

FARGO CITY COMMISSION AGENDA
Tuesday, May 28, 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, May 13, 2024).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Letter of Support for the St. Monica’s Montessori relocation/expansion project to the ND Opportunity Fund.
- 2. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 5-0406(1) of Article 5-04 of Chapter 5 of the Fargo Municipal Code Relating to the Fargo Police Advisory and Oversight Board; 1st reading, 5/13/24.
- 3. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 4-0101.1 of Article 4-01 of Chapter 4 of the Fargo Municipal Code Relating to the General Provisions Governing City Officials and Employees; 1st reading, 5/13/24.
- 4. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 4-0402 of Article 4-04 of Chapter 4 of the Fargo Municipal Code Relating to Authorizing the City Commission to Approve Program of Interfund Loans; 1st reading, 5/13/24.
- 5. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 25-1504.1 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages; 1st reading, 5/13/24.
 - a. Resolution Regarding Ordinance Amendment Pertaining to Owner and General Manager Background Investigations and Implementation.
- 6. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 20-0401 of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Use Regulations.
- 7. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 24-1509.1 (D) of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages and an Ordinance Amending Section 25-1506 (CC) of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages.
- 8. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Sections 25-1501, 25-1503 and 25-1509 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.

9. Receive and file the Notice of Appeal from a Decision of a Local Governing Body Pursuant to NDCC 28-34-01 regarding Liquid Hospitality, LLC d/b/a Windbreak Saloon.
10. Site Authorizations for Games of Chance:
 - a. Fargo Metro Baseball Association at Applebee's Grill & Bar-13 Ave.
 - b. Fargo Metro Baseball Association at Applebee's Grill & Bar-45 St.
 - c. Fargo Metro Baseball Association at Applebee's Grill & Bar-North Fargo.
 - d. Fargo Metro Baseball Association at Empire Tavern.
 - e. Red River Human Service Foundation at Blarney Stone on Broadway.
 - f. Sharehouse, Inc. at Bismarck Tavern.
 - g. Sharehouse, Inc. at Rick's Bar.
 - h. Sharehouse, Inc. at The Round Up Saloon.
 - i. Sharehouse, Inc. at Woody's.
 - j. West Fargo Events at Holiday Inn/Spirits Lounge.
 - k. West Fargo Hockey Association at Fort Nok.
11. Applications for Games of Chance:
 - a. Brave the Shave for a raffle on 6/22/24.
 - b. FM AM Rotary for a sports pool 9/9/24-12/30/24.
 - c. North Dakota CPA Society for a raffle 6/17/24-6/18/24.
 - d. UND Alumni Association & Foundation for a raffle board on 6/26/24.
12. Extension of the Class "A-8" Alcoholic Beverage License for BFG, Inc. d/b/a Borrowed Bucks Roadhouse until 12/31/24.
13. Variance Acknowledgement and Liability Waiver with Troy and Amelia Peterson in the Limited Disturbance Zone Setback Area for proposed construction and improvement of property at 6405 13th Street North and 6411 13th Street North.
14. Bid award to Reede Construction, Inc. in the amount of \$10,696,257.57 for Improvement District No. PR-24-A1.
15. Bid award to Master Construction Company, Inc. in the amount of \$187,545.00 for Improvement District No. AN-24-A1.
16. Amendment No. 5 in the amount of \$9,095.00 for Improvement District No. BR-22-A0.
17. Encroachment Agreement with Magellan Pipeline Company, L.P. (Improvement District No. BN-23-G1).
18. Contract and bond for Improvement District No. PR-24-H1 (Asphalt Paving Rehab/Reconstruction).
19. Contract and bond for Improvement District No. BN-23-F (New Paving and Utility Construction).
20. Bid award to Border States Paving, Inc. in the amount of \$65,887.80 for Project No. UR-24-G1.
21. Bid advertisement for Project No. PR-24-F.

22. Change Order No. 1 for a 30-day time extension to the Interim Completion Date for Project No. NR-23-A3.
23. Change Order No. 2 for a 30-day time extension to the Interim Completion Date for Project No. NR-23-A2.
24. Final Balancing Change Order No. 2 in the amount of \$0.00 for Project No. ER-23-A1.
25. Certificate of Substantial Completion for Newman Outdoor Field 2021-2022 Project (RFQ18084).
26. Items from the FAHR Staff meeting:
 - a. Receive and file General Fund - YTD April 2024 Budget to Actual.
 - b. Budget adjustment in the amount of \$3,804.00 for Fire Department's Hometown Heroes grant award to General Supplies for the purchase of two ice water suits
27. Authorization to apply for a State Homeland Security Grant to purchase security cameras and supporting network infrastructure for Fire Department stations (CFDA #96.067).
28. Notice of Grant Award Amendment with the ND Department of Health and Human Services for PHEP-City Readiness Initiative (CFDA #93.069).
29. Notice of Grant Award Amendment with the ND Department of Health and Human Services for PHEP-Statewide (CFDA #93.069).
30. Resolution approving Plat of Harvest Church Addition.
31. Authorization to apply for a State Homeland Security Grant for vehicle barriers for special events (CFDA #96.067).
32. Authorization to apply for a State Homeland Security Grant to purchase equipment and technology that provides real-time intelligence to law enforcement. (CFDA #97.067)
33. 2024 Mosquito Control Agreement with Cass County (EX24219).
34. Tree Injection Services - 2024 Agreement with Carr's Tree Service (RFQ24223).
35. Solid Waste Management Agreement for Private Haulers with J-1 Excavation & Roll Off.
36. Amendment No. 1 to Apex Engineering Task Order No. WA04 in the amount of \$216,272.00 and time extension to November 29, 2024 for Project No. WA1910.
37. Change Order No. 2 with Phoenix Fabricators and Erectors, LLC in the amount of \$47,820.00 for Project No. WA1910.
38. Task Order No. 11 with AE2S in the amount of \$261,500.00 for Project No. WW1707.
39. Bills.

REGULAR AGENDA:

40. Recommendations for appointments to the Board of Appeals.

PUBLIC HEARINGS - 5:15 pm:

41. **PUBLIC HEARING** – Application for a Class “FA” Alcoholic Beverage License for KHP Fargo LLC d/b/a Kpot Korean BBQ & Hot Pot to be located at 4410 17th Avenue South.
42. **PUBLIC HEARING** – CONTINUE to 6/10/24 – Application for a Class “CW” Alcoholic Beverage License for PKPham Inc d/b/a The Nail Company to be located at 2911 45th Street South.
43. Bid award to Dirt Dynamics in the amount of \$3,256,380.61 for Improvement District No. BN-23-G1.
44. Authorization to Transfer Ownership of 69 4th Street North to Fargo Housing and Redevelopment Authority.
45. Waive requirement to receive and file an Ordinance one week prior to 1st reading and 1st reading of an Ordinance Amending Section 11-0209 of Article 11-02 of Chapter 11 of the Fargo Municipal Code Relating to Public and Sanitary Nuisances.
46. Resolution Amending Governance Policies of the Board of City Commissioners of the City of Fargo.
47. Liaison Commissioner Assignment Updates.
48. Resident Comments.

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.



City Administration
225 4th Street North
Fargo, ND 58102

MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research

A handwritten signature in blue ink, appearing to be "JG", written over the name "Jim Gilmour".

DATE: May 16, 2024

SUBJECT: Letter of Support for Child Care Facility

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

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

St. Monica's Montessori is working to finance a relocation/expansion project. The new location will be at 1401 Oak Manor Avenue South, Suite A. The relocation will provide more child care availability and will create 6 additional jobs over the next year. St. Monica's has requested a letter of support from the City of Fargo.

Recommended Motion

Provide a letter of support to the NDOF Consortium for the St. Monica's Montessori relocation/expansion to provide match of the Bank of ND interest buy down program.

2

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 5-0406(1)
OF ARTICLE 5-04 OF CHAPTER 5 OF THE
FARGO MUNICIPAL CODE
RELATING TO THE FARGO POLICE
ADVISORY AND OVERSIGHT BOARD

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 5-0406(1) of Article 5-04 of Chapter 5 of the Fargo Municipal Code is hereby amended to read as follows:

5-0406. - Terms of office.

