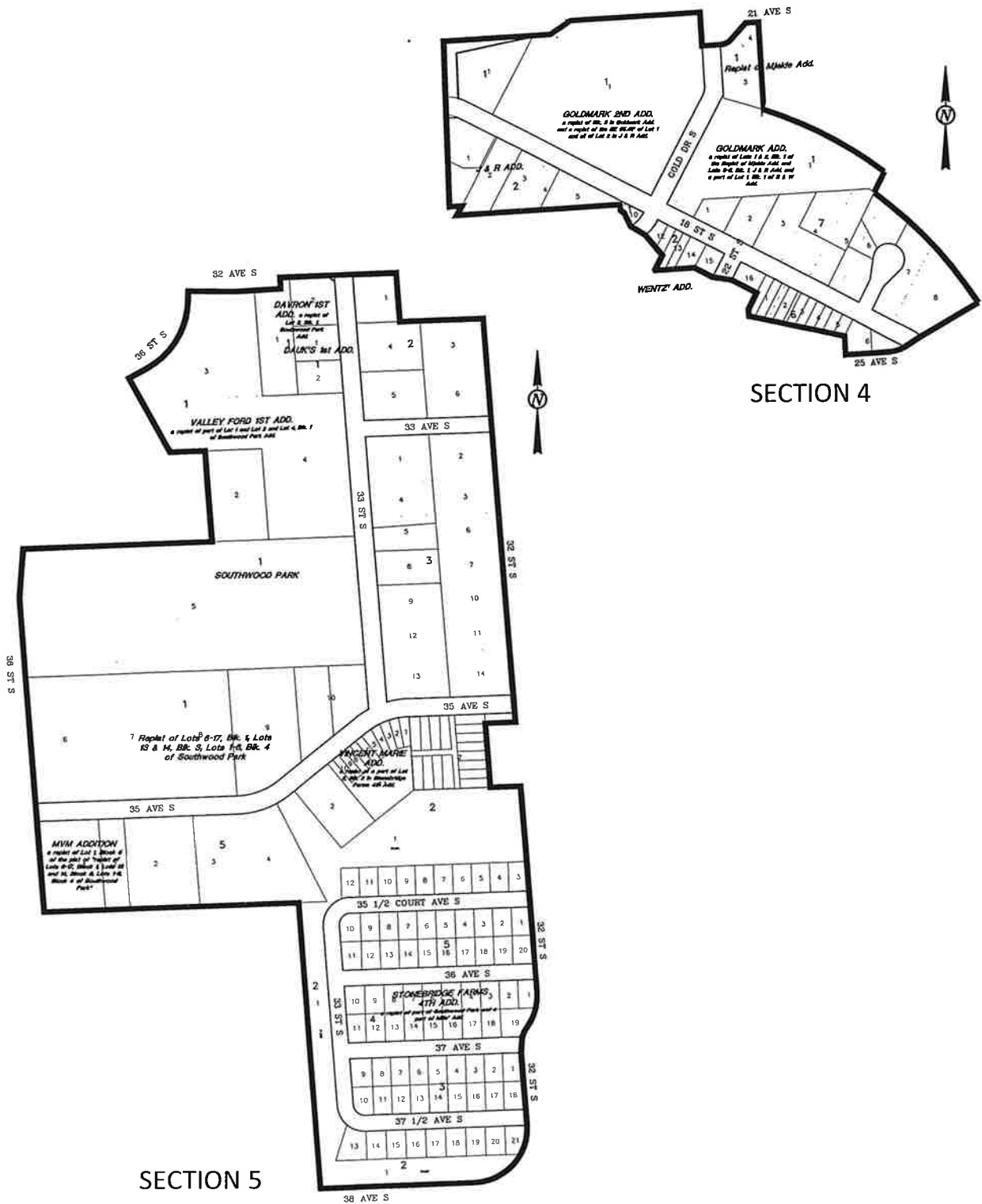
SECTION 3

CITY OF FARGO ENGINEERING
 DEPARTMENT

LOCATION & ASSESSMENT AREA

ASPHALT MILL & OVERLAY

IMPROVEMENT DISTRICT NO. PR-24-G1



SECTION 5

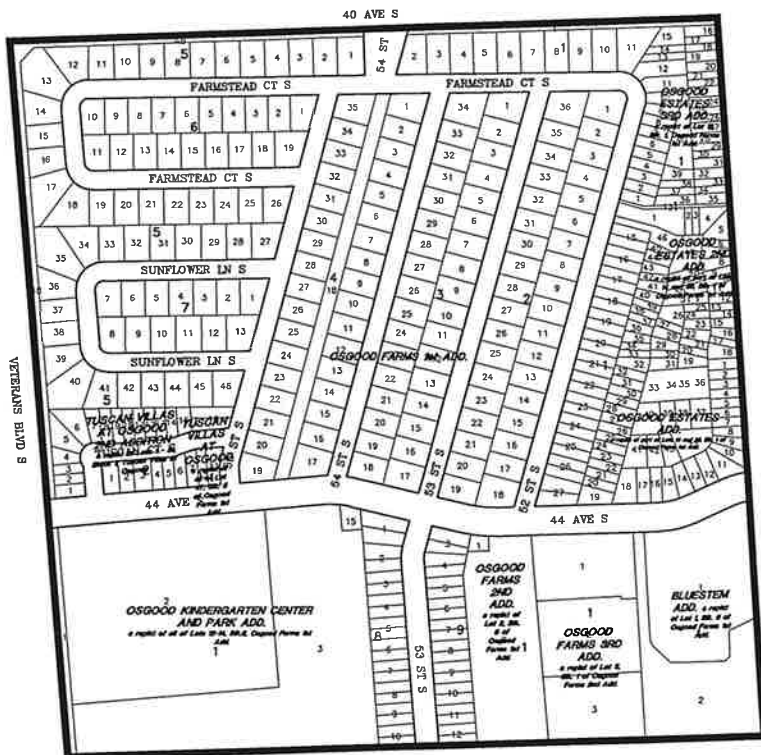
SECTION 4

CITY OF FARGO ENGINEERING DEPARTMENT

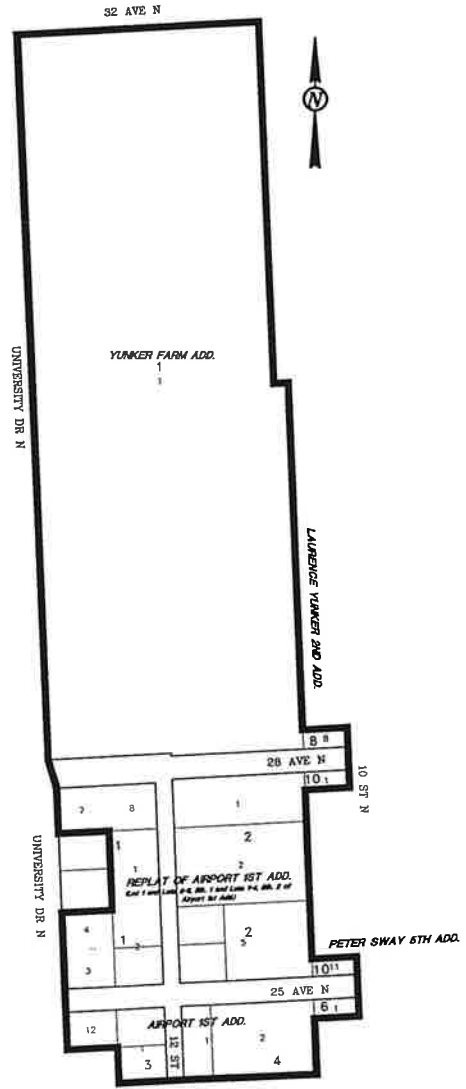
LOCATION & ASSESSMENT AREA

ASPHALT MILL & OVERLAY

IMPROVEMENT DISTRICT NO. PR-24-G1



SECTION 6



SECTION 7

CITY OF FARGO ENGINEERING DEPARTMENT

LOCATION & ASSESSMENT AREA

ASPHALT MILL & OVERLAY

IMPROVEMENT DISTRICT NO. PR-24-G1



A handwritten number "26" is enclosed within a hand-drawn circle.

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

TO: Board of City Commissioners
FROM: Tanner Smedshammer, Purchasing Manager
RE: Lease Contract for Copier - RFP23131
DATE: March 18, 2024

The attached contracts with CapFirst Equipment Finance is in regard to a copier at the Fire Department Station 1 and the Public Safety Building within the City of Fargo. This procurement has an approved City of Fargo contract utilizing the State of North Dakota buying contract 131.

Suggested Motion:

Move to approve the contract with CapFirst Equipment Finance.





3266 Oak Ridge Loop E
West Fargo, ND 58078

March 15, 2024

City of Fargo, North Dakota
ATTN: Tim Mahoney
225 4th Ave N
Fargo, ND 58102

RE: Lease with Option to Purchase Agreement No. 40005534

Dear Mr. Mahoney:

Enclosed please find the following documentation for this lease:

- Invoice for Advance Payment and Documentation Fee
- Lease with Option to Purchase Agreement No. 40005534
- Exhibit A - Equipment Description
- Exhibit B - Rental Payments
- Exhibit C - Certificate of Acceptance
- Exhibit D - Resolution
- Insurance Coverage Information
Please fill in the name and address of your insurance agent where indicated. It is important that you request a certificate of insurance be forwarded to our office just as soon as possible.
- Certificate of Incumbency
- 8038-GC -- We will take care of filing this form with the IRS. Please sign both originals where indicated in **blue ink**.

Please sign and seal all documents where indicated and return all of the executed documents to my attention. You can reach me at (701) 639-7209 if you have any other questions pertaining to the documentation. Thank you.

Sincerely,
CapFirst Equipment Finance, Inc.

A handwritten signature in blue ink, appearing to read 'David Suppes'.

David Suppes
President



3266 Oak Ridge Loop E
West Fargo, ND 58078

INVOICE

Advance Payment

Invoice#:

Invoice Date:

3/15/2024

Remit To:

Invoice to:

CapFirst Equipment Finance, Inc.
3266 Oak Ridge Loop E
West Fargo, ND 58078

City of Fargo, North Dakota
225 4th Ave N
Fargo, ND 58102

Fire Dept HQ

LEASE#	AMOUNT
40005534	
First Advance Payment:	\$3,025.00
Documentation Fee	\$300.00
Total Amount Due:	\$3,325.00

LEASE WITH OPTION TO PURCHASE AGREEMENT NO. 40005534

Between

CapFirst Equipment Finance, Inc.

As Lessor

and

CITY OF FARGO, NORTH DAKOTA

As Lessee

Dated as of March 15, 2024

THIS LEASE WITH OPTION TO PURCHASE AGREEMENT dated as of 3/15/2024 (the Lease), by and between CapFirst Equipment Finance, Inc., a corporation duly organized and existing under the laws of the state of North Dakota as lessor ("Lessor") whose address is 3266 Oak Ridge Loop E West Fargo, ND 58078; and City of Fargo, North Dakota a political subdivision of the state of North Dakota as lessee ("Lessee"), whose address is 225 4th Ave N, Fargo, ND 58102;

WITNESSETH:

WHEREAS, Lessee is authorized by law to acquire such items of personal property as are needed to carry out its governmental functions, and to acquire such personal property by entering into lease with option to purchase agreements; and

WHEREAS, Lessee has determined that it is necessary for it to acquire under this Lease certain items of personal property described herein as Equipment; and

WHEREAS, Lessor is willing to acquire such items of Equipment and to lease them to Lessee pursuant to this Lease;

NOW THEREFORE, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified.

Contractor: Each of the manufacturers or vendors from whom Lessee (or Lessor at Lessee's request) has ordered or will order or with whom Lessee (or Lessor at Lessee's request) has contracted or will contract for the manufacture, delivery and/or installation of the Equipment.

Equipment: The personal property described in the attached Exhibit A which is being leased with option to purchase by Lessee pursuant to this Lease.

Fiscal Year: The twelve month fiscal period of Lessee which commences on January 1st in every year and ends on the following December 31st.

Independent Counsel: An attorney duly admitted to the practice of law before the highest court of the State who is not a full-time employee of Lessor or Lessee.

Interest: The portion of any Rental Payment designated as and comprising interest as shown in the attached Exhibit B.

Net Proceeds: Any insurance proceeds or condemnation award, paid with respect to the Equipment, remaining after payment there from of all expenses incurred in the collection thereof.

Non-appropriation: The failure of City of Fargo, North Dakota to appropriate money for any Fiscal Year of Lessee sufficient for the continued performance of this Lease by Lessee, as evidenced by the passage of an ordinance or resolution specifically prohibiting Lessee from performing its obligations under this Lease, and from using any moneys to pay the Rental Payments due under this Lease for a designated Fiscal Year and all subsequent Fiscal Years.

Payment Date: The date upon which any Rental Payment is due and payable as provided in Exhibit B.

Permitted Encumbrances: As of any particular time: (i) liens for taxes and assessments not then delinquent, or which Lessee may, pursuant to the provisions of Section 7.3 hereof, permit to remain unpaid, (ii) this Lease and amendments hereto, (iii) Lessor's interest in the Equipment, and (iv) any mechanic's, laborer's,

materialmen's, supplier's or vendor's lien or right not filed or perfected in the manner prescribed by law, other than any lien arising through a Contractor or which Lessee may, pursuant to Article VIII hereof, permit to remain unpaid.

Principal: The portion of any Rental Payment designated as principal in the attached Exhibit B.

Purchase Option Price: With respect to the Equipment, as of the Payment Dates specified in the attached Exhibit B, the amount so designated and set forth opposite each such date in the attached Exhibit B.

Rental Payment: The payment due from Lessee to Lessor on each Payment Date during the Term of this Lease, as shown on Exhibit B.

Specifications: The bid specifications and/or purchase order pursuant to which Lessee has ordered the Equipment from a Contractor.

State: The State of North Dakota.

State and Federal Law or Laws: The Constitution and any law of the State and any charter, ordinance, rule or regulation of any agency or political subdivision of the State; and any law of the United States, and any rule or regulation of any federal agency.

Term of this Lease or Lease Term: The period during which this Lease is in effect as specified in Section 4.1.

Section 1.2. Exhibits.

The following Exhibits are attached to and by reference made a part of this Lease:

Exhibit A: A description of the Equipment being leased by Lessee pursuant to this Lease, including the serial number thereof which shall be inserted when available.

Exhibit B: A schedule indicating the date and amount of each Rental Payment coming due during the Lease Term, the amount of each Rental Payment comprising Principal and Interest, and the price at which Lessee may exercise its option to purchase Lessor's interest in the Equipment in accordance with Article X. The due date of each Rental Payment shall be inserted on Exhibit B by Lessor when available.

Exhibit C: A Certificate of Acceptance of Lessee indicating that the Equipment has been delivered and installed in accordance with the Specifications, and has been accepted by Lessee, the date on which Rental Payments shown in Exhibit B shall commence, and that certain other requirements have been met by Lessee.

Exhibit D: A form of resolution of the governing body of Lessee relating to the Lease and certain federal tax matters.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of Lessee. Lessee represents, covenants and warrants as follows:

(a) Lessee is a political subdivision of the State, duly organized and existing under the Constitution and laws of the State.

(b) Lessee is authorized under the Constitution and laws of the State to enter into this Lease and the transactions contemplated hereby, and to perform all of its obligations hereunder.

(c) The officer of Lessee executing this Lease has been duly authorized to execute and deliver this Lease under the terms and provisions of a resolution of Lessee's governing body, or by other appropriate official action.

(d) In authorizing and executing this Lease, Lessee has complied with all public bidding and other State and Federal Laws applicable to this Lease and the acquisition of the Equipment by Lessee.

(e) Lessee will not pledge, mortgage or assign this Lease, or its duties and obligations hereunder to any other person, firm or corporation except as provided under the terms of this Lease.

(f) Lessee will use the Equipment during the Lease Term only to perform the essential governmental functions needed by City of Fargo, North Dakota.

(g) Lessee will take no action that would cause the Interest portion of the Rental Payments to become includible in gross income of the recipient for federal income tax purposes under the Internal Revenue Code of 1986 (the Code) and Treasury Regulations promulgated thereunder (the Regulations), and Lessee will take and will cause its officers, employees and agents to take all affirmative actions legally within its power necessary to ensure that the Interest portion of the Rental Payments does not become includible in gross income of the recipient for federal income tax purposes under the Code and Regulations.

(h) Upon delivery and installation of the Equipment, Lessee will provide to Lessor a completed and executed copy of the Certificate of Acceptance attached hereto as Exhibit C.

(i) Lessee will cause a resolution substantially in the form attached hereto as Exhibit D to be adopted by its governing body.

(j) Lessee will submit to the Secretary of the Treasury an information reporting statement at the time and in the form required by the Code and the Regulations.

Section 2.2. Representations, Covenants and Warranties of Lessor. Lessor represents, covenants and warrants as follows:

(a) Lessor is a corporation duly organized, existing and in good standing under and by virtue of the laws of the state of North Dakota, and is duly qualified and in good standing as a domestic corporation authorized to transact business in the State; has power to enter into this Lease; is possessed of full power to own and hold real and personal property, and to lease the same; and has duly authorized the execution and delivery of this Lease.

(b) Neither the execution and delivery of this Lease, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Lessor is now a party or by which Lessor is bound, constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessor, or upon the Equipment except Permitted Encumbrances.

ARTICLE III

LEASE OF EQUIPMENT

Section 3.1. Lease. Lessor hereby leases the Equipment to Lessee, and Lessee hereby leases the Equipment from Lessor, upon the terms and conditions set forth in this Lease.

Section 3.2. Possession and Enjoyment. Lessor hereby covenants to provide Lessee during the Term of this Lease with the quiet use and enjoyment of the Equipment, and Lessee shall during the Term of this Lease peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Lease. Lessor will, at the request of Lessee and at Lessee's cost, join in any legal action in which Lessee asserts its right to such possession and enjoyment to the extent Lessor lawfully may do so.

Section 3.3. Lessor Access to Equipment. The Lessee agrees that Lessor shall have the right at all reasonable times to examine and inspect the Equipment. Lessee further agrees that Lessor shall have such rights of access to the Equipment as may be reasonably necessary to cause the proper maintenance of the Equipment in the event of failure by Lessee to perform its obligations hereunder.

ARTICLE IV

TERM OF LEASE

Section 4.1. Lease Term. This Lease shall be in effect for a Term commencing upon its date of execution and ending as provided in Section 4.5.

Section 4.2. Termination by Lessee. In the sole event of Non-appropriation, Lessee shall have the right to terminate this Lease, in whole but not in part, at the end of any Fiscal Year of Lessee, in the manner and subject to the terms specified in this Section and Section 4.4. Lessee may effect such termination by giving Lessor a written notice of termination and by paying to Lessor any Rental Payments and other amounts which are due and have not been paid at or before the end of its then current Fiscal Year. Lessee shall endeavor to give notice of termination not less than sixty (60) days prior to the end of such Fiscal Year, and shall notify Lessor of any anticipated termination. In the event of termination of this Lease as provided in this Section, Lessee shall deliver possession of the Equipment to Lessor in accordance with Section 12.3, and shall convey to Lessor or release its interest in the Equipment within ten (10) days after the termination of this Lease.

Section 4.3. Intent to Continue Lease Term: Appropriations. Lessee presently intends to continue this Lease for its entire Term and to pay all Rental Payments specified in Exhibit B. The officer of Lessee responsible for preparation of Lessee's budget shall include in the budget request for each Fiscal Year the Rental Payments to become due in such Fiscal Year, and shall use all reasonable and lawful means available to secure the appropriation of money for such Fiscal Year sufficient to pay the Rental Payments coming due therein. Lessee reasonably believes that moneys in an amount sufficient to make all such Rental Payments can and will lawfully be appropriated and made available for this purpose.

Section 4.4. Effect of Termination. Upon termination of this Lease as provided in Section 4.2, Lessee shall not be responsible for the payment of any additional Rental Payments coming due with respect to succeeding Fiscal Years, but if Lessee has not delivered possession of the Equipment to Lessor in accordance with Section 12.3 and conveyed to Lessor or released its interest in the Equipment within ten (10) days after the termination of this Lease, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments thereafter coming due under Exhibit B which are attributable to the number of days after such ten (10) day period during which Lessee fails to take such actions and for any other loss suffered by Lessor as a result of Lessee's failure to take such actions as required.

Section 4.5. Termination of Lease Term. The Term of this Lease will terminate upon the occurrence of the first of the following events:

- (a) the termination thereof by Lessee in accordance with Section 4.2;
- (b) the exercise by Lessee of its option to purchase Lessor's interest in the Equipment pursuant to Article X;
- (c) a default by Lessee and Lessor's election to terminate this Lease pursuant to Article XII; or
- (d) the payment by Lessee of all Rental Payments and other amounts authorized or required to be paid by Lessee hereunder.

ARTICLE V

RENTAL PAYMENTS

Section 5.1. Rental Payments. Lessee agrees to pay Rental Payments during the Term of this Lease, in the amounts and on the dates specified in Exhibit B. All Rental Payments shall be paid to Lessor at its offices at the address specified in the first paragraph of this Lease, or to such other person or entity to which Lessor has assigned such Rental Payments as specified in Article XI, at such place as such assignee may from time to time designate by written notice to Lessee. Lessee shall pay the Rental Payments exclusively from moneys legally available therefor, in lawful money of the United States of America, to Lessor or, in the event of assignment of the right to receive Rental Payments by Lessor, to its assignee. Interest shall accrue from the first day of the calendar month in which the Certificate of Acceptance is executed.

Section 5.2. Current Expense. The obligations of Lessee under this Lease, including its obligation to pay the Rental Payments due with respect to the Equipment, in any Fiscal Year for which this Lease is in effect, shall constitute a current expense of Lessee for such Fiscal Year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State. Nothing herein shall constitute a pledge by Lessee of any taxes or other moneys, other than moneys lawfully appropriated from time to time by or for the benefit of Lessee in the annual budget and the proceeds or Net Proceeds of the Equipment, to the payment of any Rental Payment or other amount coming due hereunder.

Section 5.3. Interest Component. A portion of each Rental Payment is paid as and represents the payment of Interest. Exhibit B sets forth the Interest component of each Rental Payment.

Section 5.4. Rental Payments to be Unconditional. Except as provided in Section 4.2, the obligation of Lessee to make Rental Payments or any other payments required hereunder shall be absolute and unconditional in all events. Notwithstanding any dispute between Lessee and Lessor or any other person, Lessee shall make all Rental Payments and other payments required hereunder when due and shall not withhold any Rental Payment or other payment pending final resolution of such dispute nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such Rental Payments or other payments required under this Lease. Lessee's obligation to make Rental Payments or other payments during the Lease Term shall not be abated through accident or unforeseen circumstances. However, nothing herein shall be construed to release Lessor from the performance of its obligations hereunder; and if Lessor should fail to perform any such obligation, Lessee may institute such legal action against Lessor as Lessee may deem necessary to compel the performance of such obligation or to recover damages therefor.

ARTICLE VI

INSURANCE AND NEGLIGENCE

Section 6.1. Liability Insurance. Upon receipt of possession of the Equipment, Lessee shall take such measures as may be necessary to ensure that any liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or the operation of the Equipment or any part thereof, is covered by a blanket or other general liability insurance policy maintained by Lessee. The Net Proceeds of all such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which any Net Proceeds may be paid.

Section 6.2. Property Insurance. Upon receipt of possession of the Equipment, Lessee shall have and assume the risk of loss with respect thereto. Lessee shall procure and maintain continuously in effect during the Term of this Lease, all-risk insurance, subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part thereof damaged or destroyed and to pay the applicable Purchase Option Price of the Equipment. Such insurance may be provided by a rider to an existing policy or under a separate policy. Such insurance may be written with customary deductible amounts. The Net Proceeds of insurance required by this Section shall be applied to the prompt repair, restoration or replacement of the Equipment, or to the purchase of the Equipment, as provided in Section 6.6. Any Net Proceeds not needed for those purposes shall be paid to Lessee.

Section 6.3. Worker's Compensation Insurance. If required by State law, Lessee shall carry worker's compensation insurance covering all employees on, in, near or about the Equipment, and upon request, shall furnish to Lessor certificates evidencing such coverage throughout the Term of this Lease.

Section 6.4. Requirements For All Insurance. All insurance policies (or riders) required by this Article shall be taken out and maintained with responsible insurance companies organized under the laws of one of

the states of the United States and qualified to do business in the State; and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten (10) days before the cancellation or revision becomes effective. All insurance policies or riders required by Sections 6.1 and 6.2 shall name Lessee and Lessor as insured parties, and any insurance policy or rider required by Section 6.3 shall name Lessee as insured party. Lessee shall deposit with Lessor policies (and riders) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy (or rider), Lessee shall furnish to Lessor evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article, unless such insurance is no longer obtainable in which event Lessee shall notify Lessor of this fact.

Section 6.5. Lessee's Negligence. Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Equipment and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or the property of others, which is proximately caused by the negligent conduct of Lessee, its officers, employees and agents. Lessee hereby assumes responsibility for and agrees to reimburse Lessor for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees) of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of Lessee, its officers, employees and agents, to the maximum extent permitted by law.

Section 6.6. Damage to or Destruction of Equipment. If after delivery of the Equipment to Lessee all or any part of the Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee shall as soon as practicable after such event either: (i) replace the same at Lessee's sole cost and expense with equipment of equal or greater value to the Equipment immediately prior to the time of the loss occurrence, such replacement equipment to be subject to Lessor's reasonable approval, whereupon such replacement shall be substituted in this Lease by appropriate endorsement; or (ii) pay the applicable Purchase Option Price of the Equipment as set forth in Exhibit B. Lessee shall notify Lessor of which course of action it will take within fifteen (15) days after the loss occurrence. If Lessee fails or refuses to notify Lessor within the required period, Lessor may, at its option, declare the applicable Purchase Option Price of the Equipment set forth in Exhibit B immediately due and payable, and Lessee shall be obligated to pay the same. The Net Proceeds of all insurance payable with respect to the Equipment shall be available to Lessee and shall be used to discharge Lessee's obligation under this Section. On payment of the Purchase Option Price, this Lease shall terminate and Lessee thereupon shall become entitled to the Equipment AS IS, WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE, except that the Equipment shall not be subject to any lien or encumbrance created by or arising through Lessor.

ARTICLE VII

OTHER OBLIGATIONS OF LESSEE

Section 7.1. Use: Permits. Lessee shall exercise due care in the installation, use, operation and maintenance of the Equipment, and shall not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any State and Federal Law or for a purpose or in a manner contrary to that contemplated by this Lease. Lessee shall obtain all permits and licenses necessary for the installation, operation, possession and use of the Equipment. Lessee shall comply with all State and Federal Laws applicable to the installation, use, possession and operation of the Equipment, and if compliance with any such State and Federal Law requires changes or additions to be made to the Equipment, such changes or additions shall be made by Lessee at its expense.

Section 7.2. Maintenance of Equipment by Lessee. Lessee shall, at its own expense, maintain, preserve and keep the Equipment in good repair, working order and condition, and shall from time to time make all repairs and replacements necessary to keep the Equipment in such condition. Lessor shall have no responsibility for any of these repairs or replacements.

Section 7.3. Taxes, Other Governmental Charges and Utility Charges. Except as expressly limited by this Section, Lessee shall pay all taxes and other charges of any kind which are at any time lawfully assessed or levied against or with respect to the Equipment, the Rental Payments or any part thereof, or which become due during the Term of this Lease, whether assessed against Lessee or Lessor. Lessee shall also pay when due all gas, water, steam, electricity, heat, power, telephone, and other charges incurred in the operation,

maintenance, use, occupancy and upkeep of the Equipment, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Equipment; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due. Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge which is the obligation of Lessee under this Section.

Lessee may, at its own expense and in its own name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments, utility or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such items the interest of Lessor in the Equipment will be materially endangered or the Equipment or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay such taxes, assessments, utility or other charges or provide Lessor with full security against any loss which may result from nonpayment, in form satisfactory to Lessor.

Section 7.4. Advances. If Lessee shall fail to perform any of its obligations under this Article, Lessor may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand, with interest at the rate of 18% per annum or the maximum rate permitted by law, whichever is less, from the date of the advance to the date of repayment.

ARTICLE VIII

TITLE

Section 8.1. Title. During the Term of this Lease, and so long as Lessee is not in default under Article XII, legal title to the Equipment and any and all repairs, replacements, substitutions and modifications to it shall be in Lessee. Upon termination of this Lease for any of the reasons specified in Section 4.5, Clauses (a) and (c), full and unencumbered legal title to the Equipment shall pass to Lessor, and Lessee shall have no further interest therein. In either of such events, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title to the Equipment to Lessor and the termination of Lessee's interest therein, and upon request by Lessor shall deliver possession of the Equipment to Lessor in accordance with Section 12.3. Upon termination of this Lease for any of the reasons specified in Section 4.5, Clauses (b) and (d), Lessor's security or other interest in the Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security or other interest in the Equipment.

Section 8.2. Security Interest. Lessor shall have and retain a security interest under the Uniform Commercial Code in the Equipment, the proceeds thereof and all repairs, replacements, substitutions and modifications thereto or thereof made pursuant to Section 8.5, in order to secure Lessee's payment of all Rental Payments due during the Term of this Lease and the performance of all other obligations herein to be performed by Lessee. If any portion of the Equipment shall constitute a vehicle, Lessor shall have authority, upon filing the manufacturer's certificate of origin for such Equipment, to require the notation of Lessor's security interest on any applicable records and the certificate of title for such Equipment. Lessee will join with Lessor in executing such financing statements or other documents and will perform such acts as Lessor may request to establish and maintain a valid security interest in the Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment with appropriate lettering, labels or tags, and maintain such markings during the Term of this Lease, so as clearly to disclose Lessor's security interest in the Equipment.