1. Members of the Fargo Police Advisory and Oversight Board shall serve four-year terms. Members of the Board shall serve a term of four years. In order to establish staggered terms, appointments shall begin upon Ordinance adoption and formation and will include four (4) members for a four-year term, and three (3) members for a three-year term. Thereafter, all members shall be appointed for a four-year term. No member shall serve more than three terms, or 12 years, whether or not consecutive. Terms shall expire on May 31. Reappointment of an eligible existing member or new member shall be made by the City Commission prior to the selection of the Chairperson and Vice-Chairperson.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 4-0101.1
OF ARTICLE 4-01 OF CHAPTER 4 OF THE FARGO MUNICIPAL CODE
RELATING TO THE GENERAL PROVISIONS
GOVERNING CITY OFFICIALS AND EMPLOYEES

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 4-0101.1 of Article 4-01 of Chapter 4 of the Fargo Municipal Code is hereby amended to read as follows:

4-0101.1. - When term of elective officers begins.

The term of each elective officer in the city of Fargo shall commence ~~two weeks after the date of the election.~~ on July 1 of the year in which the officer is elected.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 4-0402
OF ARTICLE 4-04 OF CHAPTER 4 OF THE FARGO MUNICIPAL CODE
RELATING TO AUTHORIZING THE CITY COMMISSION TO APPROVE PROGRAM OF
INTERFUND LOANS

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

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

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

WHEREAS, it is the wish of the Board of City Commissioners to amend Section 4-0402 to codify the process for authorization of interfund borrowing and the Board deems it necessary and appropriate to do so by the adoption of this ordinance;

NOW, THEREFORE,

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

Section 1. Amendment.

Section 4-0402 of Article 4-04 of Chapter 4 of the Fargo Municipal Code is hereby amended to read as follows:

4-0402. - Treasurer to deposit city funds-Program of Interfund Loans-Interest to accrue to city.

The city treasurer shall organize his records and establish the various accounts and funds required by law in order to show the receipts, disbursements and balances in said accounts and funds. Said treasurer shall be authorized to hold and invest such funds as follows:

- A. He The city treasurer may hold all funds of the city in one or several bank accounts in banking institutions approved in accordance with law; and
- B. The city treasurer may advance or loan money from any accounts or funds otherwise legally available; provided that: (i) such loan or advance is authorized by resolution of the

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

board of city commissioners, which resolution may approve a program of interfund loans; and (ii) the terms and conditions for forgiveness or repayment of the advance or loan (including at a minimum, the principal amount, the interest rate or interest rate formula, and maximum term) are provided for in the authorizing resolution or program; and

C. He The city treasurer may from time to time, with the assistance of the city auditor, determine the expected cash needs of the city and may accordingly invest the funds of the city for short terms, depending upon the financial needs of the city as herein before determined; and

D. Such short-term investments may be in United States Treasury debentures or debentures guaranteed by the United States or the United States Treasury, as well as interest-bearing deposits of financial intermediaries which are approved according to law.

Any interest earned from the deposit or investment of any funds of the city shall accrue to and be paid over to the general fund of the city unless specifically prohibited by law for any particular fund or account. Any loans or advances pursuant to subsection B herein may be structured as draw-down or line-of-credit obligations of the lending fund.

Section 2. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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AN ORDINANCE AMENDING SECTION 25-1504.1, OF ARTICLE 25-15 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE RELATING TO ALCOHOLIC BEVERAGES

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 25-1504.1 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-1504.1. - License renewal.

The holder of an existing license issued pursuant to the provisions of this article who desires to renew said license for another license year, shall not be required to ~~make and file a new application under the provisions of this section; provided, however, that said licensee submit a~~ renewal application on a form prescribed by the City Auditor, including a Consent to Background Investigation form for all License Holders and General Manager(s), and shall further be required to make annual payment as provided in § 25-1507(F), and to submit a written request for renewal and an affidavit indicating the current name and address of the licensee, and If said licensee is a form of business entity other than a sole proprietorship, the

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

following information must be provided:

- 1 A. As to a licensee that is a corporation, the names and addresses of the resident
2 manager, all corporate officers, and all shareholders holding more than 5% of
3 the outstanding stock of the corporation.
- 4 B. As to a licensee that is a limited liability company, the names and addresses of
5 the resident manager, all managers or officers and all governors of the limited
6 liability company, and all members holding more than a 5% membership or
7 ownership interest in the company.
- 8 C. As to a licensee that is a general partnership, the names and addresses of the
9 general partners.
- 10 D. As to a licensee that is a limited partnership, a limited liability partnership or
11 limited liability limited partnership, the names and addresses of the resident
12 manager, all general partners and all limited partners holding more than a 5%
13 ownership interest in the company.
- 14 E. As to a licensee that is any other form of business entity, the names and
15 addresses of the resident manager, all officers and decision-makers who have
16 authority to govern the business entity, and all owners holding more than a 5%
17 ownership interest in the company. For purposes of this section, the requirement
18 of providing ownership information for those with more than 5% ownership
19 interest shall include ownership by any single natural person regardless of the
20 form by which said natural person holds or owns said ownership interest.

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The eCity Auditor may request any other information regarding the licensee as may be necessary or appropriate. ~~The affidavit shall be on a form to be prescribed by the city auditor's office. The affidavit shall affirmatively disclose any change of ownership of the licensee business entity that would constitute an ownership transfer as defined in this article or, if there is no such change of ownership, shall affirmatively state there has been no such change. All~~ license transfers must be presented to the City Auditor at the time of transfer, and a Background Investigation shall be completed on all License Holders and General Manager(s). Any change in General Manager may be presented in advance of license renewal for approval as an amendment. Failure to secure approval of the License Holder and General Manager(s) may result in non-renewal of the license and suspension of operations.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 2. Effective Date.

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

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

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

CITY ATTORNEY
Nancy J. Morris

ASSISTANT CITY ATTORNEYS
Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

May 23, 2024

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

RE: Resolution Regarding Ordinance Amendment Pertaining to Owner and General Manager Background Investigations and Implementation

Mayor and Commissioners,

Please find attached for your final approval and adoption a Resolution regarding the implementation of the ordinance amendment on your agenda today for final approval and adoption. This ordinance change was presented and discussed at your meeting on April 29, 2024 (brought down from the consent agenda). The purpose of this Resolution is to outline the timeline for implementation of the requirement that managers and owners will be subject to a background investigation on a yearly basis, prospectively from the date of the license renewal deadline, presently June 30 for all license holders. Once all licenses are renewed and all manager/owners are identified, a new schedule of renewal deadlines will be prepared by the City Auditor in order to alleviate the additional work anticipated by this ordinance change. Yet another ordinance change will be presented for your approval, likely mid- July, authorizing the City Auditor to program the renewals to implement a quarterly renewal schedule.

These ordinance changes have been on the Liquor Control Board agenda several times, with an opportunity for the attendees to speak to issues and concerns. To my knowledge, none have been expressed. It is my further understanding that these ordinance changes are consistent with the State requirements.

Suggested Motion: I move to approve and adopt the Resolution Regarding Ordinance Amendment Pertaining to Owner and General Manage Background Investigations and Implementations.

Please feel free to contact me with any questions, comments or concerns.

Regards,



Nancy J. Morris

Enclosure

COMMISSIONER _____ introduced the following resolution and moved its adoption:

Resolution Regarding Ordinance Amendment Pertaining to Owner and General Manager Background Investigations and Implementation

WHEREAS, City of Fargo amended Fargo Municipal Code §25-1504.1 to require all License Holders (Licensee or Owner) and the Licensees' General Manager(s) to be subject to background investigation and approval on a yearly basis; and

WHEREAS, Owners and General Managers at the time of enactment have not been required to provide information to the city of Fargo in the past, and may have held these roles and positions for many months or years before the effective date of the ordinance; and

WHEREAS, City of Fargo recognizes and appreciates that employment relationship and does not wish to impose a hardship with respect to the existing Licensees; and

WHEREAS, The requirement for Owner and General Manager background investigation and approval shall be prospective only and is intended to ensure that all persons working in the liquor establishment qualify under long standing existing criteria, such guidelines having been adopted by resolution on February 26, 2018, by the Board of City Commissioners of the City of Fargo.

NOW, THEREFORE, BE IT RESOLVED By the Board of City Commissioners of the City of Fargo that to ensure an orderly and fair transition to the required License Holder and

General Manager background investigation and approval at the time of license renewal the following implementation plan shall be adopted:

1. All License Holders shall be required to identify the General Manager(s) to the City Auditor in writing, on or before June 30, 2024.
2. License Holders and General Manager(s) identified on or before June 30, 2024, shall be grandfathered to the extent that no background investigation shall be implemented for the periods prior to the date of identification. In other words, License Holders and General Manager(s) identified by the License Holders employed on June 30, 2024, shall be grandfathered as approved by the board of city commissioners.
3. License Holders and General Manager(s) employed on June 30, 2024, identified who continue to hold the license or position at time of renewal shall be subject to background investigation to the date of identification, and on a yearly basis thereafter.
4. The Chief of Police or designee shall make a recommendation on each renewal application for approval or denial to the Liquor Control Board for recommendation to the board of city commissioners.
5. License Holders and General Manager(s) not previously identified on June 30, 2024, shall be required to complete a full background investigation, for recommendation by the Chief of Police or designee.
6. If a License Holder or General Manager is found to have any disqualifying criteria and the board of city commissioners denies the license renewal, the License shall be immediately suspended until such time as the License Holder submits an approved renewal application.
7. If at any time during the license year the License Holder has a change in General Manager(s), the Licensee may submit an amendment to the application or renewal application to secure board of city commission approval of the license amendment, including completion of the background investigation by the Chief of Police or designee. An amendment fee in the amount of \$100.00 shall be paid for the completion of the background investigation and presentation for approval, but no annual renewal fee shall be assessed at the time of amendment.
8. All amended applications remain subject to renewal at the designated time (adopted by separate resolution), including payment of fees and completion of the required background investigation for approval by the board of city commissioners.

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

Dated this ____ day of _____, 2024.

Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steve Sprague, City Auditor

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

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

May 23, 2024

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

RE: An Ordinance Amending Article 20-04 relating to Use Regulations in the Land Development Code

Dear Commissioners,

Enclosed for your review and approval is an ordinance amending the use table found in Section 20-0401 of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land Development Code) relating to Use Regulations. The Planning & Development Department brought to our attention that there are clerical errors in the use table located in Section 20-0401.

The intent of this ordinance is merely to “clean up” the errors found in the use table. The correct uses in the table have already been approved by the Fargo City Commission and implemented within the city of Fargo.

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

Suggested Motion: I move to waive receipt and filing of the enclosed ordinance one week prior to first reading and that this be first reading, by title, of an Ordinance Amending Section 20-0402 of Article 20-04 of Chapter 20 of the Fargo Municipal Code relating to Use Regulations.

Sincerely,



Alissa R. Farol Czapiewski
Assistant City Attorney

Enclosures

cc: Nicole Crutchfield, Planning & Development Department
Luke Morman, Planning & Development Department

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 20-0401
OF ARTICLE 20-04 OF CHAPTER 20 OF
THE FARGO MUNICIPAL CODE (LAND DEVELOPMENT CODE)
RELATING TO USE REGULATIONS

1 WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in
2 accordance with Chapter 40-50.1 of the North Dakota Century Code; and

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

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

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

10 NOW, THEREFORE,

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

12 Section 1. Amendment.

13 Section 20-0401 of Article 20-04 of Chapter 20 of the Fargo Municipal Code (Land
14 Development Code) is hereby amended to read as follows:

15 * * * *

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Table 20-0401

Use Category	Definition (Excerpt; See Sec. 20-1203)	Specific Use Type	Zoning Districts																			
			A G	S R 0	S R 1	S R 2	S R 3	SS RR 45	M R 1	M R 2	M R 3	U M U	M H P	M N O	N C	G O	L C M U	D C M U	G L C I	P I I		
Residential																						
Household Living	residential occupancy of a dwelling unit by a "household"	House, Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
		House, Attached	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Duplex	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Multi-Dwelling Structure	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Mobile Home Park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Group Living	residential occupancy of a structure by a group of people who do not meet the definition of "Household Living"	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	
		C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]	C/C [E]
Bed and Breakfast	A facility of residential character that provides sleeping accommodations and breakfast		C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	C/C [S]	

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CITY ATTORNEY
Nancy J. Morris

ASSISTANT CITY ATTORNEYS
Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

May 23, 2024

7

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

RE: Amending Section 25-1509.1 (D) of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages and Amending Section 25-1506 (CC) of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages

Mayor and Commissioners,

Presented for your consideration and approval are ordinance amendments removing the requirement that alcohol be served in specific cups at the Downtown Community Partnership events when alcohol is available pursuant to permit. Attendees will be still be required to wear a clearly identifiable wrist band in order to consume alcoholic beverage in the DCP designated event space, which is exempt from the consumption in public prohibition. These amendments were recommended by the Liquor Control Board on April 17, 2024, and presented for your approval to revise on April 29, 2024.

Suggested Motion: I move to waive the receipt and filing of the enclosed ordinances one week prior to first reading and that this be the first reading, by title, of An Ordinance Amending Section 25-1509.1 (D) of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages, and an Ordinance Amending 25-1506 (CC) of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages.

Regards,


Nancy J. Morris

Enclosures

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING SECTION 25-1509.1 (D) OF ARTICLE 25-15
2 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
3 RELATING TO ALCOHOLIC BEVERAGES

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

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

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

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

13 NOW, THEREFORE,

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

15 Section 1. Amendment.

16 Section 25-1509.1 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
17 amended as follows:
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 **25-1509.1 (D). Restrictions on sale or consumption in a public place.**

- 2 A. No owner, manager or person having control of any public place shall serve, permit to
3 be served, or permit any person to drink alcoholic beverages in such place, unless such
4 place has been duly issued an on-sale or other appropriate license under this chapter.
- 5 B. No person shall mix, prepare, serve or consume alcoholic beverages in any public
6 place unless such place has been duly issued an on-sale or other appropriate license
7 under this chapter.
- 8 C. The area set aside and specifically designated on the Fargodome parking lot by North
9 Dakota State University and specifically excepted from the definition of "public place"
10 shall nonetheless conform to and abide by all of the other relevant provisions of this
11 chapter. Minors shall not be allowed to possess or consume alcoholic beverages.
12 Minors shall not be allowed in the area set aside and specifically designated unless
13 accompanied by a parent or guardian. There shall be adequate security provided, to the
14 satisfaction of the chief of police, or his designee, and North Dakota State University
15 shall allow inspection by the Fargo Police Department and any other city officials.
- 16 D. With respect to persons who are in possession of alcoholic beverages ~~contained within,~~
17 ~~and may consume such beverages from, a clearly identifiable event cup and who are~~
18 wearing a clearly identifiable wrist band, the DCP-E event space set aside and
19 specifically designated in a Class "DCP-E" license, as provided by section 25-
20 1506(CC), is specifically excepted from the definition of "public place" during the time
21 said "DCP-E" license is in effect. Except as set forth herein, all persons shall
22 nonetheless conform to and abide by all of the other relevant provisions of this chapter.
23 Minors shall not be allowed to possess or consume alcoholic beverages.

Section 2. Penalty.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 Section 3. Effective Date.