Section 8.3. Liens. During the Term of this Lease, Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Equipment, other than the respective rights of Lessor and Lessee as herein provided and Permitted Encumbrances. Except as expressly provided in Section 7.3 and this Article, Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. Lessee shall reimburse Lessor for any expense incurred by Lessor in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 8.4. Installation of Lessee's Equipment. Lessee may at any time and from time to time, in its sole discretion and at its own expense, install other items of equipment in or upon the Equipment, which items shall be identified by tags or other symbols affixed thereto as property of Lessee. All such items so identified shall remain the sole property of Lessee, in which Lessor shall have no interest, and may be modified or removed by Lessee at any time provided that Lessee shall repair and restore any and all damage to the Equipment resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent Lessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease with option to purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Equipment.

Section 8.5. Modification of Equipment. Lessee shall, at its own expense, have the right to make repairs to the Equipment, and to make repairs, replacements, substitutions and modifications to all or any of the parts thereof. All such work and any part or component used or installed to make a repair or as a replacement, substitution or modification, shall thereafter comprise part of the Equipment and be subject to the provisions of this Lease. Such work shall not in any way damage the Equipment or cause it to be used for purposes other than those authorized under the provisions of State and Federal Law or those contemplated by this Lease; and the Equipment, upon completion of any such work shall be of a value which is not less than the value of the Equipment immediately prior to the commencement of such work. Any property for which a replacement or substitution is made pursuant to this Section may be disposed of by Lessee in such manner and on such terms as are determined by Lessee. Lessee will not permit any mechanic's or other lien to be established or remain against the Equipment for labor or materials furnished in connection with any repair, replacement, substitution or modification made by Lessee pursuant to this Section; provided that if any such lien is established and Lessee shall first notify Lessor of Lessee's intention to do so, Lessee may in good faith contest any lien filed or established against the Equipment, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such item the interest of Lessor in the Equipment will be materially endangered or the Equipment or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide Lessor with full security against any such loss or forfeiture, in form satisfactory to Lessor. Lessor will cooperate fully with Lessee in any such contest, upon the request and at the expense of Lessee.

Section 8.6. Personal Property. The Equipment is and shall at all times be and remain personal property notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner affixed or attached to or embedded in or permanently rested upon real property or any building thereon or attached in any manner to what is permanent by means of cement, plaster, nails, bolts, screws or otherwise.

ARTICLE IX

WARRANTIES

Section 9.1. Selection of Equipment. The Equipment and the Contractor have been selected by Lessee, and Lessor shall have no responsibility in connection with the selection of the Equipment, its suitability for the use intended by Lessee, the acceptance by the Contractor or its sales representative of the order submitted, or any delay or failure by the Contractor or its sales representative to manufacture, deliver or install the Equipment for use by Lessee. Lessee authorizes Lessor to add the serial number of the Equipment to Exhibit A when available.

Section 9.2. Installation and Maintenance of Equipment. Lessor shall have no obligation to install, erect, test, inspect, service or maintain the Equipment under any circumstances, but such actions shall be the obligation of Lessee or the Contractor.

Section 9.3. Contractor's Warranties. Lessor hereby assigns to Lessee for and during the Term of this Lease, all of its interest in all Contractor's warranties and guarantees, express or implied, issued on or applicable to the Equipment, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense.

Section 9.4. Patent Infringement. Lessor hereby assigns to Lessee for and during the Term of this Lease all of its interest in patent indemnity protection provided by any Contractor with respect to the Equipment.

Such assignment of patent indemnity protection by Lessor to Lessee shall constitute the entire liability of Lessor for any patent infringement by Equipment furnished pursuant to this Lease.

Section 9.5. Disclaimer of Warranties. THE EQUIPMENT IS DELIVERED AS IS, AND LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE OF THE EQUIPMENT, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT.

ARTICLE X

OPTION TO PURCHASE

Section 10.1. When Available. Lessee shall have the option to purchase Lessor's interest in the Equipment on any Payment Date for the then applicable Purchase Option Price set forth in Exhibit B, but only if Lessee is not in default under this Lease, and only in the manner provided in this Article.

Section 10.2. Exercise of Option. Lessee shall give notice to Lessor of its intention to exercise its option not less than thirty (30) days prior to the Payment Date on which the option is to be exercised and shall deposit with Lessor on the date of exercise an amount equal to all Rental Payments and any other amounts then due or past due (including the Rental Payment due on the Payment Date on which the option is to be exercised) and the applicable Purchase Option Price set forth in Exhibit B. The closing shall be on the Payment Date on which the option is to be exercised at the office of Lessor.

Section 10.3. Release of Lessor's Interest. Upon exercise of the purchase option by Lessee, Lessor shall convey or release to Lessee, all of its right, title and/or interest in and to the Equipment by delivering to Lessee such documents as Lessee deems necessary for this purpose.

ARTICLE XI

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 11.1. Assignment by Lessor. Lessor shall not assign its obligations under this Lease, and no purported assignment thereof shall be effective. All of Lessor's right, title and/or interest in and to this Lease, the Rental Payments and other amounts due hereunder and the Equipment may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor at any time, without the consent of Lessee. No such assignment shall be effective as against Lessee unless and until the assignor shall have filed with Lessee a copy or written notice thereof identifying the assignee. Lessee shall pay all Rental Payments due hereunder to or at the direction of Lessor or the assignee named in the most recent assignment or notice of assignment filed with Lessee. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments. In the event Lessor assigns participations in its right, title and/or interest in and to this Lease, the Rental Payments and other amounts due hereunder and the Equipment, such participants shall be considered to be Lessor with respect to their participated shares thereof.

Section 11.2. Assignment and Subleasing by Lessee. Neither this Lease nor Lessee's interest in the Equipment may be assigned by Lessee without the written consent of Lessor. However, the Equipment may be subleased by Lessee, in whole or in part, without the consent of Lessor, subject, however, to each of the following conditions:

(i) This Lease and the obligation of Lessee to make Rental Payments hereunder, shall remain obligations of Lessee.

(ii) The sublessee shall assume the obligations of Lessee hereunder to the extent of the interest subleased.

(iii) Lessee shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to Lessor a true and complete copy of such sublease.

(iv) No sublease by Lessee shall cause the Equipment to be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State.

(v) No sublease shall cause the Interest component of the Rental Payments due with respect to the Equipment to become includible in gross income of the recipient for federal income tax purposes.

Section 11.3. Restriction on Mortgage or Sale of Equipment by Lessee. Except as provided in Section 11.2, Lessee will not mortgage, sell, assign, transfer or convey the Equipment or any portion thereof during the Term of this Lease, or remove any Equipment not constituting a vehicle from its boundaries, without the written consent of Lessor. Lessee shall not, without the written permission of Lessor, store or house any Equipment constituting a vehicle outside the corporate boundaries of Lessee.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.1. Events of Default Defined. The following shall be "events of default" under this Lease and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, with respect to the Equipment, any one or more of the following events:

(i) Failure by Lessee to pay any Rental Payment or other payment required to be paid under this Lease at the time specified herein and the continuation of said failure for a period of three (3) days after telephonic or telegraphic notice given by Lessor that the payment referred to in such notice has not been received, such telephonic or telegraphic notice to be subsequently confirmed in writing, or after written notice.

(ii) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Clause (i) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(iii) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its governmental function or adjudication of Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

The provisions of this Section 12.1 and Section 12.2 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to carry out its obligations under this Lease with respect to the Equipment, other than its obligation to pay Rental Payments with respect thereto which shall be paid when due notwithstanding the provisions of this paragraph. Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State or their respective departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee and not resulting from its negligence. Lessee agrees, however, to remedy with all reasonable dispatch the cause or causes preventing Lessee from carrying out its obligations under this Lease; provided that the settlement of strikes, lockouts and other labor disturbances shall be entirely within the discretion of Lessee and Lessee shall not be required to make settlement of strikes, lockouts and other labor disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of Lessee unfavorable to Lessee.

Section 12.2. Remedies on Default. Whenever any event of default referred to in Section 12.1 hereof shall have happened and be continuing with respect to the Equipment, Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(i) Lessor, with or without terminating this Lease may declare all Rental Payments due or to become due during the Fiscal Year in effect when the default occurs to be immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable.

(ii) Lessor, with or without terminating this Lease, may repossess the Equipment by giving Lessee written notice to deliver the Equipment to Lessor, whereupon Lessee shall do so in the manner provided in Section 12.3; or in the event Lessee fails to do so within ten (10) days after receipt of such notice, Lessor may enter upon Lessee's premises where the Equipment is kept and take possession of the Equipment and charge Lessee for costs incurred in repossessing the Equipment, including reasonable attorneys' fees. Lessee hereby expressly waives any damages occasioned by such repossession. If the Equipment or any portion of it has been destroyed or damaged beyond repair, Lessee shall pay the applicable Purchase Option Price of the Equipment, as set forth in Exhibit B (less credit for Net Proceeds), to Lessor. Notwithstanding the fact that Lessor has taken possession of the Equipment, Lessee shall continue to be responsible for the Rental Payments due during the Fiscal Year then in effect. If this Lease has not been terminated, Lessor shall return the Equipment to Lessee at Lessee's expense when the event of default is cured.

(iii) If Lessor terminates this Lease and takes possession of the Equipment, Lessor shall within thirty (30) days thereafter use its best efforts to sell the Equipment or any portion thereof in a commercially reasonable manner at public or private sale in accordance with applicable State laws. Lessor shall apply the proceeds of such sale to pay the following items in the following order: (a) all costs incurred in securing possession of the Equipment; (b) all expenses incurred in completing the sale; (c) the applicable Purchase Option Price of the Equipment; and (d) the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect. Any sale proceeds remaining after the requirements of Clauses (a), (b), (c) and (d) have been met may be retained by Lessor.

(iv) If the proceeds of sale of the Equipment are not sufficient to pay the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect, Lessor may take any other remedy available at law or in equity to require Lessee to perform any of its obligations hereunder.

Section 12.3. Return of Equipment. Upon the expiration or termination of this Lease prior to the payment of all Rental Payments in accordance with Exhibit B, Lessee shall return the Equipment to Lessor in the condition, repair, appearance and working order required in Section 7.2, in the following manner as may be specified by Lessor: (i) by delivering the Equipment at Lessee's cost and expense to such place within the State as Lessor shall specify; or (ii) by loading such portions of the Equipment as are considered movable at Lessee's cost and expense, on board such carrier as Lessor shall specify and shipping the same, freight prepaid, to the place specified by Lessor. If Lessee refuses to return the Equipment in the manner designated, Lessor may repossess the Equipment and charge to Lessee the costs of such repossession or pursue any remedy described in Section 12.2.

Section 12.4. No Remedy Exclusive. No remedy conferred upon or reserved to Lessor by this Article is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by Lessor or its assignee.

Section 12.5. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys and/or incur other expenses for the collection of moneys or for the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fee of such attorneys and/or such other reasonable expenses so incurred by the nondefaulting party. In the event that legal proceedings relating to this Lease (but not evidencing an action by a nondefaulting party against a defaulting party) are commenced in any court or before any other tribunal of competent jurisdiction, the legal fees and other reasonable costs and expenses of the prevailing party shall be paid by the nonprevailing party on demand of the prevailing party.

Section 12.6. Late Charge. Whenever any event of default referred to in Section 12.1, Clause (i) hereof shall have happened and be continuing with respect to the Equipment, Lessor shall have the right, at its option and without any further demand or notice, to require a late payment charge for each thirty (30) day period or part thereof during which such event of default occurs equal to four percent (4%) of the delinquent amount, and Lessee shall be obligated to pay the same immediately upon receipt of Lessor's written invoice therefor; provided, however, that this Section 12.6 shall not be applicable if or to the extent that the application thereof would affect the validity of this Lease.

ARTICLE XIII

ADMINISTRATIVE PROVISIONS

Section 13.1. Notices. All notices, certificates, legal opinions or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered form with postage fully prepaid to the addresses specified on the first page hereof; provided that Lessor and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates, legal opinions or other communications will be sent.

Section 13.2. Financial Information. During the Term of this Lease, Lessee annually will provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of Lessee to continue this Lease as may be requested by Lessor or its assignee.

Section 13.3. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.4. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.5. Amendments, Changes and Modifications. This Lease may be amended or any of its terms modified only by written document duly authorized, executed and delivered by Lessor and Lessee.

Section 13.6. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles, Sections or Clauses of this Lease.

Section 13.7. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease.

Section 13.8. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.9. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

IN WITNESS WHEREOF, Lessor has caused this Lease to be executed in its corporate name by its duly authorized officer; and Lessee has caused this Lease to be executed in its name by its duly authorized officer, as of the date first above written.

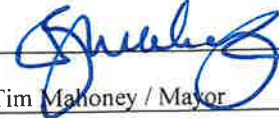

LESSOR:
CAPFIRST EQUIPMENT FINANCE, INC.

By: _____

Title: _____

Date: 3/15/2024

LESSEE:
City of Fargo, North Dakota

By:  _____ 

Name/Title: Tim Mahoney / Mayor

Date: 3/15/2024

ATTEST:

By:  _____ 

Name/Title: Steven Sprague / City Auditor

EXHIBIT A
EQUIPMENT

Lessee: City of Fargo, North Dakota
225 4th Ave N
Fargo, North Dakota 58102

Date of Lease: 3/15/2024
Lease #: 40005534

The Equipment which is the subject of the attached Lease with Option to Purchase Agreement is as follows:

Location Site: 225 4th Ave N Fargo, North Dakota 58102

QTY.	SERIAL NO.	DESCRIPTION
1	19Z3Y12008	Kyocera TASKalfa 5054ci Color Copier with related accessories

Description of Financed Amount:

Cost of above Equipment	\$8,532.19
Cost of related charges:	
Transportation	
Physical Modifications (specify)	
Warranty	
Add: Sales or other tax, if applicable	
Less: Trade - In, if applicable	
Down Payment	
Net Financed Amount:	\$8,532.19

EXHIBIT B
SCHEDULE OF RENTAL PAYMENTS

Lessee: City of Fargo, North Dakota
225 4th Ave N
Fargo, North Dakota 58102

Date of Lease: 3/15/2024
Lease #: 40005534

RENTAL PAYMENTS

Rental Payment Date	Rental Payment	Interest	Principal	Purchase Option Price*
3/15/2024	\$3,025.00	\$0.00	\$3,025.00	\$5,645.00
3/15/2025	\$3,025.00	\$358.11	\$2,666.89	\$2,888.00
3/15/2026	\$3,025.00	\$184.70	\$2,840.30	\$0.00

*After payment of Rental Payment due on such date.

EXHIBIT C



CERTIFICATE OF ACCEPTANCE

I, the undersigned, hereby certify that I am the duly qualified and acting Mayor of the City of Fargo, North Dakota (Lessee); and, with respect to the Lease with Option to Purchase Agreement dated March 15, 2024 (Lease), by and between Lessee and CapFirst Equipment Finance, Inc. (Lessor), that:

1. The equipment described in the Lease (the Equipment) has been delivered and installed in accordance with Lessee's Specifications (as that term is defined in the Lease) and has been accepted by Lessee.
2. The rental payments provided for on Exhibit B to the Lease (the Rental Payments) shall commence and be due and payable on 3/15/2024 and continue thereafter, on the dates and in the amounts shown on Exhibit B to the Lease.
3. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Lease during the current fiscal year of Lessee, and such moneys will be applied in payment of all Rental Payments due and payable during such current fiscal year.
4. Lessee has obtained from a reputable insurance company qualified to do business in the state of North Dakota insurance with respect to, all risks required to be covered thereby pursuant to Article VI of the Lease.
5. Lessee is exempt from all personal property taxes, and is exempt from sales and/or use taxes with respect to the Equipment and the Rental Payments.
6. During the Lease Term (as defined in the Lease) the Equipment will be used by Lessee to perform essential governmental functions.
7. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of Lessee or its officers or its employees to enter into the Lease; the proper authorization, approval and execution of the Lease and other documents contemplated thereby; the appropriation of moneys, or any other action taken by Lessee to provide moneys, sufficient to make Rental Payments coming due under the Lease in Lessee's current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

Dated: March 15, 2024

City of Fargo, North Dakota

By:  
Name/Title: Tim Mahoney / Mayor

ATTEST:

By:  
Name/Title: Steven Sprague / City Auditor

EXHIBIT D

RESOLUTION RELATING TO LEASE WITH OPTION
TO PURCHASE AGREEMENT NO. 40005534

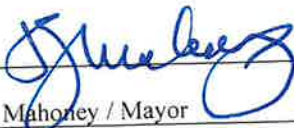

BE IT RESOLVED by the governing body of the City of Fargo, North Dakota (the Issuer), as follows:

Section 1. Recitals and Authorization. The Issuer, as lessee, has heretofore entered into a Lease with Option to Purchase Agreement No. 40005534 dated as of 3/15/2024 (the Lease), with CapFirst Equipment Finance, Inc., as lessor. It is hereby determined that it is necessary and desirable and in the best interests of the Issuer to enter into the Lease for the purposes therein specified, and the execution and delivery of the Lease by the Issuer are hereby approved, ratified and confirmed.



Section 2. Designation as Qualified Tax-Exempt Obligation. Pursuant to Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986 (the Code), the Issuer hereby specifically designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. In compliance with Section 265(b)(3)(D) of the Code, the Issuer hereby represents that the Issuer will not designate more than \$10,000,000 of obligations issued by the Issuer in the calendar year during which the Lease is executed and delivered as such "qualified tax-exempt obligations."

Section 3. Issuance Limitation. In compliance with the requirements of Section 265(b)(3)(C) of the Code, the Issuer hereby represents that the Issuer (including all "subordinate entities" of the Issuer within the meaning of Section 265(b)(3)(E) of the Code) reasonably anticipates not to issue in the calendar year during which the Lease is executed and delivered, obligations bearing interest exempt from federal income taxation under Section 103 of the Code (other than "private activity bonds" as defined in Section 141 of the Code) in an amount greater than \$10,000,000.

City of Fargo, North Dakota

By:  
Name/Title: Tim Mahoney / Mayor

ATTEST:

By:  
Name/Title: Steven Sprague / City Auditor

INSURANCE COVERAGE REQUIREMENT

Your lease with CAPFIRST EQUIPMENT FINANCE, INC. requires you to maintain certain insurance coverage. In order to assist you with obtaining coverage from your insurance company, please provide us with the following agent information, as well as provide your insurance company with the requirements as shown below:

<u>INSURANCE AGENT DATA:</u>	
NAME OF INSURANCE AGENT:	<u>Bell Insurance</u>
ADDRESS:	<u>PO Box 1470</u>
PHONE #:	<u>701-297-1805</u>
CONTACT PERSON:	<u>Ross Gailfus</u>

Named Insured / Lessee: City of Fargo, North Dakota

Lease with Option to Purchase Agreement No.: 40005534

Coverage:
All Risk Personal Property and/or
EDP, if applicable

Certificate Holders:
Loss Payee(s) As Their Interests
May Appear:

CapFirst Equipment Finance, Inc., and/or its assigns
3266 Oak Ridge Loop E
West Fargo, ND 58078

Coverage:
General Liability

Certificate Holders:
Additional Insured:

CapFirst Equipment Finance, Inc., and/or its assigns
3266 Oak Ridge Loop E
West Fargo, ND 58078



The Insurance Certificate should show the coverage limits and the insurance carrier's name(s) and policy number(s). Please have the Certificate of Insurance sent to CapFirst Equipment Finance, Inc. at the address above, or fax it to us at (701) 639-7031.

WE WOULD APPRECIATE YOUR AGENT INCLUDING OUR LEASE NUMBER ON THE CERTIFICATE.

CERTIFICATE OF INCUMBENCY

**LEASE WITH OPTION TO PURCHASE AGREEMENT NO. 40005534
DATED AS OF 3/15/2024**

I, Steven Sprague, do hereby certify that I am the duly elected or appointed and acting City Auditor of the City of Fargo, North Dakota (the "Lessee"), a political subdivision duly organized and existing under the laws of the State of North Dakota and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

Print Name	Title	Sample Signature
<u>Tim Mahoney</u>	<u>Mayor</u>	 
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such entity hereto on 3/15/2024.

 
Signature

Steven Sprague / City Auditor
Print Name / Title

(SEAL)

Form **8038-GC**
(Rev. October 2021)
Department of the Treasury
Internal Revenue Service

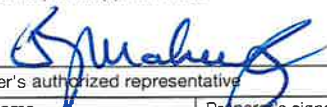
**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**

OMB No. 1545-0047

► Under Internal Revenue Code section 149(e)
Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.
► Go to www.irs.gov/Form8038GC for instructions and the latest information.

Part I Reporting Authority		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name City of Fargo, North Dakota (Public Works)		2 Issuer's employer identification number (EIN) 45-1002069	
3 Number and street (or P.O. box if mail isn't delivered to street address) 225 4th St N		Room/suite	
4 City, town, or post office, state, and ZIP code Fargo, ND 58102		5 Report number (For IRS Use Only) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information Steven Sprague / City Auditor		7 Telephone number of officer or legal representative (701) 241-1333	

Part II Description of Obligations		Check one box: <input checked="" type="checkbox"/> Single issue <input type="checkbox"/> Consolidated return	
8a	Issue price of obligation(s) (see instructions)	8a	
b	Issue date (single issue) or calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions) ► 3/15/2024		
9	Amount of the reported obligation(s) on line 8a that is:	9a	
a	For leases for vehicles	9b	8,532.19
b	For leases for office equipment	9c	
c	For leases for real property	9d	
d	For leases for other (see instructions)	9e	
e	For bank loans for vehicles	9f	
f	For bank loans for office equipment	9g	
g	For bank loans for real property	9h	
h	For bank loans for other (see instructions)	9i	
i	Used to refund prior issue(s)	9j	
j	Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9k	
k	Other		
10	If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box		<input type="checkbox"/>
11	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions)		<input type="checkbox"/>
12	Vendor's or bank's name: CapFirst Equipment Finance, Inc.		
13	Vendor's or bank's employer identification number: 81-4084473		

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.			
		Date	Tim Mahoney / Mayor Type or print name and title	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	Firm's name ►	Firm's EIN ►		
	Firm's address ►	Phone no.		

Future Developments
For the latest information about developments related to Form 8038-GC and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form8038GC.

General Instructions
Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form
Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File
Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.
Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Bonds.
Filing a separate return for a single issue.
Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.
An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.
Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that aren't reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.
Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

Where To File

File Form 8038-GC and any attachments at the following address.

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

Private delivery services (PDS). You can use certain PDS designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These PDS include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The PDS can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

Tax-exempt obligation. This is any obligation including a bond, installment purchase agreement, or financial lease on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that isn't a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances).

Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond isn't tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and
2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that aren't private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

Line 2. An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at www.irs.gov/EIN. The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Lines 3 and 4. Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

Note: The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Line 5. This line is for IRS use only. Don't make any entries in this box.

Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

Lines 9a through 9h. Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment

purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

Lines 9i and 9j. For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

Line 9k. Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

Line 10. Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

Line 11. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Line 12. Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Line 13. Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also, write the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

Note: If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through www.irs.gov/FormComments. Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send Form 8038-GC to this address. Instead, see *Where To File*, earlier.

Form **8038-GC**
(Rev. October 2021)
Department of the Treasury
Internal Revenue Service

**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**

▶ Under Internal Revenue Code section 149(e)
Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.
▶ Go to www.irs.gov/Form8038GC for instructions and the latest information.

OMB No. 1545-0047

Part I Reporting Authority		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name City of Fargo, North Dakota (Public Works)		2 Issuer's employer identification number (EIN) 45-1002069	
3 Number and street (or P.O. box if mail isn't delivered to street address) 225 4th St N		Room/suite	
4 City, town, or post office, state, and ZIP code Fargo, ND 58102		5 Report number (For IRS Use Only) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information Steven Sprague / City Auditor		7 Telephone number of officer or legal representative (701) 241-1333	

Part II Description of Obligations		Check one box: <input checked="" type="checkbox"/> Single issue <input type="checkbox"/> Consolidated return	
8a Issue price of obligation(s) (see instructions)	8a		
b Issue date (single issue) or calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions) ▶ 3/15/2024			
9 Amount of the reported obligation(s) on line 8a that is:	9a		
a For leases for vehicles	9b	8,532.19	
b For leases for office equipment	9c		
c For leases for real property	9d		
d For leases for other (see instructions)	9e		
e For bank loans for vehicles	9f		
f For bank loans for office equipment	9g		
g For bank loans for real property	9h		
h For bank loans for other (see instructions)	9i		
i Used to refund prior issue(s)	9j		
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9k		
k Other			
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box <input type="checkbox"/>			
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) <input type="checkbox"/>			
12 Vendor's or bank's name: CapFirst Equipment Finance, Inc.			
13 Vendor's or bank's employer identification number: 81-4084473			

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.			
	 Signature of issuer's authorized representative		Date	
Paid Preparer Use Only	Print/Type preparer's name		Preparer's signature	
	Firm's name ▶		Date	
	Firm's address ▶		Check <input type="checkbox"/> if self-employed PTIN	
	Firm's EIN ▶		Phone no.	

Future Developments
For the latest information about developments related to Form 8038-GC and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form8038GC.

General Instructions
Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form
Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File
Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.
Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Bonds.
Filing a separate return for a single issue. Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.
An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.
Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that aren't reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.
Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

Where To File

File Form 8038-GC and any attachments at the following address.

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

Private delivery services (PDS). You can use certain PDS designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These PDS include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The PDS can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

Tax-exempt obligation. This is any obligation including a bond, installment purchase agreement, or financial lease on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that isn't a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond isn't tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and
2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that aren't private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

Line 2. An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at www.irs.gov/EIN. The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Lines 3 and 4. Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

Note: The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Line 5. This line is for IRS use only. Don't make any entries in this box.

Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

Lines 9a through 9h. Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment

purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

Lines 9i and 9j. For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

Line 9k. Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

Line 10. Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

Line 11. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Line 12. Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Line 13. Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also, write the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

Note: If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through www.irs.gov/FormComments. Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send Form 8038-GC to this address. Instead, see *Where To File*, earlier.



3266 Oak Ridge Loop E
West Fargo, ND 58078

March 15, 2024

City of Fargo, North Dakota
ATTN: Tim Mahoney
225 4th Ave N
Fargo, ND 58102

RE: Lease with Option to Purchase Agreement No. 40005536

Dear Mr. Mahoney:

Enclosed please find the following documentation for this lease:

- Invoice for Advance Payment and Documentation Fee
- Lease with Option to Purchase Agreement No. 40005536
- Exhibit A - Equipment Description
- Exhibit B - Rental Payments
- Exhibit C - Certificate of Acceptance
- Exhibit D - Resolution
- Insurance Coverage Information
Please fill in the name and address of your insurance agent where indicated. It is important that you request a certificate of insurance be forwarded to our office just as soon as possible.
- Certificate of Incumbency
- 8038-GC -- We will take care of filing this form with the IRS. Please sign both originals where indicated in **blue ink**.

Please sign and seal all documents where indicated and return all of the executed documents to my attention. You can reach me at (701) 639-7209 if you have any other questions pertaining to the documentation. Thank you.

Sincerely,
CapFirst Equipment Finance, Inc.

A handwritten signature in blue ink, appearing to read 'David Suppes'.

David Suppes
President



3266 Oak Ridge Loop E
West Fargo, ND 58078

Invoice#:
Invoice Date:

INVOICE
Advance Payment

3/15/2024

Remit To:

Invoice to:

CapFirst Equipment Finance, Inc. 3266 Oak Ridge Loop E West Fargo, ND 58078	City of Fargo, North Dakota 225 4th Ave N Fargo, ND 58102 PSB
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LEASE#	AMOUNT
40005536	
First Advance Payment:	\$2,254.00
Documentation Fee	\$300.00
Total Amount Due:	\$2,554.00

LEASE WITH OPTION TO PURCHASE AGREEMENT NO. 40005536

Between

CapFirst Equipment Finance, Inc.

As Lessor

and

CITY OF FARGO, NORTH DAKOTA

As Lessee

Dated as of March 15, 2024

THIS LEASE WITH OPTION TO PURCHASE AGREEMENT dated as of 3/15/2024 (the Lease), by and between CapFirst Equipment Finance, Inc., a corporation duly organized and existing under the laws of the state of North Dakota as lessor ("Lessor") whose address is 3266 Oak Ridge Loop E West Fargo, ND 58078; and City of Fargo, North Dakota a political subdivision of the state of North Dakota as lessee ("Lessee"), whose address is 225 4th Ave N, Fargo, ND 58102;

WITNESSETH:

WHEREAS, Lessee is authorized by law to acquire such items of personal property as are needed to carry out its governmental functions, and to acquire such personal property by entering into lease with option to purchase agreements; and

WHEREAS, Lessee has determined that it is necessary for it to acquire under this Lease certain items of personal property described herein as Equipment; and

WHEREAS, Lessor is willing to acquire such items of Equipment and to lease them to Lessee pursuant to this Lease;

NOW THEREFORE, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified.

Contractor: Each of the manufacturers or vendors from whom Lessee (or Lessor at Lessee's request) has ordered or will order or with whom Lessee (or Lessor at Lessee's request) has contracted or will contract for the manufacture, delivery and/or installation of the Equipment.

Equipment: The personal property described in the attached Exhibit A which is being leased with option to purchase by Lessee pursuant to this Lease.

Fiscal Year: The twelve month fiscal period of Lessee which commences on January 1st in every year and ends on the following December 31st.

Independent Counsel: An attorney duly admitted to the practice of law before the highest court of the State who is not a full-time employee of Lessor or Lessee.