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

4

5

Timothy J. Mahoney, M.D., Mayor

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Attest:

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Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING
2 SECTION 25-1506 (CC) OF ARTICLE 25-15
3 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
4 RELATING TO ALCOHOLIC BEVERAGES

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

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

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

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

14 NOW, THEREFORE,

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

16 Section 1. Amendment.

17 Section 25-1506 (CC) of Article 25-15 of Chapter 25 of the Fargo Municipal Code is
18 hereby amended as follows:
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 **25-1506. – Licenses—Classifications.**

2 CC. Class "DCP-E" License - A Class "DCP-E" license, in the nature of a special permit,
3 shall authorize the Downtown Community Partnership, a non-profit corporation
4 established January 15, 2014, operated as a business league within the meaning of
5 Section 501(c)(6) of the Internal Revenue Code with the stated purpose of serving the
6 Fargo downtown business community, to apply for a special event "DCP-E" license, to
7 be issued by the city auditor, for an event that is open to the general public and that is
8 held on certain designated public property, private property or both public and private
9 property, including public rights of way, and in which one or more licensees that are
10 eligible to obtain a Class "E" license will be allowed to participate in the event and in
11 which certain alcoholic beverages will be lawfully allowed to be possessed and
12 consumed within the designated space, in accordance with the following:

- 13
- 14 1. Class "DCP-E" license application and approval. For each proposed Class "DCP-
15 E" license event, the Downtown Community Partnership must submit to the city
16 auditor an application on a form provided by the city. The application must
17 describe the event space including a detailed description of public streets that will
18 be closed to the traveling public, adjacent sidewalks, and designated alley ways
19 adjacent to such streets and sidewalks along with any private property included in
20 the event space. To the extent the event space includes any private property, the
21 applicant must provide the written consent by the property owner to the holding of
22 the event.
 - 23 a. Licenses non-transferable.—A Class "DCP-E" license may only be issued to
the Downtown Community Partnership and it may not be transferred to, or
held by, a person, firm, or entity other than the licensee.
 - b. Notice of an intention to seek a Class "DCP-E" license must be submitted to
the city auditor at least 45 days in advance of the requested event. Such
notice deadline may be waived for good cause. A complete Class "DCP-E"
license application must be submitted to the city auditor in the manner of a
Class "E" license.
 - c. The notice shall provide an estimate of the number of attendees expected to
participate in the event, which estimate may be used by the police

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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1 department to determine the number of additional police department
2 personnel necessary to patrol the event space and surrounding area, and shall
3 state the hours during which alcoholic beverages may be served in event
4 event cups vendor approved containers, including cans and plastic cups, but
5 prohibiting bottles and other glass containers (“vendor approved
6 containers”), as described in this subsection, and when such beverages may
7 be possessed or consumed within the designated event space.

- 8 d. Downtown Community Partnership shall be eligible to receive a limited
9 number of licenses per year, in an amount to be determined by the motion or
10 resolution of the Board of Directors of the Downtown Community
11 Partnership, presented with the application.
- 12 e. The city auditor is authorized to issue the Class "DCP-E" license without
13 notice or hearing and the provisions of section 25-1508 shall not be
14 applicable to the issuance thereof.
- 15 f. Effective times and dates of license.—A Class "DCP-E" license shall be
16 effective for the period or periods of time as approved by the city auditor and
17 as stated on the license. Said license may be structured by the city auditor
18 such that a DCP-E permitted event may run during certain limited time
19 periods on certain specified consecutive days. In no event shall a Class
20 "DCP-E" license be granted allowing alcoholic beverage open containers or
21 the consumption of alcoholic beverages in a public space after 9:00 p.m.
- 22 g. No Class "E" licenses other than those issued to an alcoholic beverage
23 retailer as part of a licensed Class "DCP-E" event may be issued for the
event space during the Class "DCP-E" permitted times or locations.
- h. At any time when a Class "DCP-E" license is in effect for a particular event
and event space, the event space shall be specifically excepted from the
definition of "public place" as set forth more fully in section 25-1509.1(D) of
this chapter.
2. Administration and Coordination of Event. Upon issuance by the city auditor of
the Class "DCP-E" license for the event, the Downtown Community Partnership

OFFICE OF THE CITY ATTORNEY
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will be responsible for administration and coordination of the event in accordance with the following:

- a. The Downtown Community Partnership will solicit and accept applications from existing licensees that are eligible to obtain a Class "E" license to serve as alcohol vendors for the approved and licensed Class "DCP-E" event.
- b. Downtown Community Partnership, by approval of its board of directors, will select one or more alcoholic beverage retailers for the Class "DCP-E" event, and will notify the city auditor of its selection or selections.
- c. In order to participate in the licensed Class "DCP-E" event, said selected alcoholic beverage retailer must apply for and obtain a Class "E" license for the event.
- d. The Downtown Community Partnership is authorized to charge the selected alcohol vendors a fee for participation. The Downtown Community Partnership will be responsible for making the necessary arrangements for the event, and will be responsible for payment of the costs for additional security personnel.

3. Terms, Conditions and Restrictions for Event. With respect to an approved Class "DCP-E" licensed event, the following terms, conditions and restrictions shall be applicable:

- a. The designated event space must be clearly marked with signs, special markings and other demarcations such that participants and the general public are advised as to the boundaries of the event space. The Downtown Community Partnership shall post conspicuously at all entrances and exits of the event space a notice stating that alcoholic beverages shall not be permitted outside of the designated event space. Alcoholic beverages may only be served in vendor approved containers. ~~clearly identifiable event cups provided by the Downtown Community Partnership. Cans, bottles or other containers containing alcoholic beverages shall not be permitted in the designated event space.~~

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- b. The Downtown Community Partnership will provide the selected Class "E" license holders for the event a sufficient supply of clearly identifiable wrist bands to be distributed to, and worn by, event participants.
- c. Nothing in this subsection shall be construed to relieve the responsibility of a Class "E" license holder from the obligation to comply with all laws, including laws regulating the serving of alcoholic beverages and nothing shall be construed to transfer any such obligations or responsibilities to the Downtown Community Partnership.
- d. Downtown Community Partnership shall be responsible for making arrangements with the Fargo police department for any police department extra duty officers that are required to be provided for the Class "DCP-E" event, at the sole cost of the Downtown Community Partnership, at such rate or rates as are established by the chief of police.
- e. Nothing in this subsection shall be construed to allow Class "E" licensees at a DCP-E permitted event to sell off-sale alcoholic beverages at such event.
- f. Only alcoholic beverages that have been served by a Class "E" permit holder and which beverages are contained within the vendor approved containers ~~said clearly identifiable event cup, as described in this subsection,~~ may be consumed within the event space. No other alcoholic beverages shall be permitted to be consumed in the event space. No personal use coolers for individual alcohol consumption will be permitted in the event space.
- g. All other laws and regulations shall be in full force and effect.

Section 2. Penalty.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 3. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

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

May 23, 2024

8

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

RE: Amending Sections 25-1501, 25-1503 and 25-1509 of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages

Mayor and Commissioners,

Presented for your consideration pursuant to your motion on March 18, 2024, please find three ordinance amendments to address the definition of stream of service, what personnel must be server trained, and what personnel must be over the age of 21 (not all persons who must be server trained are required to be 21 if performing their duties under the direct supervision of someone who is 21, as provided by statute). This is being brought forward at the request of the Liquor Control Board in light of some perceived confusion as to whether or not security personnel involved in an altercation at the Old Broadway was required to be 21 years old. Steve Sprague presented the matter as a violation, believing the existing ordinance to require the security personnel be both server trained and over the age of 21. Members of the Liquor Control Board disagreed. Rather than present the matter to you for consideration, the decision was made to request the opportunity to work with the City Attorney office to clarify the ordinance, ensuring that all license holders understand that there are limited exceptions to the rule that persons involved in the stream of service of alcoholic beverages be 21 or older. The ordinance was also amended to reflect the state law that musicians, disc jockeys and entertainers also be permitted to enter a liquor establishment to perform their duties under the direct supervision of a person over 21 years of age.

Suggested Motion: I move to waive the receipt and filing of the enclosed ordinances one week prior to first reading and that this be the first reading, by title, of An Ordinance Amending Section 25-1501, 25-1503 and 25-1509 of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages.