Interest: The portion of any Rental Payment designated as and comprising interest as shown in the attached Exhibit B.

Net Proceeds: Any insurance proceeds or condemnation award, paid with respect to the Equipment, remaining after payment there from of all expenses incurred in the collection thereof.

Non-appropriation: The failure of City of Fargo, North Dakota to appropriate money for any Fiscal Year of Lessee sufficient for the continued performance of this Lease by Lessee, as evidenced by the passage of an ordinance or resolution specifically prohibiting Lessee from performing its obligations under this Lease, and from using any moneys to pay the Rental Payments due under this Lease for a designated Fiscal Year and all subsequent Fiscal Years.

Payment Date: The date upon which any Rental Payment is due and payable as provided in Exhibit B.

Permitted Encumbrances: As of any particular time: (i) liens for taxes and assessments not then delinquent, or which Lessee may, pursuant to the provisions of Section 7.3 hereof, permit to remain unpaid, (ii) this Lease and amendments hereto, (iii) Lessor's interest in the Equipment, and (iv) any mechanic's, laborer's,

materialmen's, supplier's or vendor's lien or right not filed or perfected in the manner prescribed by law, other than any lien arising through a Contractor or which Lessee may, pursuant to Article VIII hereof, permit to remain unpaid.

Principal: The portion of any Rental Payment designated as principal in the attached Exhibit B.

Purchase Option Price: With respect to the Equipment, as of the Payment Dates specified in the attached Exhibit B, the amount so designated and set forth opposite each such date in the attached Exhibit B.

Rental Payment: The payment due from Lessee to Lessor on each Payment Date during the Term of this Lease, as shown on Exhibit B.

Specifications: The bid specifications and/or purchase order pursuant to which Lessee has ordered the Equipment from a Contractor.

State: The State of North Dakota.

State and Federal Law or Laws: The Constitution and any law of the State and any charter, ordinance, rule or regulation of any agency or political subdivision of the State; and any law of the United States, and any rule or regulation of any federal agency.

Term of this Lease or Lease Term: The period during which this Lease is in effect as specified in Section 4.1.

Section 1.2. Exhibits.

The following Exhibits are attached to and by reference made a part of this Lease:

Exhibit A: A description of the Equipment being leased by Lessee pursuant to this Lease, including the serial number thereof which shall be inserted when available.

Exhibit B: A schedule indicating the date and amount of each Rental Payment coming due during the Lease Term, the amount of each Rental Payment comprising Principal and Interest, and the price at which Lessee may exercise its option to purchase Lessor's interest in the Equipment in accordance with Article X. The due date of each Rental Payment shall be inserted on Exhibit B by Lessor when available.

Exhibit C: A Certificate of Acceptance of Lessee indicating that the Equipment has been delivered and installed in accordance with the Specifications, and has been accepted by Lessee, the date on which Rental Payments shown in Exhibit B shall commence, and that certain other requirements have been met by Lessee.

Exhibit D: A form of resolution of the governing body of Lessee relating to the Lease and certain federal tax matters.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of Lessee. Lessee represents, covenants and warrants as follows:

(a) Lessee is a political subdivision of the State, duly organized and existing under the Constitution and laws of the State.

(b) Lessee is authorized under the Constitution and laws of the State to enter into this Lease and the transactions contemplated hereby, and to perform all of its obligations hereunder.

(c) The officer of Lessee executing this Lease has been duly authorized to execute and deliver this Lease under the terms and provisions of a resolution of Lessee's governing body, or by other appropriate official action.

(d) In authorizing and executing this Lease, Lessee has complied with all public bidding and other State and Federal Laws applicable to this Lease and the acquisition of the Equipment by Lessee.

(e) Lessee will not pledge, mortgage or assign this Lease, or its duties and obligations hereunder to any other person, firm or corporation except as provided under the terms of this Lease.

(f) Lessee will use the Equipment during the Lease Term only to perform the essential governmental functions needed by City of Fargo, North Dakota.

(g) Lessee will take no action that would cause the Interest portion of the Rental Payments to become includible in gross income of the recipient for federal income tax purposes under the Internal Revenue Code of 1986 (the Code) and Treasury Regulations promulgated thereunder (the Regulations), and Lessee will take and will cause its officers, employees and agents to take all affirmative actions legally within its power necessary to ensure that the Interest portion of the Rental Payments does not become includible in gross income of the recipient for federal income tax purposes under the Code and Regulations.

(h) Upon delivery and installation of the Equipment, Lessee will provide to Lessor a completed and executed copy of the Certificate of Acceptance attached hereto as Exhibit C.

(i) Lessee will cause a resolution substantially in the form attached hereto as Exhibit D to be adopted by its governing body.

(j) Lessee will submit to the Secretary of the Treasury an information reporting statement at the time and in the form required by the Code and the Regulations.

Section 2.2. Representations, Covenants and Warranties of Lessor. Lessor represents, covenants and warrants as follows:

(a) Lessor is a corporation duly organized, existing and in good standing under and by virtue of the laws of the state of North Dakota, and is duly qualified and in good standing as a domestic corporation authorized to transact business in the State; has power to enter into this Lease; is possessed of full power to own and hold real and personal property, and to lease the same; and has duly authorized the execution and delivery of this Lease.

(b) Neither the execution and delivery of this Lease, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Lessor is now a party or by which Lessor is bound, constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessor, or upon the Equipment except Permitted Encumbrances.

ARTICLE III

LEASE OF EQUIPMENT

Section 3.1. Lease. Lessor hereby leases the Equipment to Lessee, and Lessee hereby leases the Equipment from Lessor, upon the terms and conditions set forth in this Lease.

Section 3.2. Possession and Enjoyment. Lessor hereby covenants to provide Lessee during the Term of this Lease with the quiet use and enjoyment of the Equipment, and Lessee shall during the Term of this Lease peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Lease. Lessor will, at the request of Lessee and at Lessee's cost, join in any legal action in which Lessee asserts its right to such possession and enjoyment to the extent Lessor lawfully may do so.

Section 3.3. Lessor Access to Equipment. The Lessee agrees that Lessor shall have the right at all reasonable times to examine and inspect the Equipment. Lessee further agrees that Lessor shall have such rights of access to the Equipment as may be reasonably necessary to cause the proper maintenance of the Equipment in the event of failure by Lessee to perform its obligations hereunder.

ARTICLE IV

TERM OF LEASE

Section 4.1. Lease Term. This Lease shall be in effect for a Term commencing upon its date of execution and ending as provided in Section 4.5.

Section 4.2. Termination by Lessee. In the sole event of Non-appropriation, Lessee shall have the right to terminate this Lease, in whole but not in part, at the end of any Fiscal Year of Lessee, in the manner and subject to the terms specified in this Section and Section 4.4. Lessee may effect such termination by giving Lessor a written notice of termination and by paying to Lessor any Rental Payments and other amounts which are due and have not been paid at or before the end of its then current Fiscal Year. Lessee shall endeavor to give notice of termination not less than sixty (60) days prior to the end of such Fiscal Year, and shall notify Lessor of any anticipated termination. In the event of termination of this Lease as provided in this Section, Lessee shall deliver possession of the Equipment to Lessor in accordance with Section 12.3, and shall convey to Lessor or release its interest in the Equipment within ten (10) days after the termination of this Lease.

Section 4.3. Intent to Continue Lease Term: Appropriations. Lessee presently intends to continue this Lease for its entire Term and to pay all Rental Payments specified in Exhibit B. The officer of Lessee responsible for preparation of Lessee's budget shall include in the budget request for each Fiscal Year the Rental Payments to become due in such Fiscal Year, and shall use all reasonable and lawful means available to secure the appropriation of money for such Fiscal Year sufficient to pay the Rental Payments coming due therein. Lessee reasonably believes that moneys in an amount sufficient to make all such Rental Payments can and will lawfully be appropriated and made available for this purpose.

Section 4.4. Effect of Termination. Upon termination of this Lease as provided in Section 4.2, Lessee shall not be responsible for the payment of any additional Rental Payments coming due with respect to succeeding Fiscal Years, but if Lessee has not delivered possession of the Equipment to Lessor in accordance with Section 12.3 and conveyed to Lessor or released its interest in the Equipment within ten (10) days after the termination of this Lease, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments thereafter coming due under Exhibit B which are attributable to the number of days after such ten (10) day period during which Lessee fails to take such actions and for any other loss suffered by Lessor as a result of Lessee's failure to take such actions as required.

Section 4.5. Termination of Lease Term. The Term of this Lease will terminate upon the occurrence of the first of the following events:

- (a) the termination thereof by Lessee in accordance with Section 4.2;
- (b) the exercise by Lessee of its option to purchase Lessor's interest in the Equipment pursuant to Article X;
- (c) a default by Lessee and Lessor's election to terminate this Lease pursuant to Article XII; or
- (d) the payment by Lessee of all Rental Payments and other amounts authorized or required to be paid by Lessee hereunder.

ARTICLE V

RENTAL PAYMENTS

Section 5.1. Rental Payments. Lessee agrees to pay Rental Payments during the Term of this Lease, in the amounts and on the dates specified in Exhibit B. All Rental Payments shall be paid to Lessor at its offices at the address specified in the first paragraph of this Lease, or to such other person or entity to which Lessor has assigned such Rental Payments as specified in Article XI, at such place as such assignee may from time to time designate by written notice to Lessee. Lessee shall pay the Rental Payments exclusively from moneys legally available therefor, in lawful money of the United States of America, to Lessor or, in the event of assignment of the right to receive Rental Payments by Lessor, to its assignee. Interest shall accrue from the first day of the calendar month in which the Certificate of Acceptance is executed.

Section 5.2. Current Expense. The obligations of Lessee under this Lease, including its obligation to pay the Rental Payments due with respect to the Equipment, in any Fiscal Year for which this Lease is in effect, shall constitute a current expense of Lessee for such Fiscal Year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State. Nothing herein shall constitute a pledge by Lessee of any taxes or other moneys, other than moneys lawfully appropriated from time to time by or for the benefit of Lessee in the annual budget and the proceeds or Net Proceeds of the Equipment, to the payment of any Rental Payment or other amount coming due hereunder.

Section 5.3. Interest Component. A portion of each Rental Payment is paid as and represents the payment of Interest. Exhibit B sets forth the Interest component of each Rental Payment.

Section 5.4. Rental Payments to be Unconditional. Except as provided in Section 4.2, the obligation of Lessee to make Rental Payments or any other payments required hereunder shall be absolute and unconditional in all events. Notwithstanding any dispute between Lessee and Lessor or any other person, Lessee shall make all Rental Payments and other payments required hereunder when due and shall not withhold any Rental Payment or other payment pending final resolution of such dispute nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such Rental Payments or other payments required under this Lease. Lessee's obligation to make Rental Payments or other payments during the Lease Term shall not be abated through accident or unforeseen circumstances. However, nothing herein shall be construed to release Lessor from the performance of its obligations hereunder; and if Lessor should fail to perform any such obligation, Lessee may institute such legal action against Lessor as Lessee may deem necessary to compel the performance of such obligation or to recover damages therefor.

ARTICLE VI

INSURANCE AND NEGLIGENCE

Section 6.1. Liability Insurance. Upon receipt of possession of the Equipment, Lessee shall take such measures as may be necessary to ensure that any liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or the operation of the Equipment or any part thereof, is covered by a blanket or other general liability insurance policy maintained by Lessee. The Net Proceeds of all such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which any Net Proceeds may be paid.

Section 6.2. Property Insurance. Upon receipt of possession of the Equipment, Lessee shall have and assume the risk of loss with respect thereto. Lessee shall procure and maintain continuously in effect during the Term of this Lease, all-risk insurance, subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part thereof damaged or destroyed and to pay the applicable Purchase Option Price of the Equipment. Such insurance may be provided by a rider to an existing policy or under a separate policy. Such insurance may be written with customary deductible amounts. The Net Proceeds of insurance required by this Section shall be applied to the prompt repair, restoration or replacement of the Equipment, or to the purchase of the Equipment, as provided in Section 6.6. Any Net Proceeds not needed for those purposes shall be paid to Lessee.

Section 6.3. Worker's Compensation Insurance. If required by State law, Lessee shall carry worker's compensation insurance covering all employees on, in, near or about the Equipment, and upon request, shall furnish to Lessor certificates evidencing such coverage throughout the Term of this Lease.

Section 6.4. Requirements For All Insurance. All insurance policies (or riders) required by this Article shall be taken out and maintained with responsible insurance companies organized under the laws of one of

the states of the United States and qualified to do business in the State; and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten (10) days before the cancellation or revision becomes effective. All insurance policies or riders required by Sections 6.1 and 6.2 shall name Lessee and Lessor as insured parties, and any insurance policy or rider required by Section 6.3 shall name Lessee as insured party. Lessee shall deposit with Lessor policies (and riders) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy (or rider), Lessee shall furnish to Lessor evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article, unless such insurance is no longer obtainable in which event Lessee shall notify Lessor of this fact.

Section 6.5. Lessee's Negligence. Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Equipment and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or the property of others, which is proximately caused by the negligent conduct of Lessee, its officers, employees and agents. Lessee hereby assumes responsibility for and agrees to reimburse Lessor for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees) of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of Lessee, its officers, employees and agents, to the maximum extent permitted by law.

Section 6.6. Damage to or Destruction of Equipment. If after delivery of the Equipment to Lessee all or any part of the Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee shall as soon as practicable after such event either: (i) replace the same at Lessee's sole cost and expense with equipment of equal or greater value to the Equipment immediately prior to the time of the loss occurrence, such replacement equipment to be subject to Lessor's reasonable approval, whereupon such replacement shall be substituted in this Lease by appropriate endorsement; or (ii) pay the applicable Purchase Option Price of the Equipment as set forth in Exhibit B. Lessee shall notify Lessor of which course of action it will take within fifteen (15) days after the loss occurrence. If Lessee fails or refuses to notify Lessor within the required period, Lessor may, at its option, declare the applicable Purchase Option Price of the Equipment set forth in Exhibit B immediately due and payable, and Lessee shall be obligated to pay the same. The Net Proceeds of all insurance payable with respect to the Equipment shall be available to Lessee and shall be used to discharge Lessee's obligation under this Section. On payment of the Purchase Option Price, this Lease shall terminate and Lessee thereupon shall become entitled to the Equipment AS IS, WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE, except that the Equipment shall not be subject to any lien or encumbrance created by or arising through Lessor.

ARTICLE VII

OTHER OBLIGATIONS OF LESSEE

Section 7.1. Use; Permits. Lessee shall exercise due care in the installation, use, operation and maintenance of the Equipment, and shall not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any State and Federal Law or for a purpose or in a manner contrary to that contemplated by this Lease. Lessee shall obtain all permits and licenses necessary for the installation, operation, possession and use of the Equipment. Lessee shall comply with all State and Federal Laws applicable to the installation, use, possession and operation of the Equipment, and if compliance with any such State and Federal Law requires changes or additions to be made to the Equipment, such changes or additions shall be made by Lessee at its expense.

Section 7.2. Maintenance of Equipment by Lessee. Lessee shall, at its own expense, maintain, preserve and keep the Equipment in good repair, working order and condition, and shall from time to time make all repairs and replacements necessary to keep the Equipment in such condition. Lessor shall have no responsibility for any of these repairs or replacements.

Section 7.3. Taxes, Other Governmental Charges and Utility Charges. Except as expressly limited by this Section, Lessee shall pay all taxes and other charges of any kind which are at any time lawfully assessed or levied against or with respect to the Equipment, the Rental Payments or any part thereof, or which become due during the Term of this Lease, whether assessed against Lessee or Lessor. Lessee shall also pay when due all gas, water, steam, electricity, heat, power, telephone, and other charges incurred in the operation,

maintenance, use, occupancy and upkeep of the Equipment, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Equipment; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due. Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge which is the obligation of Lessee under this Section.

Lessee may, at its own expense and in its own name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments, utility or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such items the interest of Lessor in the Equipment will be materially endangered or the Equipment or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay such taxes, assessments, utility or other charges or provide Lessor with full security against any loss which may result from nonpayment, in form satisfactory to Lessor.

Section 7.4. Advances. If Lessee shall fail to perform any of its obligations under this Article, Lessor may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand, with interest at the rate of 18% per annum or the maximum rate permitted by law, whichever is less, from the date of the advance to the date of repayment.

ARTICLE VIII

TITLE

Section 8.1. Title. During the Term of this Lease, and so long as Lessee is not in default under Article XII, legal title to the Equipment and any and all repairs, replacements, substitutions and modifications to it shall be in Lessee. Upon termination of this Lease for any of the reasons specified in Section 4.5, Clauses (a) and (c), full and unencumbered legal title to the Equipment shall pass to Lessor, and Lessee shall have no further interest therein. In either of such events, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title to the Equipment to Lessor and the termination of Lessee's interest therein, and upon request by Lessor shall deliver possession of the Equipment to Lessor in accordance with Section 12.3. Upon termination of this Lease for any of the reasons specified in Section 4.5, Clauses (b) and (d), Lessor's security or other interest in the Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security or other interest in the Equipment.

Section 8.2. Security Interest. Lessor shall have and retain a security interest under the Uniform Commercial Code in the Equipment, the proceeds thereof and all repairs, replacements, substitutions and modifications thereto or thereof made pursuant to Section 8.5, in order to secure Lessee's payment of all Rental Payments due during the Term of this Lease and the performance of all other obligations herein to be performed by Lessee. If any portion of the Equipment shall constitute a vehicle, Lessor shall have authority, upon filing the manufacturer's certificate of origin for such Equipment, to require the notation of Lessor's security interest on any applicable records and the certificate of title for such Equipment. Lessee will join with Lessor in executing such financing statements or other documents and will perform such acts as Lessor may request to establish and maintain a valid security interest in the Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment with appropriate lettering, labels or tags, and maintain such markings during the Term of this Lease, so as clearly to disclose Lessor's security interest in the Equipment.

Section 8.3. Liens. During the Term of this Lease, Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Equipment, other than the respective rights of Lessor and Lessee as herein provided and Permitted Encumbrances. Except as expressly provided in Section 7.3 and this Article, Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. Lessee shall reimburse Lessor for any expense incurred by Lessor in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 8.4. Installation of Lessee's Equipment. Lessee may at any time and from time to time, in its sole discretion and at its own expense, install other items of equipment in or upon the Equipment, which items shall be identified by tags or other symbols affixed thereto as property of Lessee. All such items so identified shall remain the sole property of Lessee, in which Lessor shall have no interest, and may be modified or removed by Lessee at any time provided that Lessee shall repair and restore any and all damage to the Equipment resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent Lessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease with option to purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Equipment.

Section 8.5. Modification of Equipment. Lessee shall, at its own expense, have the right to make repairs to the Equipment, and to make repairs, replacements, substitutions and modifications to all or any of the parts thereof. All such work and any part or component used or installed to make a repair or as a replacement, substitution or modification, shall thereafter comprise part of the Equipment and be subject to the provisions of this Lease. Such work shall not in any way damage the Equipment or cause it to be used for purposes other than those authorized under the provisions of State and Federal Law or those contemplated by this Lease; and the Equipment, upon completion of any such work shall be of a value which is not less than the value of the Equipment immediately prior to the commencement of such work. Any property for which a replacement or substitution is made pursuant to this Section may be disposed of by Lessee in such manner and on such terms as are determined by Lessee. Lessee will not permit any mechanic's or other lien to be established or remain against the Equipment for labor or materials furnished in connection with any repair, replacement, substitution or modification made by Lessee pursuant to this Section; provided that if any such lien is established and Lessee shall first notify Lessor of Lessee's intention to do so, Lessee may in good faith contest any lien filed or established against the Equipment, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such item the interest of Lessor in the Equipment will be materially endangered or the Equipment or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide Lessor with full security against any such loss or forfeiture, in form satisfactory to Lessor. Lessor will cooperate fully with Lessee in any such contest, upon the request and at the expense of Lessee.

Section 8.6. Personal Property. The Equipment is and shall at all times be and remain personal property notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner affixed or attached to or embedded in or permanently rested upon real property or any building thereon or attached in any manner to what is permanent by means of cement, plaster, nails, bolts, screws or otherwise.

ARTICLE IX

WARRANTIES

Section 9.1. Selection of Equipment. The Equipment and the Contractor have been selected by Lessee, and Lessor shall have no responsibility in connection with the selection of the Equipment, its suitability for the use intended by Lessee, the acceptance by the Contractor or its sales representative of the order submitted, or any delay or failure by the Contractor or its sales representative to manufacture, deliver or install the Equipment for use by Lessee. Lessee authorizes Lessor to add the serial number of the Equipment to Exhibit A when available.

Section 9.2. Installation and Maintenance of Equipment. Lessor shall have no obligation to install, erect, test, inspect, service or maintain the Equipment under any circumstances, but such actions shall be the obligation of Lessee or the Contractor.

Section 9.3. Contractor's Warranties. Lessor hereby assigns to Lessee for and during the Term of this Lease, all of its interest in all Contractor's warranties and guarantees, express or implied, issued on or applicable to the Equipment, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense.

Section 9.4. Patent Infringement. Lessor hereby assigns to Lessee for and during the Term of this Lease all of its interest in patent indemnity protection provided by any Contractor with respect to the Equipment.

Such assignment of patent indemnity protection by Lessor to Lessee shall constitute the entire liability of Lessor for any patent infringement by Equipment furnished pursuant to this Lease.

Section 9.5. Disclaimer of Warranties. THE EQUIPMENT IS DELIVERED AS IS, AND LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE OF THE EQUIPMENT, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT.

ARTICLE X

OPTION TO PURCHASE

Section 10.1. When Available. Lessee shall have the option to purchase Lessor's interest in the Equipment on any Payment Date for the then applicable Purchase Option Price set forth in Exhibit B, but only if Lessee is not in default under this Lease, and only in the manner provided in this Article.

Section 10.2. Exercise of Option. Lessee shall give notice to Lessor of its intention to exercise its option not less than thirty (30) days prior to the Payment Date on which the option is to be exercised and shall deposit with Lessor on the date of exercise an amount equal to all Rental Payments and any other amounts then due or past due (including the Rental Payment due on the Payment Date on which the option is to be exercised) and the applicable Purchase Option Price set forth in Exhibit B. The closing shall be on the Payment Date on which the option is to be exercised at the office of Lessor.

Section 10.3. Release of Lessor's Interest. Upon exercise of the purchase option by Lessee, Lessor shall convey or release to Lessee, all of its right, title and/or interest in and to the Equipment by delivering to Lessee such documents as Lessee deems necessary for this purpose.

ARTICLE XI

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 11.1. Assignment by Lessor. Lessor shall not assign its obligations under this Lease, and no purported assignment thereof shall be effective. All of Lessor's right, title and/or interest in and to this Lease, the Rental Payments and other amounts due hereunder and the Equipment may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor at any time, without the consent of Lessee. No such assignment shall be effective as against Lessee unless and until the assignor shall have filed with Lessee a copy or written notice thereof identifying the assignee. Lessee shall pay all Rental Payments due hereunder to or at the direction of Lessor or the assignee named in the most recent assignment or notice of assignment filed with Lessee. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments. In the event Lessor assigns participations in its right, title and/or interest in and to this Lease, the Rental Payments and other amounts due hereunder and the Equipment, such participants shall be considered to be Lessor with respect to their participated shares thereof.

Section 11.2. Assignment and Subleasing by Lessee. Neither this Lease nor Lessee's interest in the Equipment may be assigned by Lessee without the written consent of Lessor. However, the Equipment may be subleased by Lessee, in whole or in part, without the consent of Lessor, subject, however, to each of the following conditions:

(i) This Lease and the obligation of Lessee to make Rental Payments hereunder, shall remain obligations of Lessee.

(ii) The sublessee shall assume the obligations of Lessee hereunder to the extent of the interest subleased.

(iii) Lessee shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to Lessor a true and complete copy of such sublease.

(iv) No sublease by Lessee shall cause the Equipment to be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State.

(v) No sublease shall cause the Interest component of the Rental Payments due with respect to the Equipment to become includible in gross income of the recipient for federal income tax purposes.

Section 11.3. Restriction on Mortgage or Sale of Equipment by Lessee. Except as provided in Section 11.2, Lessee will not mortgage, sell, assign, transfer or convey the Equipment or any portion thereof during the Term of this Lease, or remove any Equipment not constituting a vehicle from its boundaries, without the written consent of Lessor. Lessee shall not, without the written permission of Lessor, store or house any Equipment constituting a vehicle outside the corporate boundaries of Lessee.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.1. Events of Default Defined. The following shall be "events of default" under this Lease and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, with respect to the Equipment, any one or more of the following events:

(i) Failure by Lessee to pay any Rental Payment or other payment required to be paid under this Lease at the time specified herein and the continuation of said failure for a period of three (3) days after telephonic or telegraphic notice given by Lessor that the payment referred to in such notice has not been received, such telephonic or telegraphic notice to be subsequently confirmed in writing, or after written notice.

(ii) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Clause (i) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(iii) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its governmental function or adjudication of Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

The provisions of this Section 12.1 and Section 12.2 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to carry out its obligations under this Lease with respect to the Equipment, other than its obligation to pay Rental Payments with respect thereto which shall be paid when due notwithstanding the provisions of this paragraph, Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State or their respective departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee and not resulting from its negligence. Lessee agrees, however, to remedy with all reasonable dispatch the cause or causes preventing Lessee from carrying out its obligations under this Lease; provided that the settlement of strikes, lockouts and other labor disturbances shall be entirely within the discretion of Lessee and Lessee shall not be required to make settlement of strikes, lockouts and other labor disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of Lessee unfavorable to Lessee.

Section 12.2. Remedies on Default. Whenever any event of default referred to in Section 12.1 hereof shall have happened and be continuing with respect to the Equipment, Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(i) Lessor, with or without terminating this Lease may declare all Rental Payments due or to become due during the Fiscal Year in effect when the default occurs to be immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable.

(ii) Lessor, with or without terminating this Lease, may repossess the Equipment by giving Lessee written notice to deliver the Equipment to Lessor, whereupon Lessee shall do so in the manner provided in Section 12.3; or in the event Lessee fails to do so within ten (10) days after receipt of such notice, Lessor may enter upon Lessee's premises where the Equipment is kept and take possession of the Equipment and charge Lessee for costs incurred in repossessing the Equipment, including reasonable attorneys' fees. Lessee hereby expressly waives any damages occasioned by such repossession. If the Equipment or any portion of it has been destroyed or damaged beyond repair, Lessee shall pay the applicable Purchase Option Price of the Equipment, as set forth in Exhibit B (less credit for Net Proceeds), to Lessor. Notwithstanding the fact that Lessor has taken possession of the Equipment, Lessee shall continue to be responsible for the Rental Payments due during the Fiscal Year then in effect. If this Lease has not been terminated, Lessor shall return the Equipment to Lessee at Lessee's expense when the event of default is cured.

(iii) If Lessor terminates this Lease and takes possession of the Equipment, Lessor shall within thirty (30) days thereafter use its best efforts to sell the Equipment or any portion thereof in a commercially reasonable manner at public or private sale in accordance with applicable State laws. Lessor shall apply the proceeds of such sale to pay the following items in the following order: (a) all costs incurred in securing possession of the Equipment; (b) all expenses incurred in completing the sale; (c) the applicable Purchase Option Price of the Equipment; and (d) the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect. Any sale proceeds remaining after the requirements of Clauses (a), (b), (c) and (d) have been met may be retained by Lessor.

(iv) If the proceeds of sale of the Equipment are not sufficient to pay the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect, Lessor may take any other remedy available at law or in equity to require Lessee to perform any of its obligations hereunder.

Section 12.3. Return of Equipment. Upon the expiration or termination of this Lease prior to the payment of all Rental Payments in accordance with Exhibit B, Lessee shall return the Equipment to Lessor in the condition, repair, appearance and working order required in Section 7.2, in the following manner as may be specified by Lessor: (i) by delivering the Equipment at Lessee's cost and expense to such place within the State as Lessor shall specify; or (ii) by loading such portions of the Equipment as are considered movable at Lessee's cost and expense, on board such carrier as Lessor shall specify and shipping the same, freight prepaid, to the place specified by Lessor. If Lessee refuses to return the Equipment in the manner designated, Lessor may repossess the Equipment and charge to Lessee the costs of such repossession or pursue any remedy described in Section 12.2.

Section 12.4. No Remedy Exclusive. No remedy conferred upon or reserved to Lessor by this Article is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by Lessor or its assignee.

Section 12.5. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys and/or incur other expenses for the collection of moneys or for the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fee of such attorneys and/or such other reasonable expenses so incurred by the nondefaulting party. In the event that legal proceedings relating to this Lease (but not evidencing an action by a nondefaulting party against a defaulting party) are commenced in any court or before any other tribunal of competent jurisdiction, the legal fees and other reasonable costs and expenses of the prevailing party shall be paid by the nonprevailing party on demand of the prevailing party.

Section 12.6. Late Charge. Whenever any event of default referred to in Section 12.1, Clause (i) hereof shall have happened and be continuing with respect to the Equipment, Lessor shall have the right, at its option and without any further demand or notice, to require a late payment charge for each thirty (30) day period or part thereof during which such event of default occurs equal to four percent (4%) of the delinquent amount, and Lessee shall be obligated to pay the same immediately upon receipt of Lessor's written invoice therefor; provided, however, that this Section 12.6 shall not be applicable if or to the extent that the application thereof would affect the validity of this Lease.

ARTICLE XIII

ADMINISTRATIVE PROVISIONS

Section 13.1. Notices. All notices, certificates, legal opinions or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered form with postage fully prepaid to the addresses specified on the first page hereof; provided that Lessor and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates, legal opinions or other communications will be sent.

Section 13.2. Financial Information. During the Term of this Lease, Lessee annually will provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of Lessee to continue this Lease as may be requested by Lessor or its assignee.

Section 13.3. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.4. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.5. Amendments, Changes and Modifications. This Lease may be amended or any of its terms modified only by written document duly authorized, executed and delivered by Lessor and Lessee.

Section 13.6. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles, Sections or Clauses of this Lease.

Section 13.7. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease.

Section 13.8. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.9. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

IN WITNESS WHEREOF, Lessor has caused this Lease to be executed in its corporate name by its duly authorized officer; and Lessee has caused this Lease to be executed in its name by its duly authorized officer, as of the date first above written.

LESSOR:
CAPFIRST EQUIPMENT FINANCE, INC.

By: _____

Title: _____

Date: 3/15/2024

LESSEE:
City of Fargo, North Dakota

By: _____  

Name/Title: Tim Mahoney / Mayor

Date: 3/15/2024

ATTEST:

By: _____  

Name/Title: Steven Sprague / City Auditor

EXHIBIT A
EQUIPMENT

Lessee: City of Fargo, North Dakota
225 4th Ave N
Fargo, North Dakota 58102

Date of Lease: 3/15/2024
Lease #: 40005536

The Equipment which is the subject of the attached Lease with Option to Purchase Agreement is as follows:

Location Site: 225 4th Ave N Fargo, North Dakota 58102

QTY.	SERIAL NO.	DESCRIPTION
1	19X3Y07380	35/35 PPM A3 Color Copier with related accessories

Description of Financed Amount:

Cost of above Equipment	\$6,356.75
Cost of related charges:	
Transportation	
Physical Modifications (specify)	
Warranty	
Add: Sales or other tax, if applicable	
Less: Trade - In, if applicable	
Down Payment	
Net Financed Amount:	\$6,356.75

EXHIBIT B

SCHEDULE OF RENTAL PAYMENTS

Lessee: City of Fargo, North Dakota
225 4th Ave N
Fargo, North Dakota 58102

Date of Lease: 3/15/2024
Lease #: 40005536

RENTAL PAYMENTS

Rental Payment Date	Rental Payment	Interest	Principal	Purchase Option Price*
3/15/2024	\$2,254.00	\$0.00	\$2,254.00	\$4,206.00
3/15/2025	\$2,254.00	\$267.35	\$1,986.65	\$2,152.00
3/15/2026	\$2,254.00	\$137.90	\$2,116.10	\$0.00

*After payment of Rental Payment due on such date.

EXHIBIT C

CERTIFICATE OF ACCEPTANCE

I, the undersigned, hereby certify that I am the duly qualified and acting Mayor of the City of Fargo, North Dakota (Lessee); and, with respect to the Lease with Option to Purchase Agreement dated March 15, 2024 (Lease), by and between Lessee and CapFirst Equipment Finance, Inc. (Lessor), that:

1. The equipment described in the Lease (the Equipment) has been delivered and installed in accordance with Lessee's Specifications (as that term is defined in the Lease) and has been accepted by Lessee.

2. The rental payments provided for on Exhibit B to the Lease (the Rental Payments) shall commence and be due and payable on 3/15/2024 and continue thereafter, on the dates and in the amounts shown on Exhibit B to the Lease.

3. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Lease during the current fiscal year of Lessee, and such moneys will be applied in payment of all Rental Payments due and payable during such current fiscal year.

4. Lessee has obtained from a reputable insurance company qualified to do business in the state of North Dakota insurance with respect to, all risks required to be covered thereby pursuant to Article VI of the Lease.

5. Lessee is exempt from all personal property taxes, and is exempt from sales and/or use taxes with respect to the Equipment and the Rental Payments.

6. During the Lease Term (as defined in the Lease) the Equipment will be used by Lessee to perform essential governmental functions.

7. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of Lessee or its officers or its employees to enter into the Lease; the proper authorization, approval and execution of the Lease and other documents contemplated thereby; the appropriation of moneys, or any other action taken by Lessee to provide moneys, sufficient to make Rental Payments coming due under the Lease in Lessee's current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

Dated: March 15, 2024

City of Fargo, North Dakota

By:  _____ 
Name/Title: Tim Mahoney / Mayor

ATTEST:

By:  _____ 

Name/Title: Steven Sprague / City Auditor

EXHIBIT D

RESOLUTION RELATING TO LEASE WITH OPTION
TO PURCHASE AGREEMENT NO. 40005536

BE IT RESOLVED by the governing body of the City of Fargo, North Dakota (the Issuer), as follows:

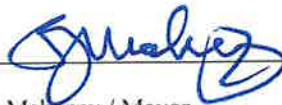
Section 1. Recitals and Authorization. The Issuer, as lessee, has heretofore entered into a Lease with Option to Purchase Agreement No. 40005536 dated as of 3/15/2024 (the Lease), with CapFirst Equipment Finance, Inc., as lessor. It is hereby determined that it is necessary and desirable and in the best interests of the Issuer to enter into the Lease for the purposes therein specified, and the execution and delivery of the Lease by the Issuer are hereby approved, ratified and confirmed.

Section 2. Designation as Qualified Tax-Exempt Obligation. Pursuant to Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986 (the Code), the Issuer hereby specifically designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. In compliance with Section 265(b)(3)(D) of the Code, the Issuer hereby represents that the Issuer will not designate more than \$10,000,000 of obligations issued by the Issuer in the calendar year during which the Lease is executed and delivered as such "qualified tax-exempt obligations."

Section 3. Issuance Limitation. In compliance with the requirements of Section 265(b)(3)(C) of the Code, the Issuer hereby represents that the Issuer (including all "subordinate entities" of the Issuer within the meaning of Section 265(b)(3)(E) of the Code) reasonably anticipates not to issue in the calendar year during which the Lease is executed and delivered, obligations bearing interest exempt from federal income taxation under Section 103 of the Code (other than "private activity bonds" as defined in Section 141 of the Code) in an amount greater than \$10,000,000.

City of Fargo, North Dakota

By:



Name/Title: Tim Mahoney / Mayor

ATTEST:

By:



Name/Title: Steven Sprague / City Auditor

INSURANCE COVERAGE REQUIREMENT

Your lease with CAPFIRST EQUIPMENT FINANCE, INC. requires you to maintain certain insurance coverage. In order to assist you with obtaining coverage from your insurance company, please provide us with the following agent information, as well as provide your insurance company with the requirements as shown below:

<u>INSURANCE AGENT DATA:</u>	
NAME OF INSURANCE AGENT:	<u>Bell Insurance</u>
ADDRESS:	<u>PO BOX 1470</u>
PHONE #:	<u>701-297-1805</u>
CONTACT PERSON:	<u>Ross Gaifus</u>

Named Insured / Lessee:

City of Fargo, North Dakota

Lease with Option to Purchase Agreement No.:

40005536

Coverage:

All Risk Personal Property and/or
EDP, if applicable

Certificate Holders:

Loss Payee(s) As Their Interests

May Appear:

CapFirst Equipment Finance, Inc., and/or its assigns
3266 Oak Ridge Loop E
West Fargo, ND 58078

Coverage:

General Liability

Certificate Holders:

Additional Insured:

CapFirst Equipment Finance, Inc., and/or its assigns
3266 Oak Ridge Loop E
West Fargo, ND 58078



The Insurance Certificate should show the coverage limits and the insurance carrier's name(s) and policy number(s). Please have the Certificate of Insurance sent to CapFirst Equipment Finance, Inc. at the address above, or fax it to us at (701) 639-7031.

WE WOULD APPRECIATE YOUR AGENT INCLUDING OUR LEASE NUMBER ON THE CERTIFICATE.



CERTIFICATE OF INCUMBENCY

**LEASE WITH OPTION TO PURCHASE AGREEMENT NO. 40005536
DATED AS OF 3/15/2024**

I, Steven Sprague, do hereby certify that I am the duly elected or appointed and acting City Auditor of the City of Fargo, North Dakota (the "Lessee"), a political subdivision duly organized and existing under the laws of the State of North Dakota and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

Print Name	Title	Sample Signature
<u>Tim Mahoney</u>	<u>Mayor</u>	 
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such entity hereto on 3/15/2024.

Signature
Steven Sprague / City Auditor

Print Name / Title

(SEAL)

Form **8038-GC**
(Rev. October 2021)
Department of the Treasury
Internal Revenue Service

**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**

Under Internal Revenue Code section 149(e)
Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.
Go to www.irs.gov/Form8038GC for instructions and the latest information.

OMB No. 1545-0047

Part I Reporting Authority		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name City of Fargo, North Dakota (Public Works)		2 Issuer's employer identification number (EIN) 45-1002069	
3 Number and street (or P.O. box if mail isn't delivered to street address) 225 4th St N		Room/suite	
4 City, town, or post office, state, and ZIP code Fargo, ND 58102		5 Report number (For IRS Use Only) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information Steven Sprague / City Auditor		7 Telephone number of officer or legal representative (701) 241-1333	

Part II Description of Obligations		Check one box: <input checked="" type="checkbox"/> Single issue <input type="checkbox"/> Consolidated return	
8a Issue price of obligation(s) (see instructions)		8a	
b Issue date (single issue) or calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions)	3/15/2024		
9 Amount of the reported obligation(s) on line 8a that is:		9a	
a For leases for vehicles		9b	6,356.75
b For leases for office equipment		9c	
c For leases for real property		9d	
d For leases for other (see instructions)		9e	
e For bank loans for vehicles		9f	
f For bank loans for office equipment		9g	
g For bank loans for real property		9h	
h For bank loans for other (see instructions)		9i	
i Used to refund prior issue(s)		9j	
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)		9k	
k Other			
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box			<input type="checkbox"/>
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions)			<input type="checkbox"/>
12 Vendor's or bank's name: CapFirst Equipment Finance, Inc.			
13 Vendor's or bank's employer identification number: 81-4084473			

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.

Signature and Consent	Signature of issuer's authorized representative 	Date	Tim Mahoney / Mayor	Type or print name and title
	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
Paid Preparer Use Only	Firm's name	Firm's EIN		
	Firm's address	Phone no.		

Future Developments
For the latest information about developments related to Form 8038-GC and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form8038GC.

General Instructions
Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form
Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File
Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Bonds.

Filing a separate return for a single issue.
Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.

Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that aren't reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

Where To File

File Form 8038-GC and any attachments at the following address.

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

Private delivery services (PDS). You can use certain PDS designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These PDS include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The PDS can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

Tax-exempt obligation. This is any obligation including a bond, installment purchase agreement, or financial lease on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that isn't a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond isn't tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and
2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that aren't private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

Line 2. An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at www.irs.gov/EIN. The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Lines 3 and 4. Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

Note: The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Line 5. This line is for IRS use only. Don't make any entries in this box.

Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

Lines 9a through 9h. Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment

purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

Lines 9i and 9j. For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

Line 9k. Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

Line 10. Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

Line 11. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Line 12. Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Line 13. Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also, write the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

Note: If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through www.irs.gov/FormComments. Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send Form 8038-GC to this address. Instead, see *Where To File*, earlier.

Form **8038-GC**
(Rev. October 2021)
Department of the Treasury
Internal Revenue Service

**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**

OMB No. 1545-0047

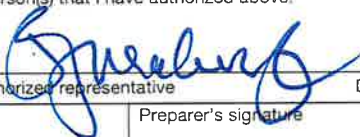
Under Internal Revenue Code section 149(e)

Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.
Go to www.irs.gov/Form8038GC for instructions and the latest information.

Part I Reporting Authority		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name City of Fargo, North Dakota (Public Works)		2 Issuer's employer identification number (EIN) 45-1002069	
3 Number and street (or P.O. box if mail isn't delivered to street address) 225 4th St N		Room/suite	
4 City, town, or post office, state, and ZIP code Fargo, ND 58102		5 Report number (For IRS Use Only)	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information Steven Sprague / City Auditor		7 Telephone number of officer or legal representative (701) 241-1333	

Part II Description of Obligations		Check one box: <input checked="" type="checkbox"/> Single issue <input type="checkbox"/> Consolidated return	
8a Issue price of obligation(s) (see instructions)		8a	
b Issue date (single issue) or calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions) ▶	3/15/2024		
9 Amount of the reported obligation(s) on line 8a that is:		9a	
a For leases for vehicles		9b	6,356.75
b For leases for office equipment		9c	
c For leases for real property		9d	
d For leases for other (see instructions)		9e	
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g For bank loans for real property		9h	
h For bank loans for other (see instructions)		9i	
i Used to refund prior issue(s)		9j	
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)		9k	
k Other			
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box ▶			<input type="checkbox"/>
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) ▶			<input type="checkbox"/>
12 Vendor's or bank's name: CapFirst Equipment Finance, Inc.			
13 Vendor's or bank's employer identification number: 81-4084473			

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.

Signature and Consent	Signature of issuer's authorized representative	Date	Tim Mahoney / Mayor	Type or print name and title	
					
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.

Future Developments
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General Instructions
Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form
Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File
Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.
Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Bonds.
Filing a separate return for a single issue. Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.
An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.

Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that aren't reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.
Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

Where To File

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Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

Private delivery services (PDS). You can use certain PDS designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These PDS include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The PDS can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

Tax-exempt obligation. This is any obligation including a bond, installment purchase agreement, or financial lease on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that isn't a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond isn't tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and
2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that aren't private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the instructions for Form 8038-T.

Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

Line 2. An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at www.irs.gov/EIN. The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Lines 3 and 4. Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

Note: The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Line 5. This line is for IRS use only. Don't make any entries in this box.

Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

Lines 9a through 9h. Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment

purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

Lines 9i and 9j. For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

Line 9k. Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

Line 10. Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

Line 11. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Line 12. Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Line 13. Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also, write the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

Note: If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through www.irs.gov/FormComments. Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send Form 8038-GC to this address. Instead, see *Where To File*, earlier.



27

Fire Department
637 NP Avenue
Fargo, ND 58102
Phone: 701.241.1540 | Fax: 701.241.8125
www.FargoND.gov

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: 3/14/2024

SUBJECT: GENERAL CONSTRUCTION CHANGE ORDER No.10 & No.11 FOR PROJECT BP0065 FIRE STATION No.8

This request is for three change orders for the general construction of Fire Station # 8.
CO No. 10. – Add tapered threshold under door threshold at upper mezzanine door to prevent water intrusion at a cost of \$372.
CO No. 11. – Tile showers and floor in decontamination area at a cost of \$17,584.00.

The original price of the contract for General Construction was \$3,504,720.00. The proposed changes will bring the total cost of the General Construction to \$3,563,192.06.

RECOMMENDED MOTION: Approve change order No. 9 for General Construction for BP0065 Fire Station No.8 in the amount of \$17,956.00.

AIA® Document G701® – 2017

Change Order

PROJECT: <i>(Name and address)</i> Fire Station #8 6617 33rd St S Fargo, ND 58104	CONTRACT INFORMATION: Contract For: General Construction Date: May 15, 2023	CHANGE ORDER INFORMATION: Change Order Number: G10 Date: March 12, 2024
OWNER: <i>(Name and address)</i> City of Fargo Fire Department 637 NP Avenue Fargo, ND 58102	ARCHITECT: <i>(Name and address)</i> Engineers-Architects, P.C. (herein known as EAPC Architects Engineers) 112 North Roberts Street Suite 300 Fargo, ND 58102	CONTRACTOR: <i>(Name and address)</i> Ledgestone, Inc. 22930 County Hwy 6 Detroit Lakes, MN 56501

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Provide tile for showers and floor per PR-6. Add tapered threshold under door threshold at upper mezzanine door.


The original Contract Sum was	\$ 3,504,720.00
The net change by previously authorized Change Orders	\$ 52,637.45
The Contract Sum prior to this Change Order was	\$ 3,557,357.45
The Contract Sum will be increased by this Change Order in the amount of	\$ 17,956.00
The new Contract Sum including this Change Order will be	\$ 3,575,313.45

The Contract Time will be unchanged by Zero (0) days.

The new date of Substantial Completion will be

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Engineers-Architects, P.C. (herein known as EAPC Architects Engineers) <hr/> ARCHITECT <i>(Firm name)</i>  <hr/> SIGNATURE <hr/> Nicholas Naujokas, AIA, Senior Architect PRINTED NAME AND TITLE <hr/> 3/12/2024 DATE	Ledgestone, Inc. <hr/> CONTRACTOR <i>(Firm name)</i>  <hr/> SIGNATURE <hr/> Josh Lessman, President PRINTED NAME AND TITLE <hr/> 3/13/2024 DATE	City of Fargo Fire Department <hr/> OWNER <i>(Firm name)</i>  <hr/> SIGNATURE <hr/> Steven J. Dirksen, Fire Chief PRINTED NAME AND TITLE <hr/> 3/13/2024 DATE
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Ledgestone Inc.
 22930 CO Hwy 6
 Detroit Lakes MN 56501

www.ledgestoneinc.com
 218-849-6140
 218-847-5013



LEDGESTONE, INC.

Change Order Request

COR Number: 10

Date: 2/26/2024

Project Number: 2301

Contract Date: 5/15/2023

To:	Project:
City of Fargo Fire Department 637 NP Avenue Fargo ND 58102	Fargo Fire Department Station #8 6617 33rd Street South Fargo ND 58104

Description of Change:

Add tapered threshold under door threshold at upper mezzanine door for water intrusion

Project Original Contract Sum	3,504,720.00
Total of Previously Approved Change Orders	40,888.06
Contract Amount Prior to this Change Order	3,545,608.06
Proposed Contract Amount of this Change Order	372.00
Proposed Contract Amount Including this Change Order	3,545,980.06

Accepted By:		
_____ Contractor <i>(Company Name)</i>	_____ Owner <i>(Company Name)</i>	_____ Other <i>(Company Name)</i>
_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>
_____ Printed Name	_____ Printed Name	_____ Printed Name
_____ Date	_____ Date	_____ Date
	_____ Owner's Change Order Number	

Ledgestone Inc.
 22930 CO Hwy 6
 Detroit Lakes MN 56501

www.ledgestoneinc.com
 218-849-6140
 218-847-5013



LEDGESTONE, INC.

Change Order Request

COR Number: 10

Date: 2/26/2024

To: City of Fargo Fire Department	Project: Fargo Fire Department Station #8
--	--

Item	Description	Quantity	UOM	Unit Price	Extended Price
08 - Openings					
	Custom Thresholds	1.00	LS	300.00	300.00
	Install & Fasteners	1.00	LS	32.00	32.00
	Profit & Overhead	0.00		0.00	40.00
Openings Total:					372.00
Change Order Total:					372.00

Ledgestone Inc.
 22930 CO Hwy 6
 Detroit Lakes MN 56501

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 218-849-6140
 218-847-5013



LEDGESTONE, INC.

Change Order Request

COR Number: 11

Date: 3/4/2024

Project Number: 2301

Contract Date: 5/15/2023

To:	Project:
City of Fargo Fire Department 637 NP Avenue Fargo ND 58102	Fargo Fire Department Station #8 6617 33rd Street South Fargo ND 58104

Description of Change:

Tile showers and floor per PR-6 Issued by EAPC dated 2/21/2024

Project Original Contract Sum	3,504,720.00
Total of Previously Approved Change Orders	40,888.06
Contract Amount Prior to this Change Order	3,545,608.06
Proposed Contract Amount of this Change Order	17,584.00
Proposed Contract Amount Including this Change Order	3,563,192.06

Accepted By:		
_____ Contractor <i>(Company Name)</i>	_____ Owner <i>(Company Name)</i>	_____ Other <i>(Company Name)</i>
_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>
_____ Printed Name	_____ Printed Name	_____ Printed Name
_____ Date	_____ Date	_____ Date
	_____ Owner's Change Order Number	

Ledgestone Inc.
 22930 CO Hwy 6
 Detroit Lakes MN 56501

www.ledgestoneinc.com
 218-849-6140
 218-847-5013



LEDGESTONE, INC.

Change Order Request

COR Number: 11

Date: 3/4/2024

To: City of Fargo Fire Department	Project: Fargo Fire Department Station #8
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Item	Description	Quantity	UOM	Unit Price	Extended Price
09 - Finishes					
	Tile work per PR-6	1.00	LS	15,700.00	15,700.00
	Profit & Overhead	0.00		0.00	1,884.00
Finishes Total:					17,584.00
Change Order Total:					17,584.00



Ledgestone, Inc.

22930 Co Hwy 6

Detroit Lakes, MN 56501

Job: Fargo Fire Station #8 – Fargo, ND

Date: 02/29/2024

Design 2 Sell Proposes a Base Bid for Proposal Request Number G06:

Materials: \$7,700.00

Labor: \$8,000.00

Base Bid: \$15,700.00

NOTES:

- Includes tile shower systems with full waterproofing in rooms 109 and 110
- Includes tile floor in 106 with Ditra Crack Isolation Membrane
- Includes Schluter trim
- Lead time on materials is 2-4 weeks

Thank you for the opportunity,

Cameron Dennis

Estimator

CITY OF Fargo Fire Department

28

MEMORANDUM

TO: FARGO CITY COMMISSION

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: 03/14/2024

**SUBJECT: MECHANICAL CONSTRUCTION CHANGE ORDER No.2 FOR PROJECT BP0065
FIRE STATION No.8**

This request is for one change order for the mechanical construction of Fire Station No. 8.

CO No. 2. – Add plumbing fixtures in bathroom at a cost of \$2,160.00, and add 4 fire rated ice maker refrigerator trims at a cost of \$1,016.00.

The original price of the contract for Mechanical Construction was \$1,274,500.00. The proposed changes will bring the total cost of the Mechanical Construction to \$1,280,103.00.

RECOMMENDED MOTION: Approve Mechanical Construction change order No.2 for BP0065 Fire Station No.8 in the amount of \$3,443.00.

AIA® Document G701® – 2017

Change Order

PROJECT: (Name and address) Fire Station #8 6617 33rd St S Fargo, ND 58104	CONTRACT INFORMATION: Contract For: Mechanical Construction Date: May 15, 2023	CHANGE ORDER INFORMATION: Change Order Number: M02 Date: February 23, 2024
OWNER: (Name and address) City of Fargo Fire Department 637 NP Avenue Fargo, ND 58102	ARCHITECT: (Name and address) Engineers-Architects, P.C. (herein known as EAPC Architects Engineers) 112 North Roberts Street Suite 300 Fargo, ND 58102	CONTRACTOR: (Name and address) Manning Mechanical, Inc. 4210 19th Ave N Fargo, ND 58102

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Revise showers in room 109 and 110 to tile surround trim and fixtures and provide credit for fiberglass shower in room 109. Room 110 to be installed and not a future installation. Provide four fire rated ice maker box trim kits, one behind each refrigerator in room 119.

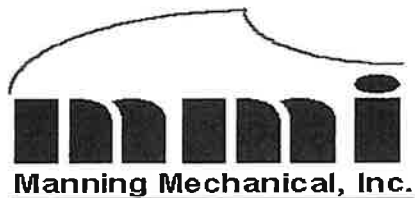
The original Contract Sum was	\$ 1,274,500.00
The net change by previously authorized Change Orders	\$ 2,160.00
The Contract Sum prior to this Change Order was	\$ 1,276,660.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 3,443.00
The new Contract Sum including this Change Order will be	\$ 1,280,103.00

The Contract Time will be unchanged by Zero (0) days.
 The new date of Substantial Completion will be

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Engineers-Architects, P.C. (herein known as EAPC Architects Engineers) ARCHITECT (Firm name) <hr/>  SIGNATURE Nicholas Naujokas, AIA, Senior Architect PRINTED NAME AND TITLE 2/23/2024 DATE	Manning Mechanical, Inc. CONTRACTOR (Firm name) <hr/>  SIGNATURE Allan Hemsted, PM PRINTED NAME AND TITLE 2/27/24 DATE	City of Fargo Fire Department OWNER (Firm name) <hr/>  SIGNATURE Steven J. Dirksen PRINTED NAME AND TITLE 3/4/2024 DATE
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4210 19th Avenue N
Fargo, ND 58102
(701) 293-9774
Fax: (701) 293-6863
www.manningmechanical.com

CHANGE-ORDER PROPOSAL

DATE: 2.20.24

To: EAPC
Attn: Nicholas Naujokas

RE: Fargo Fire Station #8

We are submitting a cost to provide and install the plumbing fixtures in the future bathroom. SH-1 showers are changed from fiberglass surrounds to tiled showers.

Cost: \$ 2,427

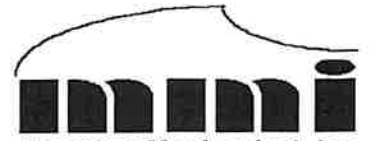
If you have any questions, please contact our office. This proposal is valid for 30 days.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Hemstad', with a long horizontal flourish extending to the right.

Al Hemstad
Project Manager/ Estimator

CHANGE ORDER SPREADSHEET



Manning Mechanical, Inc.
4210 19th Ave N, Fargo, ND 58102

Office Phone: 701-293-9774

Fax: 701-293-6863

Date:	2.20.24
Job Name:	Fargo Fire #8
Project #:	
Description:	Finish Future Bath, change SH-1 to tiled showers

Labor Hour	Material
Subtotal	Subtotal
10.11	\$ 1,003

Labor & Material - Attached Page

RENTALS

Backhoe	0	Hours	\$ 100		\$ -
Crane	0	Hours	\$ 300		\$ -
Power Scaffold	0	Weeks	\$ 400		\$ -
Specialties	0	Hours	\$ 200		\$ -

LABOR

Welder	0	Hours			\$ 100	\$ -
Pipefitter / Plumber / Sheet Metal	10	Hours			\$ 100	\$ 1,011
HVAC / Service / Startup	0	Hours			\$ 112	\$ -
Height Differential 20% of Crew Labor	0	Hours		20%	\$ 100	\$ -
Pipe Testing	0	Hours			\$ 100	\$ -
Research	0	Hours			\$ 120	\$ -
Trucking	0	Hours			\$ 140	\$ -

Total - Crew Labor	10				\$ 1,011	\$ 1,003
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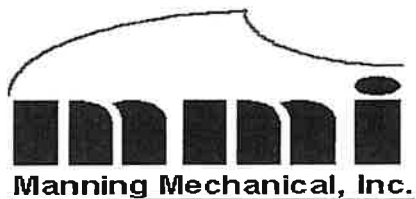
SUBCONTRACTORS

	Quotes	10%	Total
Site Utilities	\$ -	\$ -	\$ -
Controls	\$ -	\$ -	\$ -
Insulation	\$ -	\$ -	\$ -
Balancing	\$ -	\$ -	\$ -
Fire Protection	\$ -	\$ -	\$ -
Temporary Heat	\$ -	\$ -	\$ -
Subcontractors	\$ -	\$ -	\$ -

Subtotal	\$ 2,014
Tax	7.5%
Subtotal W/ Tax	\$ 2,089
P&O	15%
Subtotal W/ P&O	\$ 2,403
Subcontractor	\$ -
Subtotal W/ Subs	\$ 2,403
Bond	1%
Total	\$ 2,427

Time Extension To Contract	1	Days
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DESCRIPTION	QTY	UNIT	LABOR		MATERIAL	
			PER UNIT	SUBTOTAL	PER UNIT	SUBTOTAL
FIXTURES						
DELETE SH-1 FIBERGLASS	-1	Each	2.00	-2.00	\$ 380.00	\$ (380.00)
ADD SH-1 TRIM	1	Each	2.25	2.25	\$ 389.00	\$ 389.00
ADD FD-1 FOR TILE SHOWER	2	Each	1.00	2.00	\$ 110.00	\$ 220.00
ADD L-2	1	Each	2.50	2.50	\$ 363.00	\$ 363.00
ADD WC-1	1	Each	2.50	2.50	\$ 282.00	\$ 282.00
MATERIAL						
1/2" PP 90	6	Each	0.16	0.96	\$ 3.16	\$ 18.96
1/2" DROP EAR ELL	1	Each	0.35	0.35	\$ 15.61	\$ 15.61
1/2" BRASS NIPPLE	1	Each	0.05	0.05	\$ 5.66	\$ 5.66
1/2" COPPER PIPE	30	Each	0.05	1.50	\$ 2.96	\$ 88.80
			SUM	10.11	SUM	\$ 1,003.03



4210 19th Avenue N
Fargo, ND 58102
(701) 293-9774
Fax: (701) 293-6863
www.manningmechanical.com

CHANGE-ORDER PROPOSAL

DATE: 2.14.24

To: EAPC
Attn: Nicholas Naujokas

RE: Fargo Fire Station #8

We are submitting a cost to add (4) fire rated ice maker trims for the kitchen refrigerators per owner request.

Cost: \$ 1,016

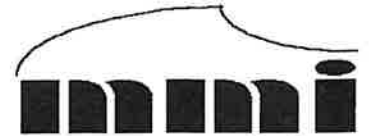
If you have any questions, please contact our office. This proposal is valid for 30 days.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Hemstad', with a long horizontal flourish extending to the right.