Regards,



Nancy J. Morris

Enclosures

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING SECTION 25-1501
2 OF ARTICLE 25-15 OF CHAPTER 25
3 OF THE FARGO MUNICIPAL CODE,
4 RELATING TO ALCOHOLIC BEVERAGES

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

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

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

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

14 NOW, THEREFORE,

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

16 Section 1. Amendment.

17 Section 25-1501 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
18 amended as follows:
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 **25-1501. Definitions.**

2 In this article, unless the context or subject matter otherwise requires:

- 3 1. "Alcohol" shall mean neutral spirits distilled at or above 190 proof, whether or not such
4 product is subsequently reduced, for nonindustrial use.
- 5 2. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which
6 contains one-half of one percent or more of alcohol by volume. All alcoholic beverages
7 shall be deemed intoxicating.
- 8 3. "Beer" shall mean any malt beverage containing more than one-half of one percent of
9 alcohol by volume.
- 10 4. "Business complex" shall mean any shopping center, shopping mall or similar physical
11 facility where two or more retail businesses are located and conducted, whether or not such
12 businesses are separately owned and operated.
- 13 5. "Commission" shall mean the board of city commissioners of the city of Fargo, its
14 governing body.
- 15 6. "Distilled spirits" means any alcoholic beverage that is not beer, wine, or sparkling wine.
- 16 7. "Distillery" shall mean a domestic operation wherein the owner/operator of the distillery
17 shall produce distilled spirits within the state of North Dakota in accordance with the
18 provisions of N.D.C.C. § 5-01-19.
- 19 8. "Entertainment" shall mean all forms and types of entertaining patrons of licensed premises,
20 whether such entertainment is provided by means of live performances or audio and/or
21 video presentations, whether remote or prerecorded; provided, however, that
22 "entertainment" shall not be deemed to include the use of any regularly broadcast television
23 or radio programs, or coin-operated music machine.
- 24 9. "Growler" shall mean a sealed container holding at least 12 ounces and not more than 2
25 liters of beer or wine that is filled and sealed on-site for the sole purpose of off-premises
26 consumption. At the time of sale, the container shall be sealed with a paper or plastic
27 adhesive band, strip or sleeve which is applied over the top of the twist-type closure, cork,
28 stopper, or plug in such a manner that the seal must be broken in order to open the
29 container. The adhesive band, strip or sleeve shall either bear the name and address of the
30 licensee-seller or shall have the sales receipt attached to the container.

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FARGO, NORTH DAKOTA

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- 1 10. "Licensee" shall mean any person to whom a license has been issued under the provisions of
2 this article.
- 3 11. "Licensed premises" shall mean the bar area, dining rooms, meeting rooms, outdoor dining
4 areas as provided in Article 18-03 of the Fargo Municipal Code, and all other areas or
5 spaces where alcoholic beverages are regularly or occasionally sold, served or dispensed. In
6 the alternative, any person applying for a license under the provisions of this article may
7 describe, depict or otherwise identify in his application for a license various areas or spaces
8 which shall constitute the licensed premises. The commission, in its discretion, may require
9 any applicant to so describe, depict or otherwise identify the licensed premises as a
10 condition for the issuance of a license under the provisions of this article.
- 11 12. "Location transfer" shall mean a change in location of the licensed premises.
- 12 13. "Lodge" or "club" shall mean any corporation or association organized for civic, fraternal,
13 social or business purposes, or for the promotion of sports. Said lodge or club shall have at
14 least 200 members at the time a license is applied for and shall have been in existence for at
15 least 20 years prior to the time of application for the license; provided, that a local veteran's
16 organization which has not existed for 20 years but is a subsidiary of and chartered by a
17 national organization which has had a bona fide existence for more than 20 years shall be
18 deemed to be a "lodge" or "club" for purposes of this article.
- 19 14. "Microbrew pub" means a brewer that brews 10,000 barrels or less per year and sells beer
20 produced or manufactured on the premises for consumption on or off the premises, or serves
21 beer produced or manufactured on the premises for purposes of sampling the beer.
- 22 15. "Off-sale" shall mean sale of alcoholic beverages in original packages solely for
23 consumption off or away from the premises where sold. An off-sale license shall authorize
the licensee to conduct such off-sale at the place designated in the license.
16. "On-sale" shall mean sale of alcoholic beverages for consumption only on the licensed
premises. An on-sale license shall authorize the licensee to conduct such on-sales at the
place designated in such license or as may be authorized by a Class E license issued
pursuant to the provisions of this article.
17. "Ownership transfer" shall mean any assignment, sale, exchange or other conveyance of any
license issued pursuant to the provisions of this article. A transfer shall be deemed to have
occurred upon the assignment, sale, exchange or other conveyance of the ownership interest

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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1 in a licensee sole proprietorship, general partnership, corporation, limited liability company,
2 limited liability partnership or other form of business entity that is or has been issued the
3 license whether such assignment, sale, exchange or other conveyance of 50% or more of the
4 ownership interest occurred in one single transaction or whether such assignment, sale,
5 exchange or other conveyance occurred in multiple transactions within the prior thirty-six
6 (36) months resulting in a change of more than 50% of the ownership interest of such
7 licensee business entity. Recognizing that the licensee may be a business entity in which the
8 "owners" are, themselves, business entities and recognizing that the city has an interest in
9 knowing who are the natural persons who own 5% or more ownership in a licensee and in
10 knowing when an ownership interest of such natural persons has occurred, in addition to the
11 foregoing said ownership transfer shall be deemed to occur whenever said change in
12 ownership interest occurs by a direct change in ownership of the licensee business entity or
13 by indirect change of ownership whenever there is a 50%, or more, change in ownership
14 held by any single natural person.

- 15 18. "Package" and "original package" shall mean any container or receptacle holding alcoholic
16 beverages when such container or receptacle is corked or sealed by the manufacturer thereof
17 and when the cork or seal has not been removed or broken prior to the sale of such package
18 to the purchaser thereof.
- 19 19. "Person" shall include, where the context of the provision allows, any natural person,
20 association, partnership, corporation and any clerk, agent and abettor thereof.
- 21 20. "Public place" shall mean any building, property or other place that the general public can
22 occupy as a matter of right or any building, property or place that is open to the general
23 public by implied or express invitation, either for business purposes or otherwise. "Public
place" shall not include, however, that area set aside and specifically designated on the
Fargodome parking lot by North Dakota State University and utilized for its sponsored
tailgating activities.
21. "Recreational establishment or places of amusements" shall mean any establishment whose
business building contains a square footage of at least Twelve Thousand (12,000) square
feet where games of skill, such as billiards, volleyball, indoor golf, bowling or soccer (but
not video or pinball) are usually played, which premises are duly licensed and meet building
code requirements for said games of skill, and which has annual gross receipts at least Two

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1 Hundred Thousand Dollars (\$200,000) of which no more than Fifty Percent (50%) may be
2 derived from the sale of alcoholic beverages.

3 22. "Sale" shall mean all methods or modes of furnishing alcoholic beverages, with or without
4 consideration, whether by selling, dispensing, exchanging, bartering or other similar means
5 of transfer. Such term shall include all transactions, whether for cash, credit or other
6 considerations and shall include, but not be limited to, transactions where the consideration
7 for the alcoholic beverage is included or combined with another transaction or where the
8 consideration is called a "donation", or used to purchase any ticket, token or other object
9 redeemable for alcoholic beverages.

10 23. "Sparkling wine" shall mean wine made effervescent with carbon dioxide.

11 24. "Transfer" shall mean a change in location of the licensed premises; or any assignment,
12 sale, exchange or other conveyance of any license issued pursuant to the provisions of this
13 article.

14 25. "Wine" shall mean the alcoholic beverage obtained by fermentation of agricultural products
15 containing natural or added sugar or such beverage fortified with brandy and containing not
16 more than 24% alcohol by volume.

17 26. "Mandatory server training" shall mean server training that has been approved by the Fargo
18 police department and/or its designee for any person responsible for, or participating in, any
19 activity involved in the stream of service of alcoholic beverages, as defined in section 25-
20 1501 (31). including, but not limited to, selling, dispensing, serving, identification
21 verification, admission and security at licensed liquor establishments, including restaurants.
22 Mandatory server training applies to, but is not limited to, managers, servers, security,
23 bartenders, and door attendants, or any employee in the capacity to determine compliance
with applicable laws. Mandatory server training applies to, but is not limited to, managers,
servers, security, bartenders, and door attendants, or any employee in the capacity to
determine compliance with applicable laws.