Al Hemstad
Project Manager/ Estimator

CHANGE ORDER SPREADSHEET



Manning Mechanical, Inc.
 4210 19th Ave N, Fargo, ND 58102
 Office Phone: 701-293-9774
 Fax: 701-293-6863

Date:	2.14.21
Job Name:	Fargo Fire #8
Project #:	
Description:	F.R. Ice Maker Trim as requested by owner

Labor Hour	Material
Subtotal	Subtotal
2	\$ 628

Labor & Material - Attached Page

RENTALS

Backhoe	0	Hours	\$ 100
Crane	0	Hours	\$ 300
Power Scaffold	0	Weeks	\$ 400
Specialties	0	Hours	\$ 200

\$	-
\$	-
\$	-
\$	-

LABOR

Welder	0	Hours	
Pipefitter / Plumber / Sheet Metal	2	Hours	
HVAC / Service / Startup	0	Hours	
Height Differential 20% of Crew Labor	0	Hours	
Pipe Testing	0	Hours	
Research	0	Hours	
Trucking	0	Hours	

	\$ 100	\$	-
	\$ 100	\$	200
	\$ 112	\$	-
20%	\$ 100	\$	-
	\$ 100	\$	-
	\$ 120	\$	-
	\$ 140	\$	-

Total - Crew Labor	2			Labor	Material
				\$ 200	\$ 628

SUBCONTRACTORS

	Quotes	10%	Total
Site Utilities	\$ -	\$ -	\$ -
Controls	\$ -	\$ -	\$ -
Insulation	\$ -	\$ -	\$ -
Balancing	\$ -	\$ -	\$ -
Fire Protection	\$ -	\$ -	\$ -
Temporary Heat	\$ -	\$ -	\$ -
Subcontractors	\$	\$	\$

	Subtotal	\$	828
Tax	7.5%	\$	47
	Subtotal W/ Tax	\$	875
P&O	15%	\$	131
	Subtotal W/ P&O	\$	1,006
	Subcontractor	\$	-
	Subtotal W/ Subs	\$	1,006
Bond	1%	\$	10
	Total	\$	1,016

Time Extension To Contract	0	Days	
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DESCRIPTION	QTY	UNIT	LABOR		MATERIAL	
			PER UNIT	SUBTOTAL	PER UNIT	SUBTOTAL
Fire Rated Ice Maker Box	4	Each	0.50	2.00	\$ 157.00	\$ 628.00
			SUM	2.00	SUM	\$ 628.00

NORTHERN PLUMBING SUPPLY[®]

S2395625

** QUOTATION **

NORTHERN PLUMBING SUPPLY FARGO
 1817 GREAT NORTHERN DRIVE
 FARGO, ND 58102-3225

Page# 1

Bid To:

Ship To:

Acct #4532
 MANNING MECHANICAL, INC.
 4210 19TH AVE N
 FARGO, ND 58102-6803

MANNING MECHANICAL, INC.
 4210 19TH AVE N
 FARGO, ND 58102-6803

Phone # : 701-293-9774

```
--Bid-Date---Expr-Date--Writer--Terms-----Ship Via-----
02/14/24          BRUCE   2% 10TH NET 30TH          PK PICK-UP
--Purchase Order #-----Release #-----Salesman-----Ordered By----Puller----
FIRE HALL ICE          BRUCE TORKELSO
```

Bid-Qty--		Unit Price	Net
4	82390 FRMIB12ABS IPS METAL ICE MAKER BOX 1/2" SWEAT CONNECTION, FIRE RATED	157.000	628.00

	BID TOTAL		628.00
	Sales tax		47.10

	Bid Amount		675.10


Extras not listed or spelled out are not included in pricing.
 We reserve the right to correct clerical errors.
 Prices good for 30 days only. All prices subject to market changes.



29

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: MARCH 12, 2024

**RE: ADDENDUM TO PURCHASE OF SERVICE AGREEMENT WITH
THE CASS HUMAN SERVICE ZONE.
EXPIRATION: DECEMBER 31, 2024**

Please see the attached addendum to the Purchase of Service Agreement that was approved by commission on the January 22, 2024 (#18) agenda. The attached Addendum B will replace the previous one.

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

Suggested Motion:

Move to approve this addendum to purchase of service agreement with Cass County Human Service Zone.

DF/ls
Attachment

Addendum B
Updated 2-21-2024

DEFINITION	DEFINITION OF UNIT	MAXIMUM ALLOWABLE AUTHORIZATION	RATE NEGOTIATED
The provision of non-personal (environmental support) tasks such as light housekeeping, laundry, meal planning and preparation that enables an individual to maintain as much independence and self-reliance as possible to continue living in their home.	\$6.93/15 min. Tier 1(21-50 miles) \$9.19 Tier 2(51-70 miles) \$10.77 Tier 3(71+ miles) \$11.98	7 units/visit or at the discretion of the Care Coordinator up to 10 units/visit 26 visits/year	\$27.72/hr of direct client time

DEFINITION	DEFINITION OF UNIT	MAXIMUM ALLOWABLE AUTHORIZATION	RATE NEGOTIATED
The intermittent or occasional provision of personal support care tasks/activities that enables an individual to maintain as much independent and self-reliance as possible to continue living in their home.	\$7.70/15 min.	\$15,000/year	\$30.80/hr of direct client time

Fargo Cass Public Health

Provider

Desi Fleming
By Desi Fleming, Director of Public Health

3/12/2024
Date

456002069: Provider's Federal ID Number

By: Timothy J. Mahoney, Mayor City of Fargo

Date

Cass Human Service Zone

Gail Bollinger, Director of Cass Human Service Zone

Date

(30)

To: Board of City Commissioners
From: Jill Minette
Director of Human Resources
Re: Request for Out-of-Grade Pay
Date: March 13, 2024

Desi Fleming, Fargo Cass Public Health Director, submitted a request for Hunter Hubrig, Emergency Prep Environmental Health Practitioner II (grade 14) to receive out-of-grade pay for taking on the responsibilities of the Regional Emergency Response Coordinator (grade 16) during a leave of absence. The additional cost of out-of-grade pay is \$2.59 per hour. The request is for the out-of-grade pay to be effective January 1 to March 3, 2024.

This request has been reviewed and approved by City Administration.

Suggested Motion:

Approve the request to award out-of-grade pay to Hunter Hubrig, Emergency Prep Environmental Health Practitioner II, effective January 1 to March 3, 2024.



31

Information Services

Fargo City Hall
225 4th Street North
Fargo, ND 58102-4817
www.FargoND.gov

March 13, 2024

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

Dear Commissioners;

MDCs (Mobile Data Computers) are ruggedized laptops that are used by public safety. The Fargo Police Department uses 60 MDCs.

We have been using the Panasonic Toughbook computers for many years. The current MDC's have reached their lifecycle replacement time. So, we are planning to replace them this summer with the latest generation of Panasonic Toughbook. The mounting hardware in the cars is compatible with the new Toughbooks, so we will not need to modify the car installation.

We are purchasing this from CODE 4 using the North Dakota State Contract // Baycom // 022-MNWNC-124-PA.[PBC 24143]

This purchase will cost \$317,211.52 with a 5-year support term. This purchase is completely covered under the IS 2024 budget.

Suggested Motion:

Move to approve the purchase of the Panasonic Toughbook computers.

Thank you,



Ron Gronneberg
CIO

Code 4 Services Inc.
 37882 County Highway 3
 Pelican Rapids MN 56572



QUOTE

Date 3/13/2024
 Quote # 6077

Name / Address

City of Fargo Information Services
 ATTN: Cody Stigen
 225 4th Street North
 Fargo, ND
 58102

P.O. #
 Terms Net 30 Other

Item	Description	Qty	Rate	Total
MISC	North Dakota State Contract // Baycom // 022-MNWNC-124-PA Panasonic Toughbook CF-334Z-2AAM Windows 11 Pro, Intel Core i7-1270P (up to 4.8GHz) vPro Processor 12" QHD Gloved Multi-Touch Display + Digitizer Intel Ins Xe Graphics 16GB SDRAM, 512GB Opal Solid State Drive Wi-Fi 6E, Bluetooth, Ethernet NIC 10/100/1000 4G LTE Advanced Multi Carrier with Band 14 Dedicated GPS Dual Pass Through Antenna (Ch1.WWAN/Ch2.GPS) 8MP Camera, 2MP Infrared Webcam with Mic Standard Batteries (2) and AC Power Adapter 3 Year Protection Plus (No Fault) Warranty Public Sector Bundle Included Services Mobility Engineering Field Service No Return of Defective Drives - Years 1-3 Premier Deployment with Imaging, Multi Location Shipping Custom Bios, Customer Portal Access	64	4,407.81	282,099.84
MISC	OPTIONAL /// Extend Pro Plus Warranty and Included Services to 5 Years	64	548.62	35,111.68

Subtotal \$317,211.52
 Sales Tax (7.375%) \$0.00
 Total \$317,211.52

Code 4 Services Inc.
 www.code4services.com





32

Memorandum

DATE: March 18, 2024
TO: Mayor Mahoney and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Dangerous Building Public Hearing Request at 1022 9 Ave N FARGO ND

The property owner of 1022 9 Ave N FARGO ND RESIDENTIAL ACCREDIT LOANS INC, have failed to comply with the order to either obtain a permit to repair or remove the heavily damaged structure at that location within the time allowed for that removal. In accordance with Fargo Municipal Code Article 21-04, it will now be necessary for you to set a date for a hearing of this order at which time the property owner will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is **to make a motion, in accordance with FMC Article 21-0405, to set 5:15 pm Monday, April 1, 2024 as the time and date for the hearing regarding the dangerous building order for the structure at 1022 9 Ave N FARGO ND.**



33

Memorandum

DATE: March 18, 2024
TO: Mayor and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Amend Article 13-09

Background:

The Inspections Department is responsible for ticketing, towing, and evaluating vehicles that could be considered “junk automobiles.” In section 13-0901 of the Fargo Municipal Code, a “junk automobile” is defined as:

The term "junk automobiles" shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the state of North Dakota for a period in excess of 60 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 15 days; provided that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer.

Our department is seeking to add a definition to clearly define the term “inoperative” to clarify any ambiguities. By creating this definition, our inspectors, as well as city residents, will have a better understanding of what it means as it relates to “junk automobiles.”

RECOMMENDED MOTION: Direct the City Attorney’s Office to review Article 13-09 of the Fargo Municipal Code to include a definition for “inoperative.”



(3A)

City of Fargo Staff Report			
Title:	Autumn Fields Third Addition	Date: Update:	1/30/2024 3/14/2024
Location:	4234 31 Avenue South, 3166 & 3186 Sienna Drive South, and 3181 42 Street South	Staff Contact:	Brad Garcia, planner Donald Kress, current planning coordinator
Owner(s)/Applicant:	Matrix Properties Corporation, Kodabank, Lyngstad 29 West LLP, LADs, LLC	Engineer/Architect:	Bolton & Menk
Reason for Request:	Minor Subdivision (Replat of all of Lot 1, Block 8, of the Autumn Fields Addition)		
Status:	City Commission Consent Hearing: March 18th, 2024		

Existing	Proposed
Land Uses: Commercial and Undeveloped	Land Use: Commercial
Zoning: GC, General Commercial	Zoning: No Change
Uses Allowed: GC - Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, basic utilities, adult establishment, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, and some telecommunication facilities.	Uses Allowed: No Change
Maximum Building Coverage Allowed: GC allows maximum 85% building coverage.	Maximum Building Coverage Allowed: No Change

Proposal:

PROJECT HISTORY NOTE: Planning Department staff member Brad Garcia was the planner for this project. He left the Planning Department in February, 2024. The case was completed by another planner.

The applicant requests a **Minor Subdivision** (Replat of all of Lot 1, Block 8, of the Autumn Fields Addition). The subject properties are located at 4234 31st Avenue South, 3166 & 3186 Sienna Drive South, and 3181 42nd Street South and encompass approximately 8.05 acres.

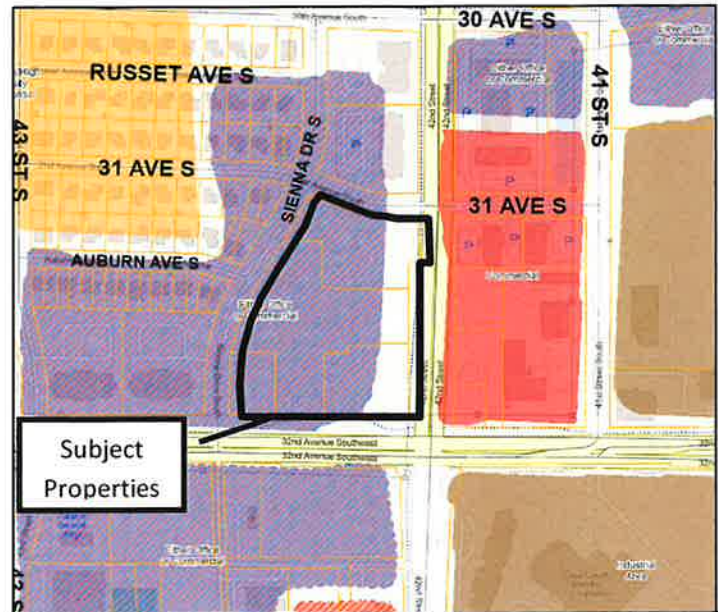
The City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”) reviewed this project, whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: GC, General Commercial, with offices;
- East: GC, General Commercial, with offices, warehouse and public utilities;
- South: LC, Limited Commercial, with retail sales and service.
- West: GC, General Commercial, with offices and SR-4, Single-Dwelling Residential with attached and detached homes

Area Plans:

The subject property is located within the Southwest Area Plan as contained within the Urban Fringe and Extraterritorial Area of the City of Fargo land use plan. The plan identifies the either office or commercial uses for the subject properties. The existing GC, General Commercial zoning is consistent with this land use designation.



Context:

Schools: The subject property is located within the West Fargo School District and are served by the Freedom Elementary, Liberty and Sheyenne High schools.

Neighborhood: The subject property is located in the Anderson Park neighborhood.

Parks: The subject property is located within a quarter-mile distance to Pointe West Park (3331 42nd Street SW) which features a playground and soccer fields; and Autumn Fields Park (2951 Saffron Drive S) which features a small neighborhood park that has a playground with benches nearby.

Pedestrian / Bicycle: A shared-use path is located on the east and south boundaries of the subject properties and is a component of the metro area bikeways system. No dedicated bike facilities are located within a half-mile radius.

Transit: Two bus routes serve the subject properties within a quarter-mile radius. Route 18 serves the area going Westbound and Eastbound along 32nd Ave S; and Northbound and Southbound along 42nd St S, providing service to GTC, Holiday Station, Bethany Homes, SEHS / Avalon West, Essentia Hospital, Hornbacher's Osgood, Microsoft, and Walmart. Route 14 serves the area going Westbound and Eastbound along 32nd Ave S; and Northbound and Southbound along 42nd St S, providing service to GTC, Prairie Psych / Island Park, Essentia / Sanford, Kmart, Family Fare, Essentia Hospital, Flying J, Rasmussen College, West Acres, YMCA, Love's, Hornbacher's, Courthouse

Staff Analysis:

Project Summary

The applicant is requesting to replat the existing four lots into seven lots. Proposed Lots 1, 5 and 7 (4234 31 Avenue South, 3181 42 Street South and 3186 Sienna Drive South, respectively) will have no change to the existing property lines and are formally lots split off from Lot 1, Block 8, of the Autumn Fields Addition. The existing lot at 3186 Sienna Drive South is proposed be subdivided into 4 lots.

No change of use is proposed with this minor subdivision and no conditional overlay exists over any of the subject properties.

Proposed Lots 1, 5 and 7 have been developed, and meet the requirements stated in Land Development Code. The remaining proposed lots are undeveloped at the time of this report and no building permits have been submitted with the proposed plat.

Access

Access exists off 31st Ave S for proposed Lot 1. Shared access with an existing private drive and access easement for Lots 3-7 off Sienna Drive South. Proposed Lot 2 will have direct access off Sienna Drive South. No access will be allowed off 42nd Street South nor 32nd Avenue South as indicated by the negative access easements, which carry through from the underlying plat.

Stormwater Retention

Lots 1 and 5 have existing retention ponds to serve these properties. A shared storm retention pond exists in the center of the development that will serve lots 2-4 and 6-7.

Amenities Plan

The applicant and the City have reviewed and executed an amenities plan that addresses stormwater retention and flood protection.

Minor Subdivision

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

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

The subject properties are located within the Southwest Area Plan and the existing and proposed uses are consistent with the context of the area and intended land use. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any inquiry 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.

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

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

(Criteria Satisfied)

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed Subdivision Plat, **Autumn Fields Third Addition**, as outlined within the staff report, as the proposal complies with the Go2030 Fargo Comprehensive Plan, adopted Area Plan, the Southwest Area Plan, the standards of Section 20-0907.B-C, and of Article 20-06, and all other applicable requirements of the Land Development Code".

Planning Commission Recommendation:

At the February 6th, 2024 Planning Commission hearing, that Commission, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and move to recommended approval to the City Commission of the proposed Subdivision Plat, **Autumn Fields Third Addition**, as outlined within the staff report, as the proposal complies with the Go2030 Fargo Comprehensive Plan, adopted Area Plan, the Southwest Area Plan, the standards of Section 20-0907.B-C, and of Article 20-06, and all other applicable requirements of the Land Development Code.

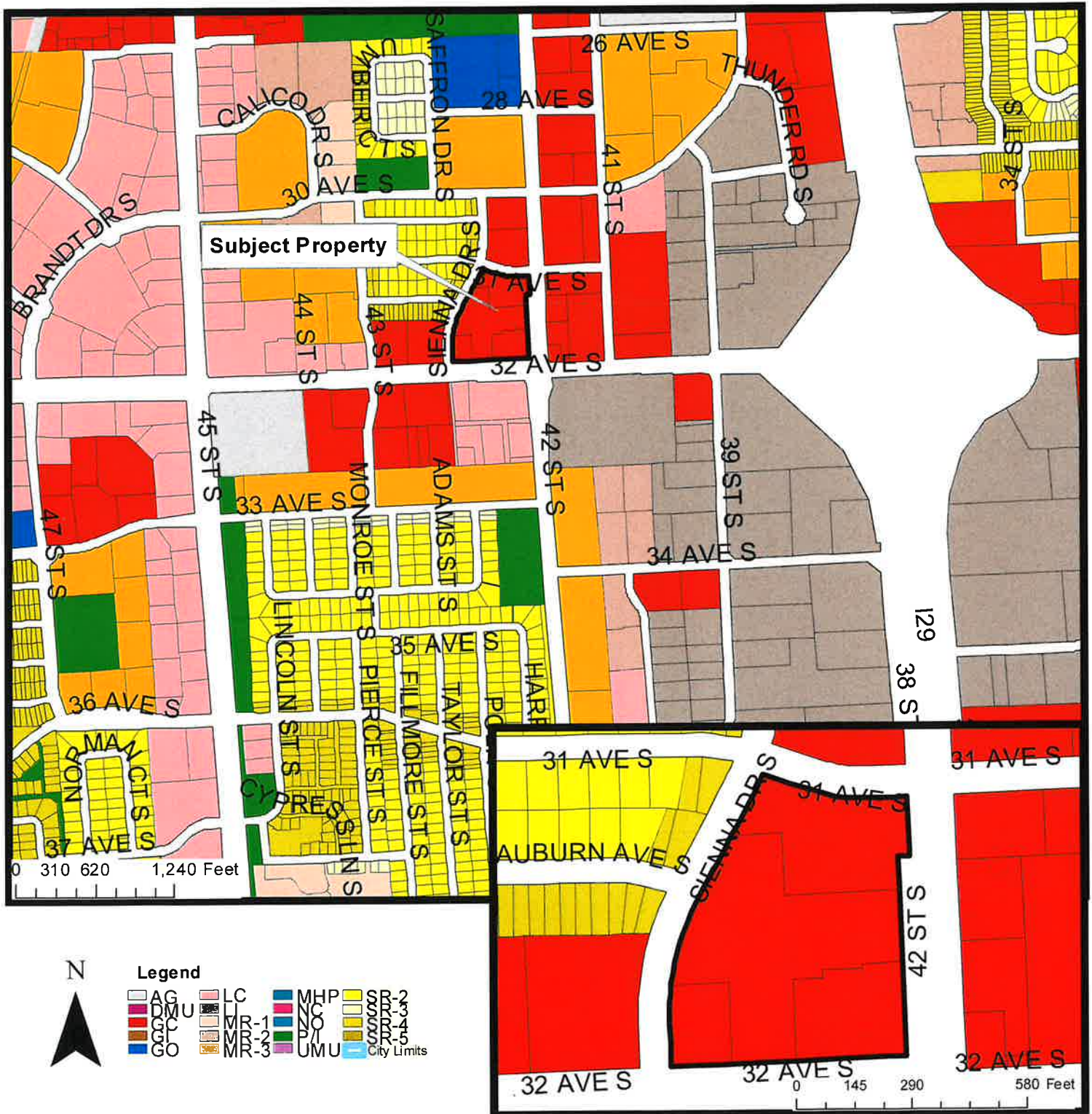
Attachments:

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

Minor Subdivision

Autumn Fields Third Addition

3166 & 3186 Sienna Drive South;
4234 & 4220 31 Avenue South; 3181 42 Street South

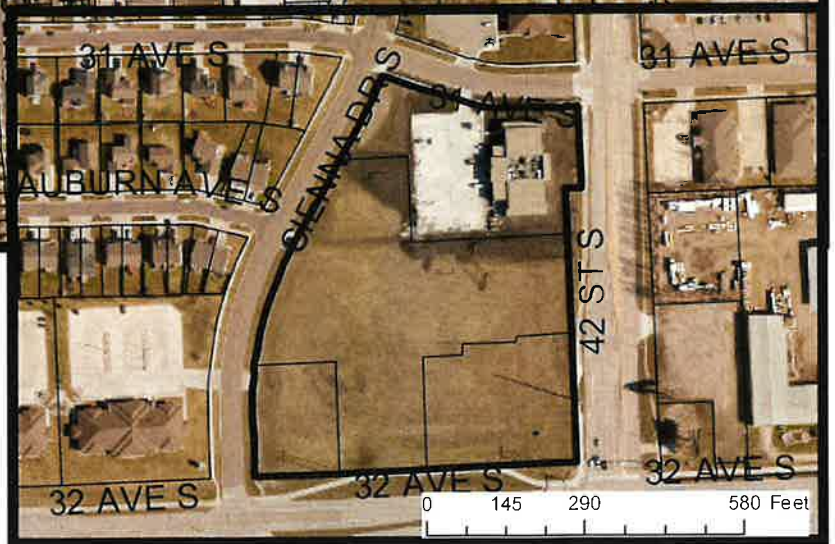


Fargo Planning Commission
February 6, 2024


Minor Subdivision

Autumn Fields Third Addition

3166 & 3186 Sienna Drive South;
4234 & 4220 31 Avenue South; 3181 42 Street South



Legend

 City Limits

AUTUMN FIELDS THIRD ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT OF LOT 1, BLOCK 8 OF AUTUMN FIELDS ADDITION
(A MINOR SUBDIVISION)

OWNERS DESCRIPTION AND DEDICATION

SHAW M. THOMPSON, Registered Professional Land Surveyor under the laws of North Dakota, has surveyed and laid out the above described plat for the purpose of the replat of Lot 1, Block 8 of Autumn Fields Addition, Cass County, North Dakota, being more particularly described as follows:

All of Lot 1, Block 8 of Autumn Fields Addition to the City of Fargo, according to the record plat thereof, on file and of record in the office of the Recorder, Cass County, North Dakota

Containing 350.639 square feet of land, more or less and subject to all easements, restrictions, covenants and rights of way of record, if any.

Said owner has caused the above described plat to be prepared by Shaw M. Thompson, Registered Professional Land Surveyor, in and to the satisfaction of the City of Fargo, North Dakota, and shall hereby dedicate to Lot 1, the water line easement, as shown on this plat for the purposes to be hereinafter stated, and shall hereby dedicate to Lot 1, the water line easement, as shown on this plat for the purposes to be hereinafter stated, and shall hereby dedicate to Lot 1, the water line easement, as shown on this plat for the purposes to be hereinafter stated.

OWNER LOT 1
SHAW M. THOMPSON
By Shaw M. Thompson, Registered Professional Land Surveyor

State of North Dakota }
County of Cass }

On this 30th day of January, 2024, before me, a notary public within and for said County and State, personally appeared, Shaw M. Thompson, 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 himself.

Shaw M. Thompson
Notary Public
By Commission Expires Jan 11, 2027

OWNER LOT 2
LARRY E. BROWN
By Larry E. Brown, Registered Professional Land Surveyor

State of North Dakota }
County of Cass }

On this 30th day of January, 2024, before me, a notary public within and for said County and State, personally appeared, Larry E. Brown, 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 himself.

Larry E. Brown
Notary Public
By Commission Expires Jan 11, 2027

OWNER LOT 2, 3 & 4
MARGARET PROGRESSIVE CORPORATION
By Margaret Progressive Corporation, Minnesota

State of North Dakota }
County of Cass }

On this 30th day of January, 2024, before me, a notary public within and for said County and State, personally appeared, Margaret Progressive 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 the corporation.

Margaret Progressive Corporation
Notary Public
By Commission Expires Jan 11, 2027

OWNER LOT 5
LARRY E. BROWN
By Larry E. Brown, Registered Professional Land Surveyor

State of North Dakota }
County of Cass }

On this 30th day of January, 2024, before me, a notary public within and for said County and State, personally appeared, Larry E. Brown, 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 himself.

Larry E. Brown
Notary Public
By Commission Expires Jan 11, 2027

OWNER LOT 6
LARRY E. BROWN
By Larry E. Brown, Registered Professional Land Surveyor

State of North Dakota }
County of Cass }

On this 30th day of January, 2024, before me, a notary public within and for said County and State, personally appeared, Larry E. Brown, 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 himself.

Larry E. Brown
Notary Public
By Commission Expires Jan 11, 2027

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, Shaw M. Thompson, Registered Professional Land Surveyor under the laws of North Dakota, have surveyed and laid out the above described plat for the purpose of the replat of Lot 1, Block 8 of Autumn Fields Addition, Cass County, North Dakota, being more particularly described as follows:

All of Lot 1, Block 8 of Autumn Fields Addition to the City of Fargo, according to the record plat thereof, on file and of record in the office of the Recorder, Cass County, North Dakota

Containing 350.639 square feet of land, more or less and subject to all easements, restrictions, covenants and rights of way of record, if any.

Said owner has caused the above described plat to be prepared by Shaw M. Thompson, Registered Professional Land Surveyor, in and to the satisfaction of the City of Fargo, North Dakota, and shall hereby dedicate to Lot 1, the water line easement, as shown on this plat for the purposes to be hereinafter stated, and shall hereby dedicate to Lot 1, the water line easement, as shown on this plat for the purposes to be hereinafter stated.

Shaw M. Thompson
By Shaw M. Thompson, Registered Professional Land Surveyor

State of North Dakota }
County of Cass }

On this 30th day of January, 2024, before me, a notary public within and for said County and State, personally appeared, Shaw M. Thompson, 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 himself.

Shaw M. Thompson
Notary Public
By Commission Expires Nov 11, 2027

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by City Engineer this _____ day of _____, 2024.

Tom Kristiansen, P.E., City Engineer

State of North Dakota }
County of Cass }

On this _____ day of _____, in the year 2024, before me, a notary public within and for said County and State, personally appeared Tom Kristiansen, 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 City of Fargo.

Tom Kristiansen
Notary Public

FARGO CITY COMMISSION APPROVAL

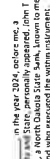
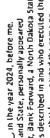
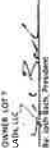
Approved by the Board of City Commissioners and received filed this _____ day of _____, 2024.

Timothy J. Mahoney, Mayor

State of North Dakota }
County of Cass }

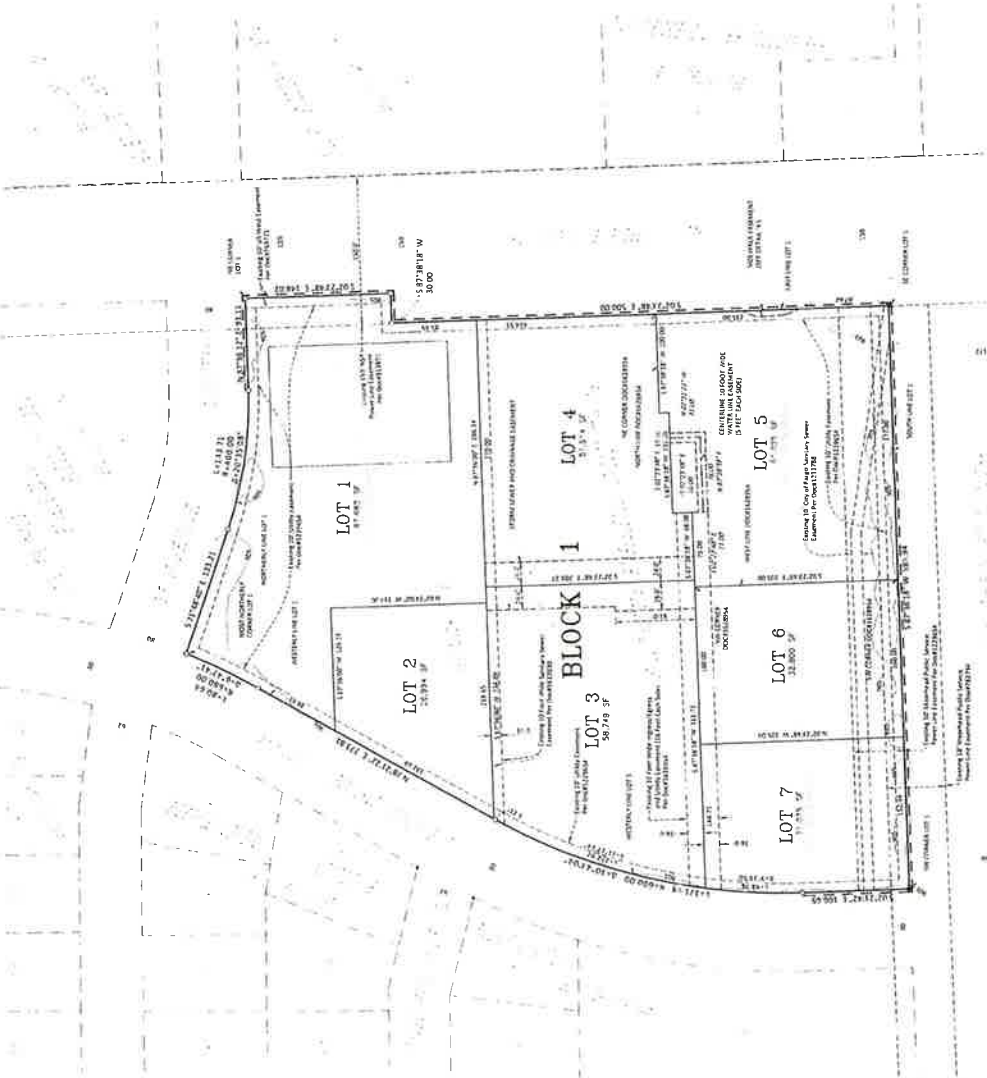
On this _____ day of _____, in the year 2024, before me, a notary public within and for said County and State, personally appeared Timothy J. Mahoney, Mayor, and Steven Searles, City Administrator, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same on behalf of the City of Fargo.

Steven Searles
Notary Public



AUTUMN FIELDS THIRD ADDITION

TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA
A REPLAT LOT 1, BLOCK 8 OF AUTUMN FIELDS ADDITION
(A MINOR SUBDIVISION)



OPERATION OF THE BEARINGS SYSTEM ARE THE
PLAT OF AUTUMN FIELDS ADDITION
CITY OF FARGO (LAND RECORDS SYSTEM)

LEGEND

- 0 5/8\" 1/4\" REBAR MONUMENT SET, CAP MARKED BY I.C. NO. U.S. 1900
- MONUMENT FOUND
- - - - - EASEMENT
- - - - - EASEMENT PROPERTY LINE
- - - - - EASEMENT LINE
- - - - - ACCESS EASEMENT, I.C. NO. 22795/4
- - - - - EXISTING EASEMENT, I.C. NO. 22795/4
- - - - - EXISTING EASEMENT, I.C. NO. 22795/4
- - - - - EXISTING EASEMENT, I.C. NO. 22795/4
- - - - - EXISTING EASEMENT, I.C. NO. 22795/4
- - - - - EXISTING EASEMENT, I.C. NO. 22795/4

DOCUMENTS OF RECORD

- 1. SUBDIVISION INSTRUMENT, I.C. NO. 22795/4
- 2. SUBDIVISION INSTRUMENT, I.C. NO. 22795/4
- 3. SUBDIVISION INSTRUMENT, I.C. NO. 22795/4

NOTES

THIS PLAT IS WITHIN ZONING AS SHOWN ON A FLOOD
ELEVATION MAP. THE ELEVATION OF THE FLOOD
EASMENT IS 10.5'. ANY WORK SHALL BE DONE WITHIN
ELEVATION OF 10.5' OR THEREAFTER ON LOT 1.

NONE AS FLOOD ELEVATION DETERMINED
BASE ELEVATION 10.5'

BENCHMARK

CITY OF FARGO BENCHMARK 11.000 (EAST OF 15th ST. WYOMING)
LOCATED APPROXIMATELY 175 FEET WEST OF THE
EAST CORNER OF LOT 1 (I.C. NO. 22795/4)



DATE: 10/22/2024
DRAWN BY: [Name]
CHECKED BY: [Name]

PREPARED BY
BOLTON & MENK

35

City of Fargo Staff Report			
Title:	Laverne's Fourth Addition	Date:	01/31/2024 03/14/2024
Location:	3181, 3101 & 3033 43 rd Street North; 3190, 3100 & 3030 42 nd Street North	Staff Contact:	Alayna Espeseth, Assistant Planner
Legal Description:	Lots 1-6, Block 3, Laverne's Second Addition		
Owner(s)/Applicant:	Laverne Indy LLC	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Minor Subdivision (Replat of Lots 1-6, Block 3, Laverne's Second Addition to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Consent Agenda: March 18, 2024		

Existing	Proposed
Land Use: Undeveloped	Land Use: Industrial
Zoning: LI, Limited Industrial	Zoning: No change
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult establishment, offices, off-premise advertising signs, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, and certain telecommunications facilities.	Uses Allowed: No change
Maximum Lot Coverage Allowed: 85%	Maximum Lot Coverage Allowed: No change

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A minor subdivision, to be known as Laverne's Fourth Addition, replat of Lots 1-6, Block 3, Laverne's Second Addition to the City of Fargo, Cass County, North Dakota. The minor subdivision will consist of 1 lot, 1 block. <p>The current LI, Limited Industrial zoning will remain. The Airport Proximity Agreement from Laverne's Second Addition carries through to this minor subdivision.</p> <p>Staff reviewed and approved the amenities plan for Laverne's Fourth Addition which states that all applicable requirements from Laverne's Second Addition carries through to with this plat.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: P/I, Public and Institutional with undeveloped land; • East: LI, Limited Industrial with warehouse uses; • South: LI, Limited Industrial with freight movement uses and undeveloped land; • West: LI, Limited Industrial with undeveloped land. <p style="text-align: right;"><i>(Continued on next page.)</i></p>

Area Plans:

The subject property is located within the 2007 Tier 1 Northwest Land Use Plan. This plan designates the subject property as "Industrial." This land use designation includes the current LI zoning. No growth plan amendment is required.

Proposed Land Uses	
	Residential Area - lower to medium density
	Residential Area - medium to high density
	Residential Area - rural
	Commercial Area
	Industrial Area
	Agricultural Research



Schools and Parks:

Schools: The subject property is located within the West Fargo School District and is served by Harwood Elementary, Cheney Middle and West Fargo High schools.

Neighborhood: The subject property is not located within a designated neighborhood.

Parks: There are no public parks within one mile of the subject property.

Pedestrian / Bicycle: A multi-use path is intended for the right of way of 43rd Street, which will connect with the existing multi-use path in Laverne's Addition to the south. There is an off-road multi-use trail that is located approximately 0.75 miles south the project site along 19th Avenue North. Both paths are part of the metro area bikeways system.

MATBUS Route: The subject property is not along a MATBUS route.

Staff Analysis:

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

Minor Subdivision

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

- 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 requested minor subdivision combines six existing lots into a single lot for industrial development. The current zoning is LI, Limited Industrial. No zone change is proposed. The subject property is located within the 2007 Tier 1 Northwest Land Use Plan which designates the land use as "Industrial". 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.

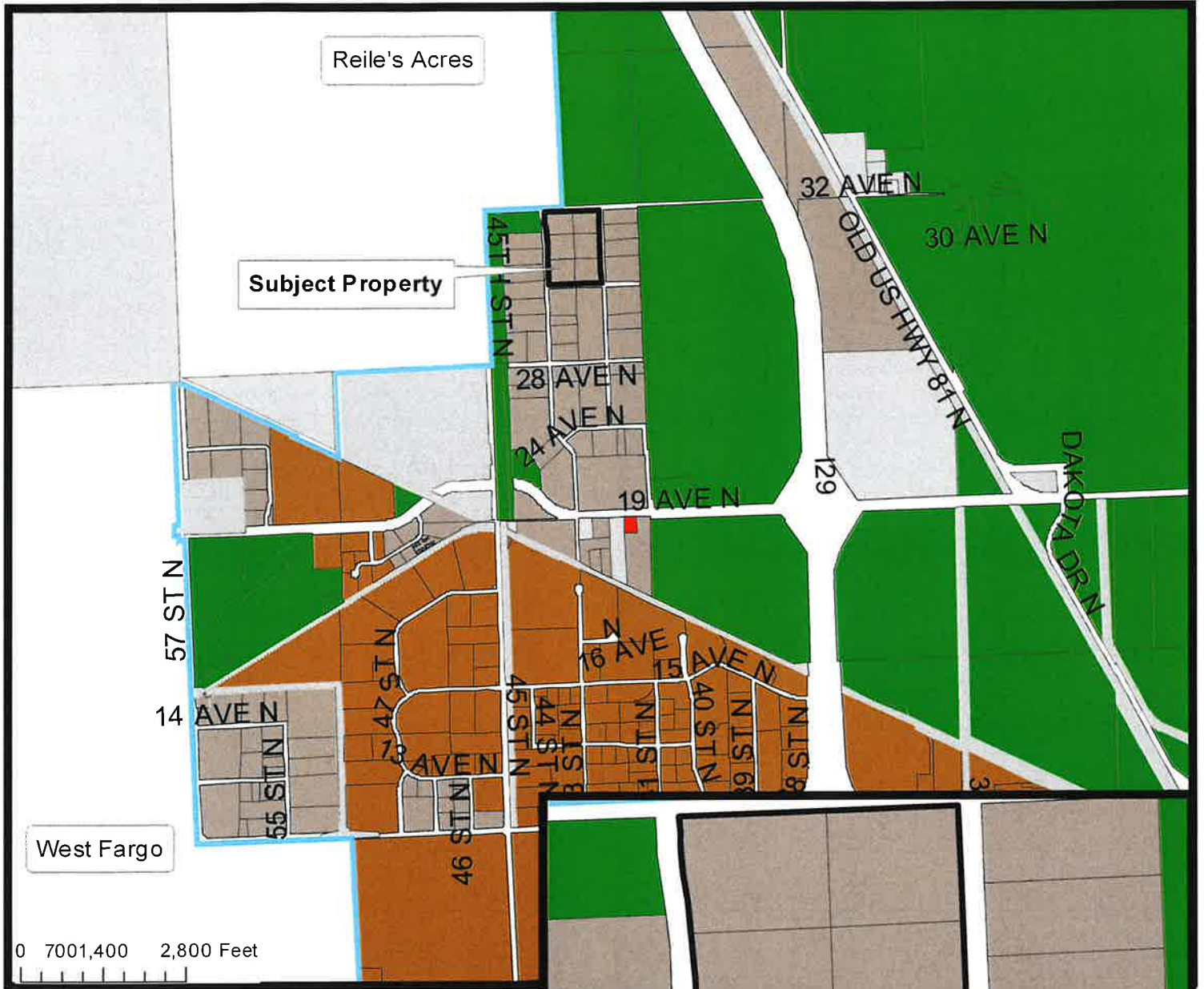
(Criteria Satisfied)

<p>2. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.</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 principles.</p> <p>(Criteria Satisfied)</p>
<p>Staff Recommendation:</p>
<p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed subdivision plat, Laverne's Fourth Addition as outlined within the staff report, as the proposal complies with the adopted 2007 Tier 1 Northwest Land Use Plan, the standards of Article 20-06, Section 20-0907.B. and C and all other applicable requirements of the Land Development Code."</p>
<p>Planning Commission Recommendation: February 06, 2024</p>
<p>At the February 06, 2024 Planning Commission hearing, by a vote of 7-0 with 2 Commissioners absent and two Commission seats vacant, the Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission the proposed subdivision plat, Laverne's Fourth Addition as outlined within the staff report, as the proposal complies with the 2007 Tier 1 Northwest Land Use Plan, standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code.</p>
<p>Attachments:</p>
<ol style="list-style-type: none">1. Zoning Map2. Location Map3. Preliminary Plat

Minor Subdivision

Laverne's Fourth Addition

3181, 3101 & 3033 43 Street North;
3190, 3100 & 3030 42 Street North



Legend

AG	DMU	LC	MHP	City Limits
CC	GO	MR-1	NC	
GC	GO	MR-2	NO	
GO	GO	MR-3	P/A	
			UMU	

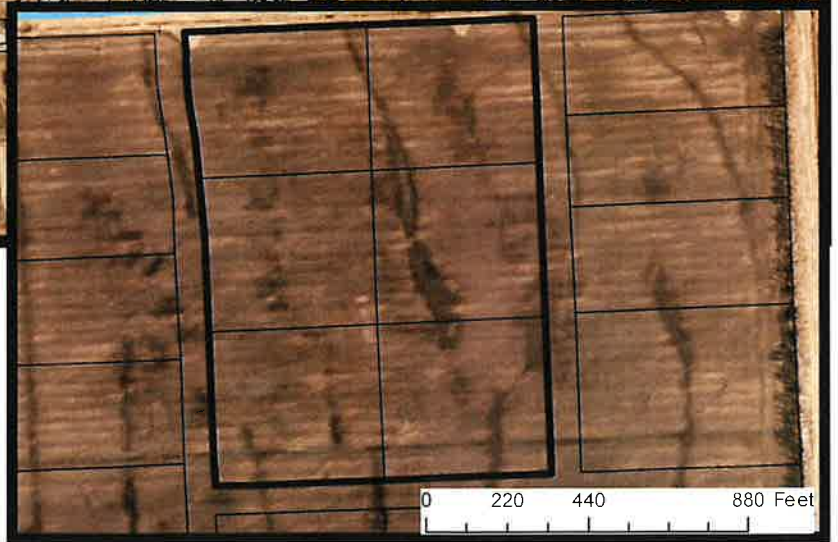
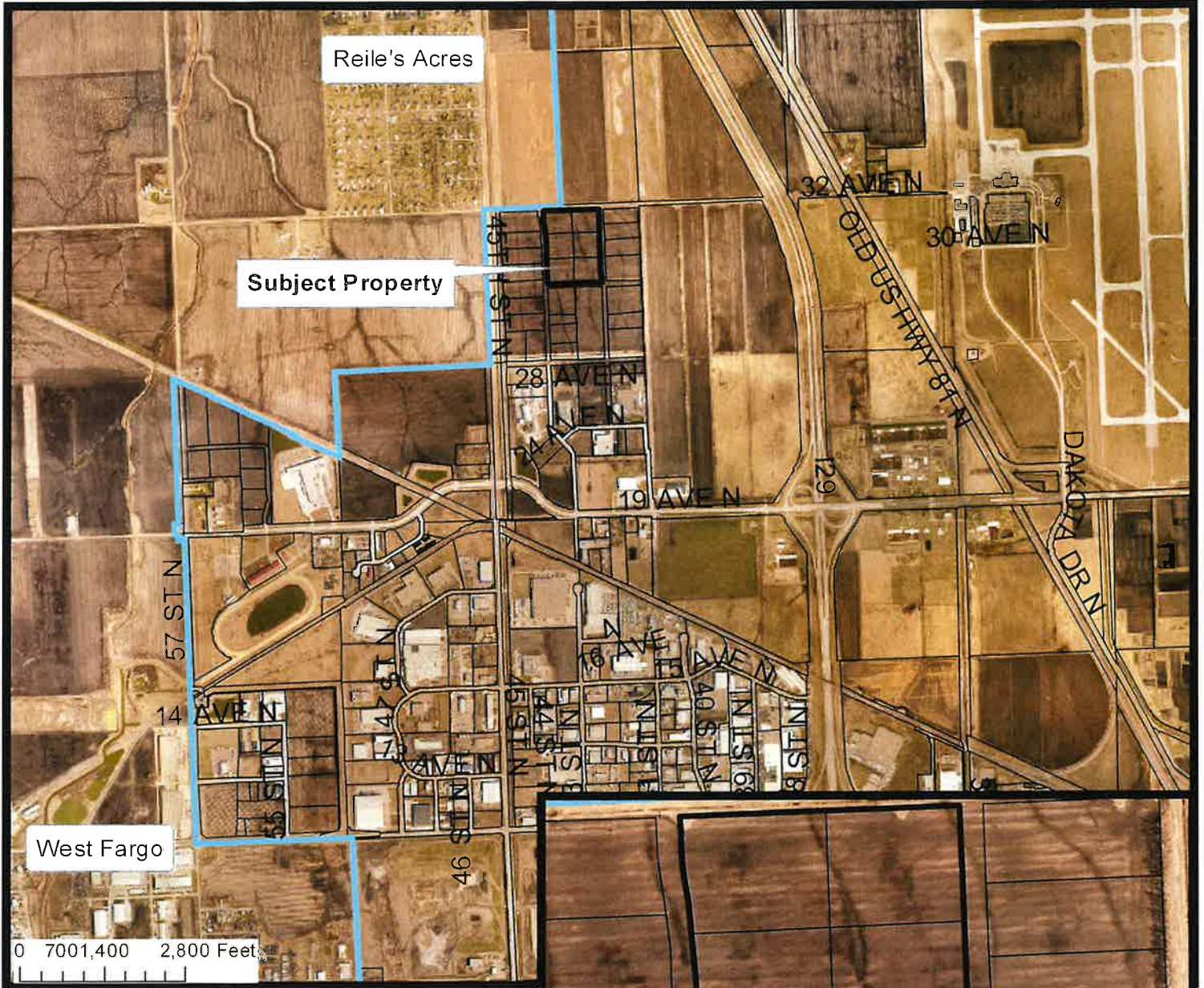


Fargo Planning Commission
February 6, 2024

Minor Subdivision

Laverne's Fourth Addition

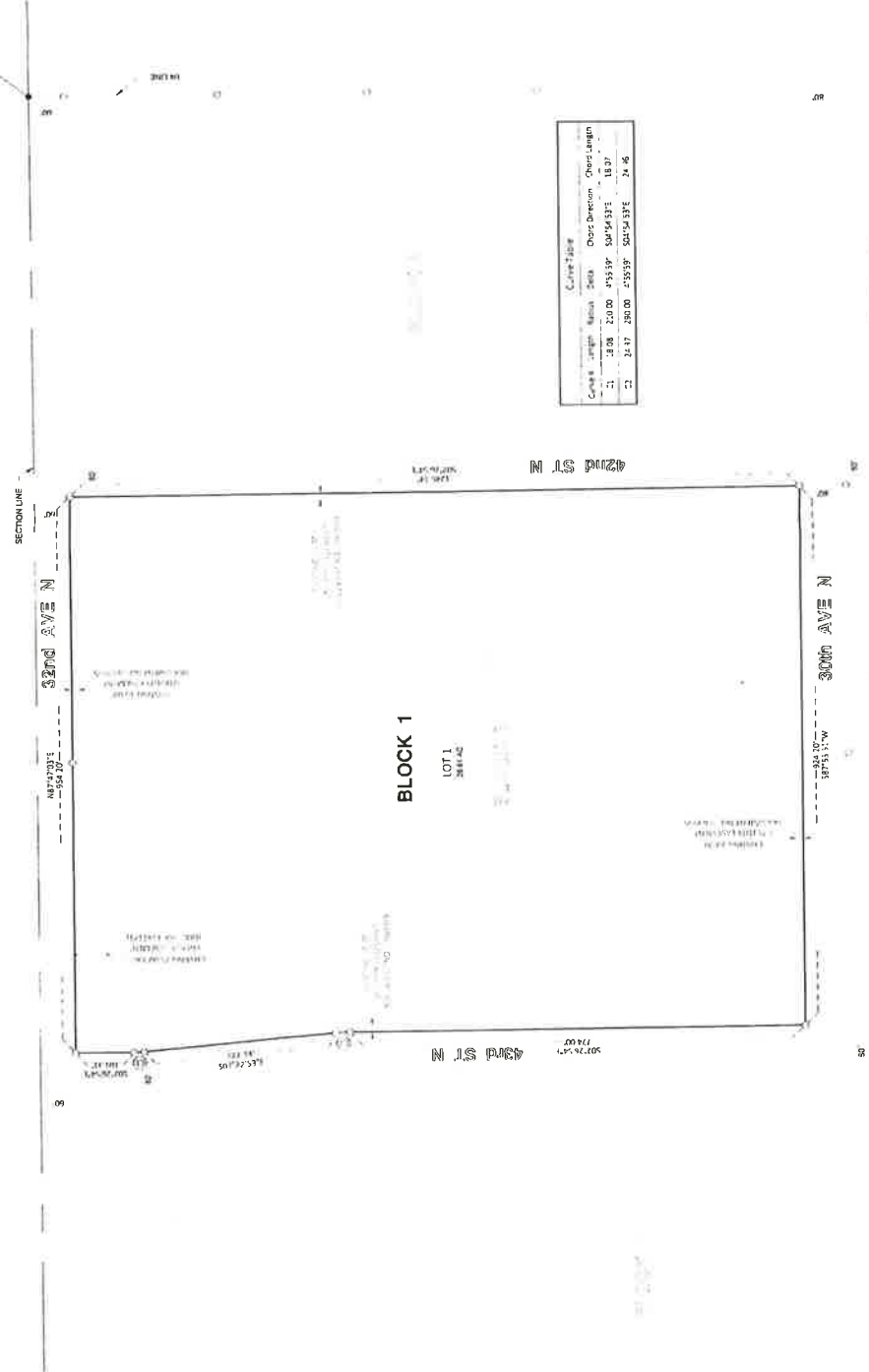
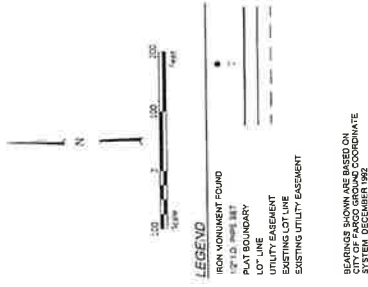
3181, 3101 & 3033 43 Street North;
3190, 3100 & 3030 42 Street North



Legend

 City Limits

LAVERNE'S FOURTH ADDITION
 A MINOR SUBDIVISION
 BEING A REPLAT OF LOTS 1, 2, 3, 4, 5 & 6, BLOCK 3
 LAVERNE'S SECOND ADDITION
 CITY OF FARGO,
 CASS COUNTY, NORTH DAKOTA



Curve	Length	Area	Delta	Chord Distance	Chord Length
C1	13.08	210.00	155.53°	S87°54'33\"/>	



Sheet 1 of 2
 Project No. 7489-0118

**LAVERNE'S FOURTH ADDITION
A MINOR SUBDIVISION
BEING A REPLAT OF LOTS 1, 2, 3, 4, 5 & 6, BLOCK 3
LAVERNE'S SECOND ADDITION
CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA**

OWNERS CERTIFICATE
NOW ALL PERSONS BY THESE PRESENTS That Laverne Indy, LLC, a North Dakota limited liability company, is the owner and proprietor of the following described tract of land:
Lots 1, 2, 3, 4, 5 and 6, Block 3, Laverne's Second Addition, in the City of Fargo, Cass County, North Dakota.
Said tract containing 28.61 acres, more or less.
And that said party has caused the same to be surveyed and platted as LAVERNE'S FOURTH ADDITION in the City of Fargo, Cass County, North Dakota.

OWNER:
LAVERNE INDY, LLC
By: Synodica, LLP
Its Manager
By:  Austin J. Morris, Partner

State of North Dakota)
County of CASS) ss

The foregoing instrument was acknowledged before me this 31st day of January, 2024, by Austin J. Morris, a Partner of Synodica, LLP, a North Dakota limited liability company, and Synodica, LLP, a North Dakota limited liability company, on behalf of the initial liability partnership



Notary Public: 

SURVEYORS CERTIFICATE AND ACKNOWLEDGEMENT

I, James A. Schlemmer, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision, that the monuments for the guidance of future surveys have been located or placed on the ground as shown.

Dated this 30th day of January, 2024



James A. Schlemmer, Professional Land Surveyor No. 6086

State of North Dakota)
County of Cass) ss

On this 30th day of January, 2024, 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.



Notary Public: 

HOUSTON ENGINEERING, INC.
Sheet 2 of 2
Project No. 7489-0118

FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 20____.

Timothy J. Mahoney, Mayor
Alders: Steven Sprague, City Auditor

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Timothy J. Mahoney, Mayor, City of Fargo, and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who executed the within instrument, and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public: _____

CITY ENGINEERS APPROVAL

Approved by the Fargo City Engineer this _____ day of _____, 20____.

Tom Krakmuhla, PE, City Engineer
State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Tom Krakmuhla, PE, Fargo City Engineer, 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.

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this _____ day of _____, 20____.

Robby Schneider, Chair
Fargo Planning Commission

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 2024, before me personally appeared Robby Schneider, 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.

Notary Public: 





**PUBLIC
WORKS**

**FLEET MANAGEMENT, FORESTRY
STREETS & SEWERS
WATERMAINS & HYDRANTS**

402 23rd Street North
Fargo, ND 58102

Phone: 701.241.1453 | Fax: 701.241.8100
FargoND.gov

(36)

March 7, 2024

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

RE: Extension of unpaid leave for Wayne Hegseth through 5/31/24

Commissioners:

Wayne Hegseth, Public Works Maintenance Technician III, is requesting an extension of unpaid leave through May 31, 2024 under City of Fargo Employment Policy 500-008 – Leave Without Pay.

I am requesting approval to extend the unpaid leave through the requested date which will provide a total of 90 days of unpaid leave.

RECOMMENDED MOTION: I/we hereby move to approve the extension of unpaid leave for Wayne Hegseth under City of Fargo Employment Policy 500-008 – Leave Without Pay.

Respectfully submitted,

Ben Dow
Public Works Director



37

PUBLIC WORKS/OPERATIONS

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

March 8, 2024

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

RE: Fuel Purchase for 3rd and 4th Quarters of 2024 (RFP24111)

Commissioners:

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

On Feb 23, 2024, the Fuel Procurement Committee received bids for 270,000 gallons of #2 Diesel and 142,000 Gallons of Unleaded Gasoline. The award was made to Northdale Oil, Inc with a submitted low bid of \$1,060,715.00 without tax. (RFP24111).

Attached for your review is the Bid Tab from July 23, 2024 and the Fuel Contract.

RECOMMENDED MOTION: I/we hereby move to authorize and execute the Forward Fuel Contract (RFP24111) for the 3rd and 4th Quarters of 2024.

Respectfully Submitted,

Allan Erickson
Fleet Services Manager

Snow Removal
Street Maintenance
Right of Way Maintenance

Sanitary & Storm
Sewer Maintenance
Street Name Sign Maintenance

Fleet Management
Meters Readings,
Installations & Maintenance

Urban Forestry
Water Service/Hydrants
& Watermain Maintenance



Q3 / Q4 2.23.2024

FUEL BID TAB

		Northdale		Mansfield	
		Registration docs		Registration docs	
<u>3rd Quarter (July 1 - Sept30)</u>					
#2 Diesel Fuel	135,000	\$2.6700	yes	\$2.8171	yes
No-Lead 10% Ethonal 87 Octane	71,000	\$2.4200		\$2.4517	
<u>4th Quarter (Oct 1 - Dec 31)</u>					
#2 Diesel Fuel	135,000	\$2.6400		\$2.7885	
No-Lead 10% Ethonal 87 Octane	71,000	\$2.2700		\$2.2093	
		Avg \$/Gal		Avg \$/Gal	
Total Gallons #2	270,000	\$2.6550	\$ 716,850.00	\$2.8028	\$ 756,756.00
Total Gallons No-Lead	142,000	\$2.3450	\$ 332,990.00	\$2.3305	\$ 330,931.00
		<u>\$ 1,049,840.00</u>		<u>\$ 1,087,687.00</u>	

City of Fargo

FORWARD CONTRACT

Contractor: NORTHDALE OIL
300 HEARTLAND DR
GF, ND 58201

Buyer: City of Fargo
 225 4th ST. N
 Fargo, ND 58102

	Delivery Period	Quantity	Product	Price/Gallon
	2024			
3rd Quarter				
1	July 1 – Sept 30	135,000	#2 Diesel Fuel	2.07
2	July 1 – Sept 30	71,000	No-lead Ethanol 87 Octane	2.42
4th Quarter				
3	Oct 1 – Dec 31	135,000	#2 Diesel Fuel	2.04
4	Oct 1 – Dec 31	71,000	No-lead Ethanol 87 Octane	2.27

Price: Quoted price is per gallon and inclusive of:

- o Any local freight/delivery charges.
- o The Federal LUST (Leaking Underground Storage Tank) fee.(one-tenth of one cent per gallon)
- o North Dakota State Inspection fee.(one-fortieth of one cent per gallon)
- o Federal Oil Spill Recovery Fee

Demurrage Charge: \$ 60 per hour commencing with the second (2nd) hour.

Measurement: Terminal Meter Tickets (Gross Gallons)

Terms: Net 10 Days from Invoice Date

Sales Representative: Tracie Johnson
NORTHDALE OIL

Buyer Representative: Allan Erickson
 City of Fargo

Credit: Credit shall be approved and within the established line.

CERTIFICATIONS AND RESTRICTIONS ON LOBBYING

The undersigned Company/Contractor certifies, to the best of his or her knowledge and belief, 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 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.
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, 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.
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-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.

The Company/Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

NORTHDALE OIL INC Company/Contractor

Tracie Johnson Signature of Company/Contractor's Authorized Official

Tracie Johnson Printed Name

Director of Operations Title of Company/Contractor's Authorized Official

2-23-24 Date

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
(NONPROCUREMENT)

49 CFR Part 29, Executive Orders 12549, 12689, and 31 U.S.C.6101 (Contracts over \$25,000)

Background and Applicability

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published and update to 49 DFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, Debarment and Suspension, Executive Order 12689, Debarment and Suspension, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220 (b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, 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) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels). Instructions for Certification; By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. 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 municipal corporation. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the municipal corporation, 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 49 CFR 29, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

NORTHDALE OIL INC Company/Contractor
Tracie Johnson Signature of Company/Contractor's Authorized Official
Tracie Johnson Printed Name
Director of Operations Title of Company/Contractor's Authorized Official
2-23-24 Date

City of Fargo Fuel Bid for 3rd and 4th Quarter of 2024
Due by 9:00 AM Central Time, Feb 23, 2024
Please list below your prices on a quarterly basis.

\$ Per Gallon will **INCLUDE**

Any local freight/delivery charges.