24 27. "Stadium" shall mean a fixed physical structure, which may be fully-enclosed or open, in
25 which spectators of events watch sports, concerts or other similar entertainment activities,
26 with permanent seating and which has controlled access to and from its grounds. A stadium
27 shall include the seating arena, private suites, concession stands, concourse area, playing
28 field, and other permanent or fixed structures and areas related to spectator activities.

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FARGO, NORTH DAKOTA

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1 28. "Winery" shall mean a domestic operation wherein the owner/operator of the winery shall
2 produce wine within the state of North Dakota in accordance with the provisions of
N.D.C.C. 5-01-17.

3 29. "Wine bar" shall mean an establishment serving primarily on-sale wine and sparkling wine,
4 with incidental on-sale beer, non-alcoholic beverages and food sales, but does not include
5 any sale of alcohol or off-sale wine, sparkling wine, or beer. Such establishment shall offer
6 patrons wines by the glass, flight, bottle and taste, and will allow for presentation of
7 beverages at the table, as well as at the bar. A "wine bar" shall also be focused on education
8 of wines from around the world; may occasionally offer primarily acoustical live
performances in the genre of jazz, blues, and classical music; and shall be a non-smoking.

9 30. "Seasonal license" shall mean a period of time shorter than a year and tied to a specific
10 activity or purpose.

11 31. "Stream of Service" shall include, but not be limited to, selling, dispensing, serving,
12 identification verification, admission and security at licensed liquor establishments,
13 including restaurants.
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 2. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING
2 SECTION 25-1503 OF ARTICLE 25-15
3 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE,
4 RELATING TO ALCOHOLIC BEVERAGES

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

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

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

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

14 NOW, THEREFORE,

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

16 Section 1. Amendment.

17 Section 25-1503 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
18 amended as follows:
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 **25-1503. License—Qualifications.**

2 No license shall be issued to any applicant except as follows:

- 3 A. If the applicant is an individual or general partnership, such individual or partners must
4 be legal and bona fide residents of the city of Fargo and state of North Dakota and be
5 at least 21 years of age.
- 6 B. If the applicant is a corporation, limited liability company, limited partnership, limited
7 liability partnership or other form of business entity that provides limited liability to
8 holders of ownership interest in the entity, the manager of the licensed premises or
9 another full-time employee of the licensee who is at least 21 years of age must be
10 designated in the license application as an agent of the corporation. The manager of the
11 licensed premises shall reside within either Cass County, North Dakota, or Clay
12 County, Minnesota. All officers, directors and shareholders holding more than 5% of
13 the outstanding stock of said corporation shall be at least 21 years of age. All managers
14 or officers, governors and members holding more than 5% of the outstanding member
15 interests of said limited liability company shall be at least 21 years of age. All general
16 managers and all limited partners holding or representing more than 5% of the
17 ownership interest in any such limited partnership, limited liability partnership or other
18 form of business entity providing limited liability to holders of ownership interest in
19 the entity must be at least 21 years of age.
- 20 C. No license shall be issued to any person, general partnership, corporation, limited
21 liability company or other form of business entity as the representative or agent of
22 another, and the license may be issued only to the owner or owners of the business
23 being conducted at the location sought to be licensed.
- D. If the applicant is a lodge or club, said applicant shall be deemed qualified for a Class
"A" license only and no other class license shall be issued to any lodge or club.
- E. Mandatory server training (as defined by 25-1501(26)) shall be required of all liquor
licensees. Mandatory server training shall be completed prior to participation in the
stream of service of alcoholic beverages as defined in section 25-1501 (31). Persons
successfully completing the approved class will receive a "server training certificate."
The "server training certificate " must be renewed every three (3) years on the
anniversary date as shown on the said certificate. One month prior to license renewal

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 date, the licensee shall provide the city with a roster of employees, and a copy of
2 employees' server training certificate as required by 25-1501 (26) evidencing current
3 training status. If the licensee is found to be not in compliance, license renewal for the
4 upcoming year may be denied or delayed. Failure to comply with this section may
5 result in administrative or other penalties.

6 Section 2. Penalty.

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

11 Section 3. Effective Date.

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

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

16 Attest:

17 _____
18 Steven Sprague, City Auditor

19 First Reading:
20 Second Reading:
21 Final Passage:
22 Publication:
23

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING SECTION 25-1509 OF ARTICLE 25-15
2 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
3 RELATING TO ALCOHOLIC BEVERAGES

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

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

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

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

13 NOW, THEREFORE,

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

15 Section 1. Amendment.

16 Section 25-1509 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
17 amended as follows:
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 **25-1509. Restrictions on sale, service or dispensing of alcoholic beverages.**

- 2 A. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage
3 to a person under 21 years of age; and no licensee, his agent or employee, shall permit
4 any person under 21 years of age to be furnished with any alcoholic beverage upon the
5 licensed premises.
- 6 B. No person under 21 years of age shall be permitted to enter any portion of licensed
7 premises in which alcoholic beverages are sold, served or dispensed; nor shall anyone
8 under the age of 21 years be employed in any portion of licensed premises in which
9 alcoholic beverages are sold, served or dispensed, except as provided in subsections
10 (C) and (D) of this section. For purposes of this section, a person is not 21 years of age
11 until 8 a.m. on the person's twenty-first birthday.
- 12 C. Any person under 21 years of age may enter and remain in a restaurant where alcoholic
13 beverages are being sold if the restaurant is separated from the designated area in
14 which alcoholic beverages are opened or mixed and if gross sales of food are at least
15 equal to gross sales of alcoholic beverages which are consumed in the dining area. Any
16 person who is employed by the restaurant as a food waiter, food waitress, busboy or
17 busgirl, food server or other title engaged directly in the sale and delivery of food in
18 the separate restaurant premises, may not engage in the sale, dispensing, delivery or
19 consumption of alcoholic beverages; provided, that any person who is between 18 and
20 21 years of age may be employed by the restaurant to serve and collect money for
21 alcoholic beverages, if the person is under the direct supervision of a person 21 or
22 more years of age. All employees engaged in the stream of service as defined in
23 section 25-1501 (31) are subject to mandatory server training as provided in section
25-1501(26), and unless specifically exempted herein, must be 21 years old to be so
employed. A law enforcement officer, or person cooperating with and under the
control of such law enforcement officer, under the age of 21 years may enter premises
where alcoholic beverages are sold, dispensed, or consumed in the performance of an
official duty. Any establishment where alcoholic beverages are sold may employ
persons from 18 to 21 years of age to work in the capacity of musicians, disc jockey, or
entertainer, or to perform duties directly related to working as a musician, disc jockey,
or entertainer under the direct supervision of a person over 21 years of age. Any person
under 21 years of age may enter and remain on the license premises if the person is an

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 independent contractor or the independent contractor's employee engaged in contract
2 work and is not engaged in selling, dispensing, delivering or consuming alcoholic
3 beverages, or if the individual enters the premises for training, education, or research
4 purposes under the supervision of an individual 21 or more years of age with prior
5 notification of the local licensing authority. Any person under 21 years of age may
6 remain in the area of and event where beer, wine, or sparkling wine is sold in
7 accordance with the conditions of an event permit issued pursuant to § 5-02-01.1,
8 N.D.C.C., and the city comparable ordinance § 25-1506(H)(4).

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

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

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

Section 2. Penalty.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 3. Effective Date.

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

Timothy J. Mahoney, M.D., Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

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

9

May 23, 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

cc: Steve Sprague

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. <u>09-2024-CV-02033</u></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”) April 15, 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)(2). 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 April 15, 2024 Findings, Conclusions and Order on or about April 19, 2024 via email.

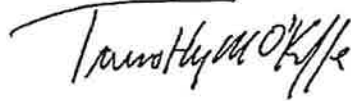
[¶2] Appellant appeals on the following specifications of error:

1. Appellant’s due process rights were violated when Sgt. Aldin Golos was allowed to present evidence of the alleged events from October 21, 2023, but Appellant’s attorney was prevented from cross-examining or otherwise questioning Sgt. Golos regarding his testimony. Appellant was denied the ability to confront and question a witness and was prevented from making a full and complete evidentiary record.