The Federal LUST (Leaking Underground Storage Tank) fee. (One tenth of one cent per gallon)

North Dakota State Inspection fee. (One-fortieth of one cent per gallon)

Federal Oil Spill Recovery Fee

<u>3rd Quarter (July 1 – Sep 30)</u>	<u>Gallons</u>	<u>Cost/Gallon</u>
#2 Diesel Fuel	135,000	<u>2.67</u>
No-Lead Ethanol 87 Octane	71,000	<u>2.42</u>
 <u>4th Quarter (Oct 1 – Dec 31)</u>		
#2 Diesel Fuel	135,000	<u>2.64</u>
No-Lead Ethanol 87 Octane	71,000	<u>2.27</u>
 Total Gallons #2	270,000	<u>\$716,850</u>
Total Gallons No-Lead	<u>142,000</u>	<u>\$332,990</u>
	412,000	
	TOTAL	\$1,049,840
Demurrage Charge per hour <u>after</u> the first hour		<u>\$100</u>

Vendor: NORTHDALE OIL INC

Signature: Travis John

Title: Director of Operations

Date: 2-23-24

Time: 8:30 AM

Received and Accepted

Allen Fleetman 2/23/24

Definitions:

The terms City of Fargo, City, Buyer and Grantee are synonymous and mean the City of Fargo

The terms "Bidder, Contractor, Offerer, Proposer, Contractor, Firm, Company" are synonymous and mean the offerer or Contractor.

Efficiency Payments:

In the event Buyer does not take delivery of the contracted quantity for the delivery period, Contractor can sell the volume not lifted in the open market the last 2 days of the quarter contract or the first 5 days of the following quarter contract.

If the open market price is less than the fixed forward pricing above, the Buyer will pay Contractor the amount equal to the volume not lifted times the difference between the open market price and the fixed forward price.

If the open market price is more than the fixed forward pricing above, the Contractor will pay Buyer the amount equal to the volume not lifted times the difference between the open market price and the fixed forward price.

Delivery of Fuel

Delivery of fuel will be to all City of Fargo's three (3) fueling sites located at:

402 23rd Street North	Public Works (3 Underground tanks)
650 23rd Street North	Metro Transit Garage (2 underground tanks)
4501 7th Avenue North	Landfill (1 above ground tank)

Delivery of fuel to the fueling site at Public Works will require a vent hose to be connected between tanker and tank.

Additional Products and Fuel Additives

The Buyer uses various mixtures of fuel depending on the time of year. For winter use, diesel is a blend of #1 and #2 with a cold weather additive. Bio diesel may also be used during the summer months. Additional products purchased outside of the contracted amount will be current rack price at the time of purchase. Splash blending for products like bio-diesel will be acceptable.

Failure to Perform:

If, during any month of the delivery period, Contractor fails to deliver the contracted volume, and such failure is not excused as provided herein, and the Replacement Price (cost incurred by Buyer to secure the contracted for volume) is greater than the Contract

Price, then Contractor shall be liable for and shall pay Buyer the amount equal to the volume not delivered times the difference between the Replacement Price and the Contract Price.

Excused Performance:

Except with regard to a Party's obligation to make payments due under this Contract, in the event either Buyer or Contractor is rendered unable, wholly or in part, by unforeseeable causes to carry out its obligations, then upon notification by telephone with a subsequent written notice setting forth the specifics within a reasonable time, but not in excess of six (6) days after the commencement of the failure to perform due to unforeseeable causes, the obligations of the Party giving such notice, insofar as they are affected by such causes, from its inception, shall be excused during the entire period of any inability so caused but for no longer period.

Excused performance, as employed in this Contract will mean any event that prevents delivery or receipt of Product, including acts of God, strikes, lockouts, or industrial disputes or disturbances, civil disturbances, interruptions by government or court orders, necessity for compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction, acts of the public enemy, events affecting facilities or services of non-affiliated third parties, or any other cause of like kind not reasonably within the control of the non-performing Party and which by the exercise of due diligence such Party could not have prevented or is unable to overcome.

Contractor Warrants:

Contractor warrants that all royalties, taxes and other sums due on production and transportation of the Fuel to the Delivery Point(s) are paid, and that it will have the right to convey and will transfer good and merchantable title to all Fuel sold hereunder and delivered by it to Buyer, free and clear of any and all liens, encumbrances and claims. All Fuel delivered will meet the ASTM standard for that product.

Contractor shall pay all taxes lawfully levied on Contractor applicable to the Fuel delivered to Buyer. Buyer shall pay all taxes lawfully levied on Buyer after delivery to Buyer. If Buyer is exempt from any taxes, Buyer shall furnish Contractor with proper documentation.

If in the event of a product shortage at the local pipeline and a tanker must be sent to another pipeline outside of the metro area, the additional freight charge must be agreed upon between buyer and Contractor at the time of order.

Notices:

All billings, payments, statements, notices and communications made pursuant to this Contract shall be made as follows:

Contractor:

Buyer:

Northdale Oil, Inc.	City of Fargo
203 14 th St NE	225 4 th St N
East Grand Forks, MN 56721	Fargo, ND 58102

Transfer or Assignment:

This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective Parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this contract, in whole or in part, will be made without the prior written consent of the non-assigning party, which consent will not be unreasonably withhold or delayed provided, Upon any transfer and assumption, the transferor shall not be relieved of or discharged from any obligations hereunder unless such assumption is made in the transfer/assumption agreement.

Severability:

If any term, provision, covenant, or condition of this Contract or the application thereof, to any party or circumstance, shall be held to be invalid or unenforceable (in whole or in part) for any reason, the remaining terms, provisions, covenants, and conditions hereof shall continue in full force and effect as if this Contract had been executed with the invalid or unenforceable portion eliminated.

Applicable Law:

The Contract shall be governed in accordance with the laws of the State of North Dakota.

Consequential and Incidental Damages:

In no event will either party be liable under this Contract, whether in contract, tort (including negligence and strict liability) or otherwise, for incidental, consequential, special or punitive damages.

Applicable Federal Clauses

Only to the extent any of the following sections are applicable to a contract of the nature herein contemplated, the following shall apply:

No Government Obligation to Third Parties:

The Buyer 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 Buyer, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud & False or Fraudulent Statements & Related Acts:

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 cause 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.

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.

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.

Access to Records and Reports:

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.

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.

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.

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.

Federal Changes:

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Buyer and FTA, and they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Civil Rights and Equal Opportunity:

The City of Fargo is an Equal Opportunity Employer. As such, the City of Fargo agrees to comply with all applicable Federal civil rights laws and implementing regulations.

Apart from inconsistent requirements imposed by Federal laws or regulations, the City of Fargo 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.

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.

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.

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.

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.

Termination Provisions:

The City reserves the right to terminate this agreement for cause by written notices to the Contractor. Cause for termination will be documented failure(s) of the Contractor to provide services in the quantity and/or quality required by the agreement. Contractor will, within ten (10) days, correct the failure or present the City with a plan to correct the failure. In the event Contractor does not correct failure or complete its plan to correct failure, then the City may terminate this agreement by notifying Contractor of date of termination. Said termination shall not diminish the City of Fargo's rights under law or equity.

This Contract may be terminated for cause by either party upon seven (7) days' written notice in the event of substantial failure to perform through no fault of the terminating party.

In the event of any termination, City of Fargo shall pay the agreed rate only for services delivered up to the date of termination. City of Fargo has no obligation to Contractor, of any kind, after the date of termination.

Disadvantaged and Small Business Enterprise:

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).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days 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).

In connection with the performance of this service, the Contractor will cooperate with the City of Fargo 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 insure that disadvantaged business enterprises have the maximum practicable opportunity to compete for subcontract work. In order to insure 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 City of Fargo for purchases pertaining to this Contract to the best of the Contractor's ability and will provide the City of Fargo 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 City of Fargo 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 City of Fargo.

Fostering Small Business Participation. The City of Fargo 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 City of Fargo. This program is race- and gender- neutral, however SBEs can also count towards DBE goals.

Incorporation of FTA Terms:

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 City of Fargo requests which would cause City of Fargo to be in violation of the FTA terms and conditions.

Debarment, Suspension, Ineligibility and Voluntary Exclusion:

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 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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.

Breach of Contract and Dispute Resolution:

Disputes: Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City, the City Administrator. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Fargo City Commission, 225 4th St N, Fargo, ND 58102. A hearing will be scheduled with the Fargo City Commission at the next regularly scheduled meeting. 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 said hearing. The decision of the Fargo City Commission shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute: Unless otherwise directed by the City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims of Damages: 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.

Remedies: Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City 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 State of North Dakota.

Rights and Remedies: The duties and obligations imposed by this Agreement/Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Lobbying Restrictions:

The Proposer certifies that: No Federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, 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.

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.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreement) and that all sub-recipients 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

Clean Air and Federal Water Pollution Control Act:

The Contractor agrees:

It will not use any violating facilities;

It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"

It will report violations of use of prohibited facilities to FTA; and

It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

Contract Work Hours & Safety Standards Act:

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.

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.

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.

The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

Substance Abuse Requirements: Drug and Alcohol Testing:

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 or the City of Fargo, 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 the start of the contract period and to submit the Management Information System (MIS) reports before the start of the contract to the City of Fargo Fleet Manager. 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.

Energy Conservation:

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).

Safe Operation of Motor Vehicles:

Seat Belt Use: The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or AGENCY.

Distracted Driving: The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

Entire Agreement:

THE TERMS CONTAINED IN THIS CONTRACT CONSTITUTE THE ENTIRE CONTRACT OF THE PARTIES, AND THERE ARE NO CONTRACTS, UNDERSTANDINGS, OBLIGATIONS, PROMISES, ASSURANCES OR CONDITIONS, PRECEDENT OR OTHERWISE, EXCEPT THOSE EXPRESSLY SET OUT HEREIN.

DESTINATION IS CITY OF FARGO FUELING STATIONS

Dated this 23 day of February, 2024.

CONTRACTOR

BUYER

NORTHDALE OIL INC

Tracie Johnson

Director of Operations

Title

(Both Parties are Signatories)



**FLEET MANAGEMENT, FORESTRY
STREETS & SEWERS
WATERMANS & HYDRANTS**
402 23rd Street North
Fargo, ND 58102
Phone: 701.241.1453 | Fax: 701.241.8100
FargoND.gov

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March 14, 2024

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

RE: Extend Contract for Lawn Maintenance Services with Valley Green and Associates, RFP22037

Commissioners:

On March 9, 2022, a total of five (5) proposals were received for the Request for Proposal for Lawn Maintenance Services (RFP22037). The contracted service will perform mowing and lawn maintenance at various city lots for the 2022 mowing season.

A one-year contract was executed with Valley Green and Associates to perform the lawn maintenance. The conditions of the RFP allowed for extensions of the contract up to five (5) years. The contractor performed well during the initial contract. Public Works staff and the contractor would like to extend the contract one additional year. All terms and conditions of the contract will remain the same.

RECOMMENDATION:

RFP22037: I/we suggest motion to extend the contract for Lawn Maintenance Services with Valley Green and Associates for the 2024 mowing season under the terms and conditions of RFP22037.

Respectfully submitted,

Corey Houim
Services Manager
Fargo Public Works

SERVICES AGREEMENT

LAWN MAINTENANCE SERVICES

I. Agreement

This agreement is between the City of Fargo (City) and Valley Green and Associates (Contractor) to provide lawn maintenance services for the City. This agreement shall commence upon signing by both parties and expire on October 31, 2024. The term of this agreement may be extended, if accepted and signed by the Contractor and City, for (2) additional one (1) year extensions.

II. Scope of Services

The contractor will perform the lawn maintenance services as set forth within this agreement. It will be up to the individual contractor's discretion to perform the services as weather conditions permit.

Lawn Maintenance Services: All grass shall be mowed on a weekly basis, or as directed. Grass will be maintained at a height of approximately three and one-half (3 ½) inches. Upon completion a mowed area shall be free of clumped grass, tire tracks or ruts from contractor's mowing equipment. Turf shall be cut in a professional manner as not to scalp turf or leave any areas of uncut grass. Care shall be taken to prevent discharge of grass clippings onto any adjacent private properties or onto any paved surface such as streets, jogging trails, sidewalks or storm drain system. These surfaces should be swept/blown clean by the Contractor immediately after each mowing. Contractor shall pick up all litter before each mowing, which is subsidiary to the mowing bid, and remove same from site. If in the course of mowing, trash is overlooked and shredded by mowers, it should immediately be collected and disposed of properly by the contractor. If mowing is interrupted by inclement weather, the Contractor shall continue mowing at the same location on the next available mowing day. The Director of Operations has the authority to cancel or schedule mowing cycles on a week-to-week basis. Any cancellations will be based upon need, prevailing weather conditions and available funding.

Trimming: Contractor will trim all turf areas on a weekly basis or as directed in association with mowing cycle. All trimming shall be accomplished maintaining the three and one-half inches (3 ½") cutting height. All trimming must be performed concurrently with mowing operations. Turf shall be trimmed in a professional manner as not to scalp the grass or leave areas of uncut grass. All amenities (trees, poles, signs, etc.) shall be trimmed around. Special care shall be given in trimming around small trees. Care should be taken to prevent discharge of grass clippings onto any paved surface such as streets, parking lots, sidewalks, driveways or adjacent properties. Any material so discharged shall be removed immediately after trimming.

Weed Control: Contractor will perform two weed control applications of all properties during each season's term. The Contractor shall perform weed control spraying on City properties as designated (Spring, Pre-emergent Herbicide & Midsummer, Post-emergent Herbicide) Soil Sterilant may not be used unless directed by the City. It shall be the Contractor's responsibility to determine the most appropriate times of year to apply treatment within the confines of the general guidance provided above. The Contractor shall use the necessary equipment in order to accomplish the work in a satisfactory manner. The Contractor shall arrange operations so that the herbicides will not be distributed beyond the limit of property sprayed. The Contractor shall apply the herbicides using nozzles and pressure necessary for a proper application. The Contractor shall supply water for any chemical mixes developed for the purpose of spraying weed treatment. The materials used by the Contractor must be of such composition and of sufficient strength to kill weeds, but may not sterilize the soil. The chemicals used shall not be toxic or harmful in any manner to animals or human beings when used in prescribed manner. The materials used shall not harm desirable vegetation such as trees or turf. The materials used shall not be flammable or leave an oily residue that will discolor or leave a slippery film on sidewalks and curbs. The City may at any time during the spraying operation take samples to check materials being used. Upon request, the Contractor shall provide the City with information regarding chemicals applied to specified locations. In addition, the Contractor shall upon request provide the City with specimen labels of chemicals applied. Contractor shall furnish all labor, materials, equipment, permits, fees and insurance coverage for weed control applications.

Property Damage: Contractors will be notified by the Director of Operations of any property damage that occurs as a result of lawn maintenance services. Notification will be within 48 hours of Director of Operations becoming aware of such property damage. The contractor will be solely and wholly financially liable for any damaged property, as a result of negligence on the part of the Contractor.

III. Responsibility of the City

City shall oversee the execution of this agreement and disbursing of funds.

IV. Contractor's Compensation and Method of Payment

City will reimburse Contractor for services render per mowing event as shown in the attached Exhibit B. All final invoices shall be submitted no later than December 1 of the contract year.

V. Termination of the Agreement

This contract may be terminable at will by either party after giving ten (10) days written notice to the other party.

VI. Assignability

This agreement will not be assigned or transferred by Contractor to another party without the prior written consent of the City.

VII. Hold Harmless and Insurance

Contractor agrees to indemnify and hold City harmless from any and all claims, demands or causes of action resulting from the provision of services as described in this contract. All insurance (Worker's Compensation, Comprehensive General Liability, and/or Automobile) shall be maintained at the expense of the contractor during the term of this contract.

VIII. Contractor Records

Contractor shall maintain accurate and updated records of all reimbursable services provided to City under the terms of this agreement, and shall record the date such services are provided. Such records shall conform to generally recognized accounting principles. The City, or their authorized representatives, shall have access to any records of Contractor pertinent to the agreement.

IX. Monitoring and Evaluation

City may monitor and evaluate Contractor progress and performance to assure that the terms of this agreement are being satisfactorily met. Contractor shall cooperate with City relating to such monitoring and evaluation.

X. Independence of Recipient

Contractor is not the agent or employee of City. Contractor is solely responsible for its acts and the acts of its agents, employees and subcontractors.

XI. Conflict of Interest

Contractor agrees that it does not have any undisclosed influence or relationship with City staff regarding the award or performance of this contract.

XII. Entire Agreement

The provisions as set forth in Items I. and all attachments of this agreement constitute the entire agreement between the parties.

IN WITNESS WHEREOF, the undersigned enter into this agreement.

Date: 3/14/24

Valley Green and Associates

Nicole Seaberg

By: W. S. J.

Its: Office Manager

Date: _____

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

Dr. Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

Mowing List #2

Location		Lawn Maintenance Unit Price \$	Weed Control Unit Price \$
Harwood Groves			
1	801 Harwood Drive South	\$15.00	\$61.18
2	707 Harwood Drive South	\$15.00	\$61.18
3	701 Harwood Drive South	\$15.00	\$61.18
4	619 Harwood Drive South	\$15.00	\$61.18
5	601 Harwood Drive South	\$15.00	\$61.18
6	517 Harwood Drive South	\$15.00	\$61.18
7	509 Harwood Drive South	\$15.00	\$61.18
8	502 Harwood Drive South	\$15.00	\$61.18
9	501 Harwood Drive South	\$15.00	\$61.18
10	437 Harwood Drive South	\$15.00	\$61.18
11	520 Hackberry Drive South	\$15.00	\$61.18
12	602 Hackberry Drive South	\$15.00	\$61.18
13	610 Hackberry Drive South	\$15.00	\$61.18
14	618 Hackberry Drive South	\$15.00	\$61.18
15	626 Hackberry Drive South	\$15.00	\$61.18
16	702 Hackberry Drive South	\$15.00	\$61.18
17	720 Hackberry Drive South	\$15.00	\$61.18
18	726 Hackberry Drive South	\$15.00	\$61.18
19	802 Hackberry Drive South	\$15.00	\$61.18
20	1100/1200 Block Harwood Drive (Grand Total)	\$300.00	\$1,223.60
Burrit-Kennedy Addition			
21	3506 River Drive South	\$15.00	\$55.52
22	3512 River Drive South	\$15.00	\$55.52
23	3518 River Drive South	\$15.00	\$55.52
24	3524 River Drive South	\$15.00	\$55.52
25	3532 River Drive South	\$15.00	\$55.52
26	3538 River Drive South	\$15.00	\$55.52
27	3602 River Drive South	\$15.00	\$55.52
28	3610 River Drive South	\$15.00	\$55.52
29	3618 River Drive South	\$15.00	\$55.52
30	3626 River Drive South	\$15.00	\$55.52
31	3632 River Drive South	\$15.00	\$55.52
32	3638 River Drive South	\$15.00	\$55.52
33	3644 River Drive South	\$15.00	\$55.52
34	3650 River Drive South	\$15.00	\$55.52
35	3656 River Drive South	\$15.00	\$55.52
36	3662 River Drive South	\$15.00	\$55.52
37	3668 River Drive South	\$15.00	\$55.52
38	3674 River Drive South	\$15.00	\$55.52
39	3676 River Drive South	\$15.00	\$55.52
40	3680 River Drive South	\$15.00	\$55.52
41	3702 River Drive South	\$15.00	\$55.52
42	3714 River Drive South	\$15.00	\$55.52
43	3720 River Drive South	\$15.00	\$55.52
44	3726 River Drive South	\$15.00	\$55.52
45	3732 River Drive South	\$15.00	\$55.52
46	3738 River Drive South	\$15.00	\$55.52
47	3802 River Drive South	\$15.00	\$55.52
48	3808 River Drive South	\$15.00	\$55.52
49	3820 River Drive South	\$15.00	\$55.52
50	3830 River Drive South	\$15.00	\$55.52
51	3832 River Drive South	\$15.00	\$55.52
52	3838 River Drive South	\$15.00	\$55.52
53	3842 River Drive South	\$15.00	\$55.52
54	3902 River Drive South	\$15.00	\$55.52
55	3908 River Drive South	\$15.00	\$55.52
56	3914 River Drive South	\$15.00	\$55.52
57	3920 River Drive South	\$15.00	\$55.52
58	3926 River Drive South	\$15.00	\$55.52
59	1213 El Cano Drive South	\$15.00	\$11.50
		\$585.00	\$2,121.26

University Drive, 32nd Ave - Rose Coulee

60	University Drive S. Center Islands (7 Islands)	\$100.00	\$225.50
61	University Drive West Frontage Road (3 Islands)	\$55.00	\$126.50
62	University Drive East Boulevard from 3534 to 40th Avenue	\$40.00	\$93.50
63	University Drive East Boulevard to East Property Line (3534 to 40th Avenue)	\$80.00	\$209.00
64	University Drive West Curb to West Property Line (37th Ave to 40th Avenue)	\$100.00	\$225.50
65	University Drive East Frontage Road to UDS Curb (47th Ave S to 49th Ave S)	\$75.00	\$203.50
		\$450.00	\$1,083.50

Rosewood Park Addition

66	4117 15th Street South	\$15.00	\$44.19
67	4120 15th Street South	\$15.00	\$44.19
68	4123 15th Street South	\$15.00	\$44.19
69	4126 15th Street South	\$15.00	\$44.19
70	4122 17th Street South	\$15.00	\$44.19
71	4123 17th Street South	\$15.00	\$44.19
72	4127 17th Street South	\$15.00	\$44.19
73	4128 17th Street South	\$15.00	\$44.19
74	1508 41st Avenue South	\$15.00	\$44.19
		\$135.00	\$397.71

Rose Creek 2nd Addition

75	2130 Sterling Rose Lane South	\$15.00	\$88.37
		\$15.00	\$88.37

Rose Creek 4th Addition

76	4609 Rose Creek Parkway South	\$21.00	\$52.12
77	4603 Rose Creek Parkway South	\$21.00	\$52.12
78	4602 Rose Creek Parkway South	\$21.00	\$52.12
		\$63.00	\$156.36

Oak Creek

79	4497 Oakcreek Drive South	\$13.00	\$49.85
80	4493 Oakcreek Drive South	\$13.00	\$49.85
81	4489 Oakcreek Drive South	\$13.00	\$49.85
82	4485 Oakcreek Drive South	\$13.00	\$49.85
83	4481 Oakcreek Drive South	\$13.00	\$49.85
84	4477 Oakcreek Drive South	\$13.00	\$49.85
85	4473 Oakcreek Drive South	\$13.00	\$49.85
86	4469 Oakcreek Drive South	\$13.00	\$49.85
87	4465 Oakcreek Drive South	\$13.00	\$49.85
88	4461 Oakcreek Drive South	\$13.00	\$49.85
89	4457 Oakcreek Drive South	\$13.00	\$49.85
90	4453 Oakcreek Drive South	\$13.00	\$49.85
91	4449 Oakcreek Drive South	\$13.00	\$49.85
		\$169.00	\$648.05

Coulee's Crossing

92	4603 25th Street South	\$16.00	\$58.70
93	4733 Douglas Drive South	\$16.00	\$58.70
94	4741 Douglas Drive South	\$16.00	\$58.70
95	4749 Douglas Drive South	\$16.00	\$58.70
96	4769 Douglas Drive South	\$16.00	\$58.70
97	2593 Rose Creek Parkway South	\$16.00	\$58.70
98	2596 Rose Creek Parkway South	\$16.00	\$58.70
		\$112.00	\$410.90

Copperfield Court

99	4003 Copperfield Court South	\$23.00	\$55.52
100	4009 Copperfield Court South	\$23.00	\$55.52
101	4015 Copperfield Court South	\$23.00	\$55.52
102	4021 Copperfield Court South	\$23.00	\$55.52
103	4027 Copperfield Court South	\$23.00	\$55.52
104	4033 Copperfield Court South	\$23.00	\$55.52
		\$138.00	\$333.12

Prairie Rose Addition

105	3173 40th Avenue South	\$15.00	\$23.79
106	3930 33rd Street South	\$15.00	\$23.79
107	3932 33rd Street South	\$15.00	\$23.79
108	3934 33rd Street South	\$15.00	\$23.79
109	3936 33rd Street South	\$15.00	\$23.79
110	3938 33rd Street South	\$15.00	\$23.79
111	3942 33rd Street South	\$15.00	\$23.79
112	3944 33rd Street South	\$15.00	\$23.79
113	3201 39th Avenue South	\$15.00	\$23.79
114	3204 39th Avenue South	\$15.00	\$23.79
115	3209 39th Avenue South	\$15.00	\$23.79
116	3210 39th Avenue South	\$15.00	\$23.79
117	3215 39th Avenue South	\$15.00	\$23.79
118	3221 39th Avenue South	\$15.00	\$23.79
119	3227 39th Avenue South	\$15.00	\$23.79
120	3233 39th Avenue South	\$15.00	\$23.79
121	3301 39th Avenue South	\$15.00	\$23.79
122	3305 39th Avenue South	\$15.00	\$23.79
123	3309 39th Avenue South	\$15.00	\$23.79
124	3311 39th Avenue South	\$15.00	\$23.79
125	3315 39th Avenue South	\$15.00	\$23.79
126	3321 39th Avenue South	\$15.00	\$23.79
127	3333 39th Avenue South	\$15.00	\$23.79
128	3339 39th Avenue South	\$15.00	\$23.79
129	3347 39th Avenue South	\$15.00	\$23.79
130	3355 39th Avenue South	\$15.00	\$23.79
131	3361 39th Avenue South	\$15.00	\$23.79
131	3365 39th Avenue South	\$15.00	\$23.79
132	3369 39th Avenue South	\$15.00	\$23.79
133	3373 39th Avenue South	\$15.00	\$23.79
134	3401 39th Avenue South	\$15.00	\$23.79
135	3405 39th Avenue South	\$15.00	\$23.79
136	3409 39th Avenue South	\$15.00	\$23.79
137	3415 39th Avenue South	\$15.00	\$23.79
138	3419 39th Avenue South	\$15.00	\$23.79
139	3423 39th Avenue South	\$15.00	\$23.79
140	3427 39th Avenue South	\$15.00	\$23.79
		\$555.00	\$880.23

University Drive Rose Coulee - 52nd Ave

141	University Drive S. Center Islands (6 Islands)	\$35.00	\$103.73
142	University Drive East Boulevard from 49th Ave - 52nd Ave	\$25.00	\$65.45
143	52nd Ave Center Islands from Red River - 25th Street (4 Islands)	\$30.00	\$88.00
144	52nd Ave South Frontage Road/ South Boulevard from University Drive - 18th Street	\$45.00	\$196.35
145	52nd Ave South Boulevard/Area to Fence from 18th Street - 20th Street	\$25.00	\$67.38
146	25th Street Center Island between Rose Creek Blvd S - 52nd Avenue (1 Island)	\$25.00	\$78.93
		\$185.00	\$599.84

River Vili

147	1136 55th Avenue South	\$15.00	\$37.39
148	1130 55th Avenue South	\$15.00	\$37.39
149	1124 55th Avenue South	\$15.00	\$37.39
150	1118 55th Avenue South	\$15.00	\$37.39
151	1112 55th Avenue South	\$15.00	\$37.39
152	1106 55th Avenue South	\$15.00	\$37.39
153	1100 55th Avenue South	\$15.00	\$37.39
154	5442 11th Street South	\$15.00	\$37.39
155	5436 11th Street South	\$15.00	\$37.39
156	5430 11th Street South	\$15.00	\$37.39
157	5424 11th Street South	\$15.00	\$37.39
158	5418 11th Street South	\$15.00	\$37.39
159	5412 11th Street South	\$15.00	\$37.39
160	5406 11th Street South	\$15.00	\$37.39
161	5400 11th Street South	\$15.00	\$37.39
162	University Drive from 52nd Avenue - 58th Avenue, Island and 2 Boulevards	\$15.00	\$38.50
		\$240.00	\$599.35

Chrisan 2nd			
163	1213 71st Avenue South	\$30.00	\$123.50
164	7005 South University Drive	\$30.00	\$123.50
165	7013 South University Drive	\$30.00	\$123.50
166	7305 University Drive S.	\$46.35	\$125.76
		\$136.35	\$496.26
Maply Valley 2nd			
167	6375 31st Street S.	\$65.00	\$185.25
		\$65.00	\$185.25
25th Street S., 58th Avenue - 64th Avenue			
168	25th Street S. West Frontage Road	\$40.00	\$173.64
		\$40.00	\$173.64
40th Avenue S.			
169	South Boulevard 42nd Street - 45th Street	\$90.00	\$355.00
170	43rd Street 2 Islands and West Boulevard	\$30.00	\$83.60
171	4010 43rd Street S.	\$35.00	\$126.50
		\$155.00	\$565.10
Osgood			
172	6636 40th Avenue S.	\$40.00	\$150.00
173	4001 66th Street S.	\$40.00	\$150.00
174	4002 66th Street S.	\$40.00	\$150.00
175	6000 40th Avenue S.	\$40.00	\$150.00
176	4251 Veterans Boulevard S.	\$40.00	\$150.00
177	4475 Veterans Boulevard S.	\$40.00	\$150.00
178	5650 44th Avenue S.	\$40.00	\$150.00
179	5697 44th Avenue S.	\$40.00	\$150.00
180	4104 55th Street S.	\$40.00	\$150.00
181	Veterans Blvd, 40th - 48th Ave(3 Islands)	\$40.00	\$150.00
182	40th Ave. S, Drain 27 - 63rd St. (6 Islands)	\$40.00	\$150.00
183	40th Ave. S, Drain 27 - 45th St. (3 Islands) - We did this one last year	\$40.00	\$55.00
184	4581 65th Street South	\$40.00	\$55.00
185	4551 Veterans Boulevard S.	\$40.00	\$55.00
		\$560.00	\$1,815.00
Veterans Boulevard S.			
186	48th Avenue to 52nd Avenue	\$60.00	\$100.00
187	36th Ave & Veterans	\$25.00	\$50.00
		\$85.00	\$160.00
Curbline Mowing Double Fronting Lots			
40th Ave S.			
188	Northside 18th St to 22nd St	\$50.00	\$53.50
189	Northside 25th St to 40th Ave	\$75.00	\$90.50
190	Northside 33rd St to 36th St	\$60.00	\$76.50
191	Southside 33rd St to 36th St	\$70.00	\$85.50
192	Northside 42nd St to East Property of Living Water Lutheran Church	\$107.50	\$145.50
193	Southside 47th St to East Property of Osgood Place Apartments	\$50.00	\$52.50
		\$412.50	\$504.00
25th St S.			
194	Westside 40th Ave to Stonebridge Park	\$75.00	\$92.50
		\$75.00	\$92.50
42nd St S.			
195	Eastside 47th Ave to 49th Ave	\$85.00	\$109.50
		\$85.00	\$109.50
64th Ave S.			
196	Northside University Dr S to 21st St S	\$169.00	\$301.50
197	Northside 31st St to 33rd St	\$116.88	\$162.50
198	Southside 31st St to 33rd St	\$125.50	\$185.50
		\$411.38	\$649.50
Medians / Islands			
32nd Ave S.			
199	32nd Ave S (Veterans Blvd to 45th St) (6 Medians)	\$130.00	\$224.50
200	32nd Ave S and 42nd St (2 Medians)	\$60.00	\$68.50
201	45th St S (32nd Ave to 40th Ave) (3 Medians)	\$105.00	\$157.50
		\$295.00	\$450.50
45th St S.			
202	45th St S (40th Ave to 52nd Ave) (5 Medians)	\$120.00	\$197.50
203	52nd Ave S (Sheyenne River to 45th St) (7 Medians)	\$230.00	\$493.50
		\$350.00	\$691.00
52nd Ave S.			
204	52nd Ave S (45th St to I-29) (4 Medians)	\$150.00	\$253.50
205	52nd Ave S (I-20 to 25th St) (4 Medians)	\$145.00	\$237.50
206	42nd St S and 51st Ave S (1 Median)	\$50.00	\$55.50

207	38th St S (52nd Ave to 64th Ave) (7 Medians)	\$115.00	\$169.50
		\$460.00	\$716.00
Crofton Coves			
208	19th St S and 65th Ave (1 Island)	\$55.00	\$59.50
209	Crofton Lane S (1 Island)	\$52.50	\$57.50
		\$107.50	\$117.00
Mowing List #2 Total:		\$6,184.73	\$15,267.54



**FLEET MANAGEMENT, FORESTRY
STREETS & SEWERS
WATERMANS & HYDRANTS**
402 23rd Street North
Fargo, ND 58102
Phone: 701.241.1453 | Fax: 701.241.8100
FargoND.gov

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March 14, 2024

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

RE: Extend Contract for Lawn Maintenance Services with JT Lawn Services, RFP23056

Commissioners:

On March 15, 2023, a total of five (5) proposals were received for the Request for Proposal for Lawn Maintenance Services (RFP23056). The contracted service will perform mowing and lawn maintenance at various city lots for the 2023 mowing season.