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 14th day of May, 2024.

O'KEEFFE O'BRIEN LYSON LTD.

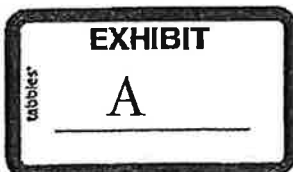


TIMOTHY M. O'KEEFFE (ND ID # 05636)
MADISON D. MARCHUS (ND ID #09747)
720 Main Avenue
Fargo, ND 58103
Phone: (701) 235-8000
Fax: (701) 235-8023
tim@okeeffeattorneys.com
madison@okeeffeattorneys.com
Attorneys for Appellant

Findings, Conclusions and Order of the Board of City Commissioners of the city of Fargo regarding the Liquid Hospitality, LLC, d/b/a Windbreak Saloon License Violation

The matter before the Board of City Commissioners of the city of Fargo (City Commission) is whether Liquid Hospitality, LLC, d/b/a Windbreak Saloon (hereinafter Windbreak or Licensee) violated Fargo Municipal Code §25-1509.2 on October 21, 2023. If the City Commission finds a violation has 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 January 25, 2024, and the City Commission at a Special Meeting on March 5, 2024.

Fargo Police Chief David Zibolski and Sgt. Aldin Golos presented the factual basis to the Liquor Control Board and City Commission recommending a finding of a violation of Fargo Municipal Code §25-1509.2. Attached hereto and made a part of these Findings, Conclusion and Order is a Memorandum from Sgt. Aldin Golos to Captain Helmick dated November 6, 2023, regarding a Windbreak call for service video review (Exhibit A). The Memorandum outlines the reports of the officers who responded to a call to the Windbreak, finding a “passed out male who was extremely intoxicated. Officers said he couldn’t walk, form complete sentences, stand on his own, and had urinated himself.” The Memorandum confirms that the passed out male “was drinking at the Windbreak. He was transported to the hospital and then jail detox. I watched the BWC and agreed with these assessments.” Based on this report, Sgt. Golos then reviewed the surveillance video with Mike (the owner of the establishment) “from the time the male entered



the Windbreak to when officers located him.” Sgt. Golos provided a detailed and extensive recitation of the factual basis for the liquor license violation recommendation.

Fargo Municipal Code section 25-1509.2 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.

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. City Auditor Steven Sprague advised the 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 the Memorandum from Sgt. Aldin Golos to Captain Helmick dated November 6, 2023, identified as a Windbreak call for service video review, containing a detailed timeline of events.
3. The Liquor Control Board met and heard evidence of the liquor license violation on January 25, 2024.
4. Chief of Police David Zibolski and Sgt. Aldin Golos presented a detailed factual recitation of the events that occurred in the Windbreak on October 21, 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 circumstances in which the bar patron consumed 10 shots of liquor and 4 mixed drinks in less than a 2 hour time period.

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.
6. The Windbreak requested a hearing before the City Commission following the Liquor Control Board recommendation. A special City Commission hearing was held on March 5, 2024.
7. Sgt. Golos again presented the factual basis in the form of a detailed summary of the timeline and description of the video review 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 October 21, 2023, in violation of FMC § 25-1509.2. The sheer number of drinks consumed by the patron over a very short period of time, coupled with the extreme and dangerous evidence of intoxication exhibited by the patron when he was assisted out of the establishment and was in need of medical assistance upon exiting, are all facts consistent with the “indicators of intoxication or impairment” stated in the ordinance. The Windbreak asserts that different servers provided the patron alcohol over the course of the evening, discounting that a bar tab was maintained which should have informed the employees of the number of shots and mixed drinks purchased. Further, the video summary clearly places the patron at the bar for many of the drinks consumed. The patron’s intoxication was “obvious when he was escorted outside” and prior to that time staff gave him water and escorted him outside due to his need help walking. The Windbreak clearly served an intoxicated person based on the video evidence of the patron consuming 10 shots and 4 mixed drinks in less than 2 hours. The bartender and other servers are required to be server trained and recognize the signs of

impairment or intoxication. That this gentleman was intoxicated should have been obvious to even the untrained eye. The servers wholly failed to act in accordance with their required training by failing to cease service of alcohol to an intoxicated person; he was permitted to consume alcohol in an amount that shocks the conscience. Fargo Municipal Code §25-1509.2 states it is unlawful and a liquor license violation to “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.” (emphasis added).

The Windbreak sold, served and allowed the patron to continue to consume alcohol until it was necessary for him to be assisted off of the bar stool and helped outside by Windbreak security.

ORDER

After considerable discussion, questions and thorough review of all of the evidence, including arguments by counsel, Commissioner Piepkorn 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 an administrative penalty consistent with a 2nd violation (a \$1,000 administrative penalty and a one day suspension).

Commissioner Kolpack seconded the motion. On roll call vote, the motion was passed unanimously. Mayor Mahoney was absent and not voting.


DATED this 15th day of April, 2024.

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

By 

Timothy J. Mahoney, M.D., Mayor

ATTEST:



Steve Sprague, City Auditor

Exhibit "A"



FARGO POLICE DEPARTMENT
A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

NEIGHBORHOOD SERVICES DIVISION

MEMORANDUM

To: Captain Helmick,

From: Sgt. Aldin Golos *AG*

Date: 11.06.2023

AC Johnson

RE : Windbreak call for service video review.

ICR 2023-00075171

On October 21, 2023, at approximately 0217 hours Officers responded to the Windbreak. The caller was a patron. Officers located a passed out male who was extremely intoxicated. Officers said he couldn't walk, form complete sentences, stand on his own, and had urinated himself. The male was drinking at the Windbreak. He was transported to the hospital and then jail detox. I watched the BWC and agreed with these assessments.

I watched the surveillance video with Mike. I watched the surveillance from the time the male entered the Windbreak to when officers located him. Below are my observations.

- 2351 hours: The male enters the Windbreak and goes to the ATM. He is walking normally and appears fine.
- 0012 hours: The male is playing Pig Wheel. A server brings him his first drink. It appears to be a mixed drink in a small glass.
- 0022 hours: The male goes to the bar and sets the drink down.
- 0025 hours: Orders another mixed drink for himself.
- 0037 hours: Orders a shot and drinks it.
- 0043 hours: The male is at a table with his mixed drink talking to someone. He appears fine, walking fine etc.
- 0044 hours: The male buys two bomb shots, one for himself and one for the person at the table. Mike explained these shots are pretty weak because they are cheap and people buy them often. They are liquor/energy drink shots.
- 0048 hours: The male goes to the restroom.
- 0051 hours: Comes out of the restroom and is walking normally.
- 0054 hours: Buys two drinks but gives them away.
- 0057 hours: Buys three mixed shots. Drinks one and gives the other two away.

Exhibit "A"

- 0059 hours: Buys one mixed drink.
- 0104 hours: Buys one mixed drink and two "jag bombs" shots.
- 0108 hours: Drinks both jag bomb shots.
- 0114 hours: The male is walking normally.
- 0118 hours: Takes another shot (could be the bomb shot).
- 0128 hours: Takes another shot (could be a bomb shot).
- 0129 hours: The male walks away. He appears to walk slower but he is walking straight.
- 0132 hours: The male is talking to security by the cash register inside the main entrance. He looks normal.
- 0138 hours: At this point, the male goes to the bar and sits down. From this point forward, he is sitting on a stool and his back is to the camera. All of the following drinks are with employees including the manager Bryan.
- 0138 hours: Takes a shot.
- 0142 hours: Takes a shot.
- 0145 hours: The server gives him the tab. It should be noted prior to this he had been served by different servers.
- 0148 hours: Takes a shot. It looks like he just took it off the table and it wasn't his. Likely for one of the employees.
- 0154 hours: Staff gives him a water.
- 0156 hours: Security is escorting him outside and he needs help walking.