A one-year contract was executed with JT Lawn Services to perform lawn maintenance. The conditions of the RFP allowed for extensions of the contract up to (4) years. The contractor performed well during the initial contract. Public Works staff and the contractor would like to extend the contract one additional year. All terms and conditions of the contract will remain the same.

RECOMMENDATION:

RFP23056: I/we suggest motion to extend the contract for Lawn Maintenance Services with JT Lawn Services for the 2024 mowing season under the terms and conditions of RFP23056.

Respectfully submitted,

Corey Houim
Services Manager
Fargo Public Works

SERVICES AGREEMENT

LAWN MAINTENANCE SERVICES

I. Agreement

This agreement is between the City of Fargo (City) and JT Lawn Services (Contractor) to provide lawn maintenance services for the City. This agreement shall commence upon signing by both parties and expire on October 31, 2024. The term of this agreement may be extended, if accepted and signed by the Contractor and City, for (2) additional one (1) year extensions.

II. Scope of Services

The contractor will perform the lawn maintenance services as set forth within this agreement. It will be up to the individual contractor's discretion to perform the services as weather conditions permit.

Lawn Maintenance Services: All grass shall be mowed on a weekly basis, or as directed. Grass will be maintained at a height of approximately three and one-half (3 ½) inches. Upon completion a mowed area shall be free of clumped grass, tire tracks or ruts from contractor's mowing equipment. Turf shall be cut in a professional manner as not to scalp turf or leave any areas of uncut grass. Care shall be taken to prevent discharge of grass clippings onto any adjacent private properties or onto any paved surface such as streets, jogging trails, sidewalks or storm drain system. These surfaces should be swept/blown clean by the Contractor immediately after each mowing. Contractor shall pick up all litter before each mowing, which is subsidiary to the mowing bid, and remove same from site. If in the course of mowing, trash is overlooked and shredded by mowers, it should immediately be collected and disposed of properly by the contractor. If mowing is interrupted by inclement weather, the Contractor shall continue mowing at the same location on the next available mowing day. The Director of Operations has the authority to cancel or schedule mowing cycles on a week-to-week basis. Any cancellations will be based upon need, prevailing weather conditions and available funding.

Trimming: Contractor will trim all turf areas on a weekly basis or as directed in association with mowing cycle. All trimming shall be accomplished maintaining the three and one-half inches (3 ½") cutting height. All trimming must be performed concurrently with mowing operations. Turf shall be trimmed in a professional manner as not to scalp the grass or leave areas of uncut grass. All amenities (trees, poles, signs, etc.) shall be trimmed around. Special care shall be given in trimming around small trees. Care should be taken to prevent discharge of grass clippings onto any paved surface such as streets, parking lots, sidewalks, driveways or adjacent properties. Any material so discharged shall be removed immediately after trimming.

Weed Control: Contractor will perform two weed control applications of all properties during each season's term. The Contractor shall perform weed control spraying on City properties as designated (Spring, Pre-emergent Herbicide & Midsummer, Post-emergent Herbicide) Soil Sterilant may not be used unless directed by the City. It shall be the Contractor's responsibility to determine the most appropriate times of year to apply treatment within the confines of the general guidance provided above. The Contractor shall use the necessary equipment in order to accomplish the work in a satisfactory manner. The Contractor shall arrange operations so that the herbicides will not be distributed beyond the limit of property sprayed. The Contractor shall apply the herbicides using nozzles and pressure necessary for a proper application. The Contractor shall supply water for any chemical mixes developed for the purpose of spraying weed treatment. The materials used by the Contractor must be of such composition and of sufficient strength to kill weeds, but may not sterilize the soil. The chemicals used shall not be toxic or harmful in any manner to animals or human beings when used in prescribed manner. The materials used shall not harm desirable vegetation such as trees or turf. The materials used shall not be flammable or leave an oily residue that will discolor or leave a slippery film on sidewalks and curbs. The City may at any time during the spraying operation take samples to check materials being used. Upon request, the Contractor shall provide the City with information regarding chemicals applied to specified locations. In addition, the Contractor shall upon request provide the City with specimen labels of chemicals applied. Contractor shall furnish all labor, materials, equipment, permits, fees and insurance coverage for weed control applications.

Property Damage: Contractors will be notified by the Director of Operations of any property damage that occurs as a result of lawn maintenance services. Notification will be within 48 hours of Director of Operations becoming aware of such property damage. The contractor will be solely and wholly financially liable for any damaged property, as a result of negligence on the part of the Contractor.

III. Responsibility of the City

City shall oversee the execution of this agreement and disbursing of funds.

IV. Contractor's Compensation and Method of Payment

City will reimburse Contractor for services render per mowing event as shown in the attached Exhibit A. All final invoices shall be submitted no later than December 1 of the contract year.

V. Termination of the Agreement

This contract may be terminable at will by either party after giving ten (10) days written notice to the other party.

VI. Assignability

This agreement will not be assigned or transferred by Contractor to another party without the prior written consent of the City.

VII. Hold Harmless and Insurance

Contractor agrees to indemnify and hold City harmless from any and all claims, demands or causes of action resulting from the provision of services as described in this contract. All insurance (Worker's Compensation, Comprehensive General Liability, and/or Automobile) shall be maintained at the expense of the contractor during the term of this contract.

VIII. Contractor Records

Contractor shall maintain accurate and updated records of all reimbursable services provided to City under the terms of this agreement, and shall record the date such services are provided. Such records shall conform to generally recognized accounting principles. The City, or their authorized representatives, shall have access to any records of Contractor pertinent to the agreement.

IX. Monitoring and Evaluation

City may monitor and evaluate Contractor progress and performance to assure that the terms of this agreement are being satisfactorily met. Contractor shall cooperate with City relating to such monitoring and evaluation.

X. Independence of Recipient

Contractor is not the agent or employee of City. Contractor is solely responsible for its acts and the acts of its agents, employees and subcontractors.

XI. Conflict of Interest

Contractor agrees that it does not have any undisclosed influence or relationship with City staff regarding the award or performance of this contract.

XII. Entire Agreement

The provisions as set forth in Items I, and all attachments of this agreement constitute the entire agreement between the parties.

IN WITNESS WHEREOF, the undersigned enter into this agreement.

Date: 3/14/2024

JT Lawn Services

Chris VanderLinden

By: Chris VanderLinden

Its: Manager

Date: _____

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

Dr. Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

Mowing List #1

Location		Lawn Maintenance Unit Price \$	Weed Control Unit Price \$
Riverwood Addition			
1	4785 Riverwood Drive North	\$20.00	\$54.00
2	4759 Riverwood Drive North	\$20.00	\$54.00
3	4723 Riverwood Drive North	\$20.00	\$54.00
4	4683 Riverwood Drive North	\$20.00	\$54.00
5	4633 Riverwood Drive North	\$24.00	\$54.00
6	4525 Riverwood Drive North	\$24.00	\$54.00
7	4477 Riverwood Drive North	\$24.00	\$54.00
8	901 41st Avenue North	\$24.00	\$54.00
9	902 41st Avenue North	\$24.00	\$54.00
10	906 41st Avenue North	\$24.00	\$54.00
11	901 42nd Avenue North	\$24.00	\$54.00
12	902 42nd Avenue North	\$24.00	\$54.00
13	906 42nd Avenue North	\$24.00	\$54.00
		\$296.00	\$702.00
Red River Addition			
14	3953 10th Street N.	\$10.00	\$27.00
15	3913 10th Street N.	\$10.00	\$27.00
16	3845 10th Street N.	\$10.00	\$27.00
17	3753 10th Street N.	\$10.00	\$27.00
18	3733 10th Street N.	\$10.00	\$27.00
19	3731 10th Street N.	\$10.00	\$27.00
20	3729 10th Street N.	\$10.00	\$27.00
21	3727 10th Street N.	\$10.00	\$27.00
22	3725 10th Street N.	\$10.00	\$27.00
23	3715P 10th Street N.	\$10.00	\$27.00
		\$100.00	\$270.00
Broadway North 1st Addition			
24	665 Royal Oaks Drive North	\$20.00	\$50.00
25	683 Royal Oaks Drive North	\$20.00	\$50.00
26	701 Royal Oaks Drive North	\$20.00	\$50.00
27	709 Royal Oaks Drive North	\$20.00	\$50.00
28	739 Royal Oaks Drive North	\$20.00	\$50.00
29	741 Royal Oaks Drive North	\$20.00	\$50.00
30	747 Royal Oaks Drive North	\$20.00	\$50.00
31	749 Royal Oaks Drive North	\$20.00	\$50.00
32	763 Royal Oaks Drive North	\$20.00	\$50.00
33	767 Royal Oaks Drive North	\$20.00	\$50.00
34	771 Royal Oaks Drive North	\$20.00	\$50.00
35	775 Royal Oaks Drive North	\$20.00	\$50.00
		\$240.00	\$600.00
40th Avenue N.			
36	10th Street N.	\$60.00	\$120.00
37	University Drive	\$60.00	\$120.00
		\$120.00	\$240.00
Edgewood Estates			
38	3467 Grandwood Drive N.	\$55.00	\$125.00
		\$55.00	\$125.00
Golf Course 5th			
39	32nd Avenue NE/Eagle Street	\$36.00	\$90.00
		\$36.00	\$90.00

Edgewood 1st Addition

40	2921 2nd Street North	\$25.00	\$60.00
41	2922 2nd Street North	\$25.00	\$60.00
42	2925 2nd Street North	\$25.00	\$60.00
43	2926 2nd Street North	\$25.00	\$60.00
		\$100.00	\$240.00

Woodcrest Addition

44	160 North Woodcrest Drive N.	\$20.00	\$58.00
45	166 North Woodcrest Drive N.	\$20.00	\$58.00
46	173 South Woodcrest Drive N.	\$20.00	\$58.00
47	179 South Woodcrest Drive N.	\$20.00	\$58.00
48	192 North Woodcrest Drive North	\$20.00	\$58.00
49	198 North Woodcrest Drive North	\$20.00	\$58.00
50	204 North Woodcrest Drive North	\$20.00	\$58.00
		\$140.00	\$406.00

Ridgewood Addition

51	101 Woodland Drive North	\$11.00	\$20.00
52	97 Woodland Drive North	\$11.00	\$20.00
53	93 Woodland Drive North	\$11.00	\$20.00
54	89 Woodland Drive North	\$11.00	\$20.00
55	85 Woodland Drive North	\$11.00	\$20.00
56	81 Woodland Drive North	\$11.00	\$20.00
57	75 Woodland Drive North	\$11.00	\$20.00
58	69 Woodland Drive North	\$11.00	\$20.00
59	63 Woodland Drive North	\$11.00	\$20.00
60	55 Woodland Drive North	\$11.00	\$20.00
61	51 Woodland Drive North	\$11.00	\$20.00
62	45 Woodland Drive North	\$11.00	\$20.00
63	41 Woodland Drive North	\$11.00	\$20.00
64	37 Woodland Drive North	\$11.00	\$20.00
65	31 Woodland Drive North	\$11.00	\$20.00
66	25 Woodland Drive North	\$11.00	\$20.00
67	19 Woodland Drive North	\$11.00	\$20.00
68	15 Woodland Drive North	\$11.00	\$20.00
69	7 Woodland Drive North	\$11.00	\$20.00
70	1625 Elm Street	\$11.00	\$20.00
71	1619 Elm Street	\$11.00	\$20.00
72	1613 Elm Street	\$11.00	\$20.00
73	1607 Elm Street	\$11.00	\$20.00
74	1601 Elm Street (Boulevard Only)	\$11.00	\$20.00
75	1519 Elm Street (Boulevard Only)	\$11.00	\$20.00
76	1501 Elm Street (Boulevard Only)	\$11.00	\$20.00
		\$286.00	\$520.00

Bernard Holes 2nd

77	1330 Elm Street	\$20.00	\$40.00
78	1326 Elm Street	\$20.00	\$40.00
79	1322 Elm Street	\$20.00	\$40.00
80	1318 Elm Street	\$20.00	\$40.00
81	1314 Elm Street	\$20.00	\$40.00
82	1313 Elm Street	\$20.00	\$40.00
83	1341 Oak Street	\$20.00	\$40.00
84	1333 Oak Street	\$20.00	\$40.00
		\$160.00	\$320.00

Bernard Holes 2nd

85	1367 Elm Circle	\$0.00	\$0.00
		\$0.00	\$0.00

Oak Grove Addition

86	723 North River Road	\$6.00	\$14.00
87	724 North River Road	\$6.00	\$14.00
88	12 North Terrace	\$6.00	\$14.00
89	16 North Terrace	\$6.00	\$14.00
90	18 North Terrace	\$6.00	\$14.00
91	24 North Terrace	\$6.00	\$14.00
92	26 North Terrace	\$6.00	\$14.00
93	40 North Terrace	\$6.00	\$14.00
94	42 North Terrace	\$6.00	\$14.00
95	44 North Terrace	\$6.00	\$14.00
96	46 North Terrace	\$6.00	\$14.00
97	60 North Terrace	\$6.00	\$14.00
98	62 North Terrace	\$6.00	\$14.00
99	64 North Terrace	\$6.00	\$14.00
100	66 North Terrace	\$6.00	\$14.00
101	68 North Terrace	\$6.00	\$14.00
102	70 North Terrace	\$6.00	\$14.00
103	139 South Terrace	\$6.00	\$14.00
104	135 South Terrace	\$6.00	\$14.00
105	129 South Terrace	\$6.00	\$14.00
106	125 South Terrace	\$6.00	\$14.00
107	99 South Terrace	\$6.00	\$14.00
108	95 South Terrace	\$6.00	\$14.00
109	93 South Terrace	\$6.00	\$14.00
110	87 South Terrace	\$6.00	\$14.00
111	83 South Terrace	\$6.00	\$14.00
112	79 South Terrace	\$6.00	\$14.00
113	75 South Terrace	\$6.00	\$14.00
114	65 South Terrace	\$6.00	\$14.00
115	63 South Terrace	\$6.00	\$14.00
116	53 South Terrace	\$6.00	\$14.00
117	49 South Terrace	\$6.00	\$14.00
118	45 South Terrace	\$6.00	\$14.00
119	41 South Terrace	\$6.00	\$14.00
120	37 South Terrace	\$6.00	\$14.00
121	33 South Terrace	\$6.00	\$14.00
122	31 South Terrace	\$6.00	\$14.00
123	27 South Terrace	\$6.00	\$14.00
124	23 South Terrace	\$6.00	\$14.00
125	17 South Terrace	\$6.00	\$14.00
126	9 Lower Terrace	\$6.00	\$14.00
127	6th Avenue N. & Elm Street (Island)	\$6.00	\$14.00
		\$252.00	\$588.00

Goldberg 2nd

128	40th Street N./15th Avenue (Islands)	\$40.00	\$80.00
		\$40.00	\$80.00

Sheyenne Industrial

129	4630 15th Avenue N.	\$40.00	\$80.00
		\$40.00	\$80.00

MNPF Addition

130	1600 7th Avenue N. (North)	\$10.00	\$40.00
131	1600 7th Avenue N. (South)	\$10.00	\$40.00
132	2109 3rd Avenue N.	\$10.00	\$40.00
133	20th Street N./19th Street N.	\$10.00	\$40.00
		\$40.00	\$160.00

Arnesons Addition

134	319 18th Street S.	\$20.00	\$40.00
135	321 18th Street S.	\$20.00	\$40.00
		\$40.00	\$80.00

Woodruffs Addition

136	321 10th Avenue South	\$6.00	\$20.00
137	1114 4th Street South	\$6.00	\$20.00
138	1118 4th Street South	\$6.00	\$20.00
139	1124 4th Street South	\$6.00	\$20.00
		\$24.00	\$80.00

Westfield 1st

140	4680 10th Avenue S. /1004 47th Street S.	\$128.00	\$300.00
		\$128.00	\$300.00
	Scheel's All Sport		
141	4755 16th Avenue S.	\$113.00	\$275.00
		\$113.00	\$275.00
	Dakota Land 2nd		
142	1837 35th Street S.	\$75.00	\$150.00
		\$75.00	\$150.00
	Dakota West 2nd Addition		
143	1703 52nd Street South	\$80.00	\$175.00
144	1705 52nd Street South	\$80.00	\$175.00
		\$160.00	\$350.00
	West 29th 1st		
145	4120 30th Avenue S.	\$90.00	\$200.00
146	2948 41st St S.	\$90.00	\$200.00
		\$180.00	\$400.00
	Belmont Park Addition		
147	1330 South River Road	\$16.00	\$40.00
148	1334 South River Road	\$16.00	\$40.00
149	1342 South River Road	\$16.00	\$40.00
150	1348 South River Road	\$16.00	\$40.00
151	1408 South River Road	\$16.00	\$40.00
152	1414 South River Road	\$16.00	\$40.00
152	1422 South River Road	\$16.00	\$40.00
153	1430 South River Road	\$16.00	\$40.00
154	1436 South River Road	\$16.00	\$40.00
155	1442 South River Road	\$16.00	\$40.00
156	1450 South River Road	\$16.00	\$40.00
157	1454 South River Road	\$16.00	\$40.00
158	1462 South River Road	\$16.00	\$40.00
159	1510 South River Road	\$16.00	\$40.00
160	1518 South River Road	\$16.00	\$40.00
161	1522 South River Road	\$16.00	\$40.00
162	1525 South River Road	\$16.00	\$40.00
163	1527 South River Road	\$16.00	\$40.00
164	1528 South River Road	\$16.00	\$40.00
165	1529 South River Road	\$16.00	\$40.00
166	201 Lindenwood Drive South	\$16.00	\$40.00
167	202 Lindenwood Drive South	\$16.00	\$40.00
168	233 Lindenwood Drive South	\$16.00	\$40.00
169	245 Lindenwood Drive South	\$16.00	\$40.00
170	305 Lindenwood Drive South	\$16.00	\$40.00
		\$400.00	\$1,000.00

Bohnsacks

171	1900 Blk 25th Street S. (Median)	\$80.00	\$175.00
172	20 1/2 Avenue S.	\$80.00	\$175.00
173	20th Avenue S.	\$80.00	\$175.00
174	21st Avenue S.	\$80.00	\$175.00
		\$320.00	\$700.00

Southwood Addition

175	814 Southwood Drive	\$16.00	\$40.00
176	810 Southwood Drive	\$16.00	\$40.00
177	806 Southwood Drive	\$16.00	\$40.00
178	718 Southwood Drive	\$16.00	\$40.00
179	714 Southwood Drive	\$16.00	\$40.00
180	710 Southwood Drive	\$16.00	\$40.00
181	706 Southwood Drive	\$16.00	\$40.00
182	618 Southwood Drive	\$16.00	\$40.00
183	614 Southwood Drive	\$16.00	\$40.00
184	610 Southwood Drive	\$16.00	\$40.00
185	606 Southwood Drive	\$16.00	\$40.00
186	602 Southwood Drive	\$16.00	\$40.00
187	517 Southwood Drive	\$16.00	\$40.00
188	510 Southwood Drive	\$16.00	\$40.00
189	Southwood Drive Islands (5 Total)	\$16.00	\$40.00
190	1100 Block 28th Avenue S. (Island)	\$16.00	\$40.00
		\$256.00	\$640.00

University Drive

191	University Drive 21st Ave - 24th Ave	\$80.00	\$175.00
192	I-94 Tunnel North/South	\$80.00	\$175.00
193	32nd Avenue and University	\$80.00	\$175.00
		\$240.00	\$525.00

19th Ave N. Medians

194	19th Ave N. and Dakota Drive (Ditch)	\$45.00	\$70.00
195	19th Ave N. and 45th St (2 Medians)	\$65.00	\$89.00
196	12th Ave N. (25th St to 30th St)	\$150.00	\$250.00
		\$260.00	\$409.00

Main Ave N. Medians

197	3rd Ave N. and 43rd 1/2 St N.	\$300.00	\$550.00
198	45th St S. (2nd Ave to 9th Ave) (2 Medians)	\$45.00	\$92.00
199	Mains Ave (45th St to I-29) (4 Medians, 2 Frontage Rds)	\$100.00	\$170.00
200	Mains Ave (I-29 to 27th St) (5 Medians, 4 Frontage Rd)	\$280.00	\$475.00
		\$725.00	\$1,287.00

13th Ave S. Medians

201	13th Ave S. (17th St E to 38th St) (6 Medians)	\$125.00	\$200.00
		\$125.00	\$200.00

Hilleboe Medians

202	18th St S. (12th Ave S and 7th Ave S) (2 Islands)	\$45.00	\$45.00
203	11th St S. (14 1/2 Ave and 15 1/2 Ave) (2 Islands)	\$45.00	\$45.00
		\$90.00	\$90.00

32nd Ave S. Medians

204	32nd Ave S. (15th St to 20th St) (5 Medians)	\$110.00	\$175.00
		\$110.00	\$175.00

Mowing List #1 Total: **\$5,151.00** **\$11,082.00**

March 11, 2024

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Honorable Board of City Commissioners

City of Fargo

Fargo, ND

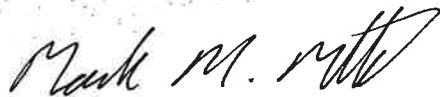
Re: Water Reclamation Project No. WW1707 - Temporary Construction Easement

Commissioners,

For your consideration, the Water Reclamation Utility sought a temporary construction easement from the Airport Authority in conjunction with the Utilities flood protection project WW1703. Project WW1703 will construct 500 year flood protection at the Water Reclamation Treatment Facility. The Airport Authority has granted the Water Reclamation Utility access to lands west of the treatment facility. This easement will allow the levee contractor valuable space to conduct construction methods specific to levee building and material management. Use of this easement is expected to last thru 2025.

Staff Recommendation; approve the temporary construction easement with the Airport Authority.

Regards,



Mark Miller

Superintendent

Water Reclamation Utility

En; Easement Documents

EASEMENT

(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that the **MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a public body, hereinafter referred to as "Grantor", 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 temporary construction easement under, over, upon and in the land hereinafter described for the purpose of a staging area in association with construction for a flood protection project for the City of Fargo treatment facility, said tract being described as follows:

A temporary construction easement in the Southwest Quarter of Section 19, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

All that part of the Southwest Quarter (SW1/4) of Section 19 lying east of the east right-of-way line of University Dr N, north of the northerly boundary line of the Replat of Riviera Heights 1st Addition, west of the west right-of-way line of 10th St N, and south of the following described line:

Commencing at the Northwest Corner of said SW1/4; thence S02°31'44"E on the west line of said SW1/4 a distance of 648.49 feet; thence N87°28'16"E perpendicular to said west line of the SW1/4 a distance of 33.00 feet to said east right-of-way line of University Dr N, said point being the Point of Beginning; thence continuing N87°28'16"E a distance of 977.55 feet; thence S02°31'44"E parallel with said west line of the SW1/4 a distance of 122.31 feet; thence S83°35'17"E a distance of 678.67 feet to the west right-of-way line of 10th St N and there terminating.

Said easement contains 5.25 acres, more or less.

The easement area is pictorially represented on Exhibit A attached hereto and incorporated herein by reference.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described parcel 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 agree that they will not disturb, injure, molest or in any manner interfere with said parcel to be used for the staging area in association with construction for a flood protection project for the City of Fargo treatment facility during the construction phase, and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcel so as to interfere in any manner with the said parcel during the construction phase. Grantee, at its own expense, shall leave the premises in as good condition as it was prior to the time construction activities began.

This Easement shall terminate on June 1, 2025, or upon completion of construction, whichever occurs later.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 27 day of February, 2024.

GRANTOR:

THE MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO, NORTH DAKOTA

Shawn A. Dobberstein, AAE
Shawn A. Dobberstein, Executive Director

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this 27 day of February, 2024, before me, a notary public in and for said county and state, personally appeared Shawn A. Dobberstein to me known to be the Executive Director of the **MUNICIPAL AIRPORT AUTHORITY OF THE CITY OF FARGO, NORTH DAKOTA** and executed the within and foregoing instrument, and acknowledged the same.

(SEAL)



Joan Stading
Notary Public
My Commission Expires:

GRANTEE:

CITY OF FARGO, NORTH DAKOTA, A NORTH DAKOTA MUNICIPAL CORPORATION

Dr. Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
Steven E. Swanson (ND LS-4185)
Professional Engineer and Land Surveyor
Advanced Engineering and Environmental
Services, LLC (AE2S)
4050 Garden View Dr., Suite 200
Grand Forks, ND 58104
(701) 364-9111

This document prepared by:
Ian R. McLean (ND# 07320)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street N.
Fargo, ND 58102
(701) 232-8957

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March 13, 2024

Honorable Board of City Commissioners

City of Fargo

Fargo, ND

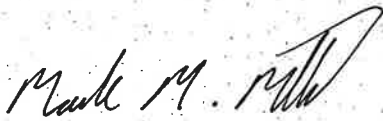
Re: Water Reclamation Project No. WW1707

Commissioners:

Bids were opened on Wednesday February 28, 2024 for project No. WW1707. One bid was received, that amount was \$4,710,491.05. The received bid amount was 90% greater than the engineer's estimate.

Staff recommendation; reject received bids and re-bid the project.

Regards,



Mark Miller

Superintendent

Water Reclamation Utility



March 13, 2024

Mr. Mark Miller
Water Reclamation Utility Superintendent
City of Fargo
3400 North Broadway
Fargo ND 58102

**Re: Fargo WWTP Flood Protection Improvements
Engineer's Bid Review and Recommendation to Reject Bid
City Project No. WW1707; FEMA Project No. PDMC-PJ-08-ND-2018-023**

Dear Mr. Miller:

Bids were received at 11:30 a.m. on Wednesday, February 28, 2024 online via QuestCDN vBid and opened at 11:45 a.m. in the Engineering Conference Room at the Fargo City Hall for the above referenced project. One electronic bid was received and was read aloud.

The project was bid as one contract. A bid tabulation is attached to this letter for your use.

Park Construction Company submitted a total bid price of \$4,710,491.05. The bid price exceeds the FEMA funding available for construction by ~\$1.4M and would increase the City's share of the Project cost. Due to these factors, the project team recommends rejecting the bid from Park Construction.

Thank you for the opportunity to assist the City of Fargo with this important project. Should you have any comments or questions regarding the bid results or the project in general, please do not hesitate to contact me at (701) 213-2728.

Respectfully Submitted,

AE2S

A handwritten signature in black ink, appearing to read "Brian Gaddie", written over a horizontal line.

Brian Gaddie, PE
Project Manager

Attachment