Summary:

In this situation I can't definitively say the male was over-severed. I believe the male became overly intoxicated at some point when he was sitting on the stool. I can't say if this occurred prior to the drinks he was given because his back was to the camera and he didn't stand up/move at any point, he was just sitting there taking shots. It appears the alcohol caught up to him however; I am not able to tell at what point that happened other than the obvious when he was escorted outside.

Totals: 4 mixed drinks and 10 shots.

ECUB

five

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cc: N. MORRIS } FOR REVIEW
S. SPAGUE } & RECOMMENDATION

Chief Zbolski - FEE

10a



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

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

Full, Legal Name of Gaming Organization
Fargo Metro Baseball Association

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
Applebee's Grill & Bar - 13th Ave

Street 2800 13th Ave SW	City Fargo	ZIP Code 58103	County Cass
Beginning Date(s) Authorized 7/1/2024	Ending Date(s) Authorized 6/30/2025	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)
Southwest corner of bar area

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 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 type="checkbox"/> Twenty-One
<input type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> ELECTRONIC 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheel with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table
<input checked="" type="checkbox"/> ELECTRONIC Pull Tab Device		

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
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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 05/28/24
PRINT Name and official position of person signing on behalf of city/county above Steven Sprague/City Auditor	

INSTRUCTIONS:

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RETURN ALL DOCUMENTS TO:

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



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

106

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

Full, Legal Name of Gaming Organization
Fargo Metro Baseball Association

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
Applebee's Grill & Bar - 45th St

Street 2350 45th St S	City Fargo	ZIP Code ND	County 58104
---------------------------------	----------------------	-----------------------	------------------------

Beginning Date(s) Authorized 7/1/2024	Ending Date(s) Authorized 6/30/2025	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)
Southeast corner room in bar area with machines along north wall of that room

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

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

Attorney General	Date
Signature of City/County Official	Date 05/28/24
PRINT Name and official position of person signing on behalf of city/county above Steven Sprague/City Auditor	

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10c



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

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

Full, Legal Name of Gaming Organization
Fargo Metro Baseball Association

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
Applebee's Grill & Bar -North Fargo

Street 2001 16th St. N	City Fargo	ZIP Code 58102	County ND
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Beginning Date(s) Authorized 7/1/2024	Ending Date(s) Authorized 6/30/2025	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)
Southeast corner of bar area

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

RESTRICTIONS FOR CITY/COUNTY USE ONLY

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

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

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

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Signature of City/County Official	Date 05/28/24

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Steven Sprague/City Auditor

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10d



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

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

Full, Legal Name of Gaming Organization
Fargo Metro Baseball Association

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
Empire Tavern

Street 424 N Broadway	City Fargo	ZIP Code 58102	County Cass
---------------------------------	----------------------	--------------------------	-----------------------

Beginning Date(s) Authorized 7/1/2024	Ending Date(s) Authorized 6/30/2025	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)
Northwest Corner

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

RESTRICTIONS FOR CITY/COUNTY USE ONLY

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

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

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

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10e



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

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

Full, Legal Name of Gaming Organization
Red River Human Service Foundation

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
Blarney Stone On Broadway

Street 101 Broadway N	City Fargo	ZIP Code 58102	County Cass
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Beginning Date(s) Authorized July 1 2024	Ending Date(s) Authorized June 30 2025	Number of Twenty-One tables, if zero, enter "0"
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Specific location where games of chance will be conducted and played at the site (required)
Back left corner from broadway door

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

RESTRICTIONS FOR CITY/COUNTY USE ONLY

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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 checked="" 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 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 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)
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APPROVALS

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Signature of City/County Official	Date 05/28/24

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Steven Sprague/City Auditor

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10f



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

G-0665()
 Site License Number
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization
Sharehouse, Inc.

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
Bismarck Tavern

Street <u>522 Broadway</u>	City <u>Fargo</u>	ZIP Code <u>ND 58102</u>	County <u>Cass</u>
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Beginning Date(s) Authorized <u>7/1/2024</u>	Ending Date(s) Authorized <u>6/30/2024 (2025)</u>	Number of Twenty-One tables, if zero, enter "0" <u>1</u>
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Specific location where games of chance will be conducted and played at the site (required) Conducted in NE & SW corners of Bar
games played in entire bar area - excluding 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 type="checkbox"/> Calcuttas |
| <input checked="" type="checkbox"/> Pull Tab Jar | <input type="checkbox"/> Prize Board | <input checked="" 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)
---	---------------------------------

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APPROVALS

Attorney General	Date
Signature of City/County Official	Date <u>05/28/24</u>
PRINT Name and official position of person signing on behalf of city/county above <u>Steven Sprague/City Auditor</u>	

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GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

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

Full, Legal Name of Gaming Organization
Sharehouse, Inc.

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
Rick's bar

Street <u>2721 main Ave</u>	City <u>Fargo</u>	ZIP Code <u>58103</u>	County <u>Cass</u>
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Beginning Date(s) Authorized <u>7/1/2024</u>	Ending Date(s) Authorized <u>6/30/2025</u>	Number of Twenty-One tables, if zero, enter "0" <u>1</u>
---	---	---

Specific location where games of chance will be conducted and played at the site (required) Conducted in SW corner of Building
conducted in entire bar area - excluding rest rooms and outdoor smoking area

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 type="checkbox"/> Calcuttas |
| <input checked="" type="checkbox"/> Pull Tab Jar | <input type="checkbox"/> Prize Board | <input checked="" 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)
---	---------------------------------

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APPROVALS

Attorney General	Date
Signature of City/County Official	Date <u>05/28/24</u>

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Steven Sprague/City Auditor

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GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

10h

G- 0665 ()
 Site License Number
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization
Sharehouse, Inc.

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
The Round Up Saloon

Street <u>4501 Urban Plains Dr</u>	City <u>Fargo</u>	ZIP Code <u>58104</u>	County <u>Cass</u>
---------------------------------------	----------------------	--------------------------	-----------------------

Beginning Date(s) Authorized <u>7-01-2024</u>	Ending Date(s) Authorized <u>6-30-2025</u>	Number of Twenty-One tables, if zero, enter "0" <u>1</u>
--	---	--

Specific location where games of chance will be conducted and played at the site (required)
conducted in New Portion of Bar - games played in entire bar area excluding 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 type="checkbox"/> Calcuttas |
| <input checked="" type="checkbox"/> Pull Tab Jar | <input type="checkbox"/> Prize Board | <input checked="" 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)
---	---------------------------------

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APPROVALS

Attorney General	Date
Signature of City/County Official	Date <u>05/28/24</u>
PRINT Name and official position of person signing on behalf of city/county above <u>Steven Sprague/City Auditor</u>	

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GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

10i

G-0665()
 Site License Number
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization
Sharehouse, Inc.

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
Woody's

Street <u>1550 32nd Ave S</u>	City <u>Fargo</u>	ZIP Code <u>58103</u>	County <u>Cass</u>
----------------------------------	----------------------	--------------------------	-----------------------

Beginning Date(s) Authorized <u>7-01-2024</u>	Ending Date(s) Authorized <u>6-30-2025</u>	Number of Twenty-One tables, if zero, enter "0" <u>1</u>
--	---	--

Specific location where games of chance will be conducted and played at the site (required)
Conducted along N. Wall of Bar - games played in Bar Area - excluding 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

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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 type="checkbox"/> Calcuttas |
| <input checked="" type="checkbox"/> Pull Tab Jar | <input type="checkbox"/> Prize Board | <input checked="" 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)
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APPROVALS

Attorney General	Date
Signature of City/County Official	Date <u>05/28/24</u>
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GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

10j

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

Full, Legal Name of Gaming Organization
West Fargo Events

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
Holiday Inn / Spirits Lounge

Street 3803 13th Avenue South	City Fargo	ZIP Code 58103	County Cass
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Beginning Date(s) Authorized 07-01-2024	Ending Date(s) Authorized 06-30-2025	Number of Twenty-One tables, if zero, enter "0" 3
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Specific location where games of chance will be conducted and played at the site (required)
Bar area - as described on the attached site map

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

RESTRICTIONS FOR CITY/COUNTY USE ONLY

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

<input type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> 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 type="checkbox"/> Poker
<input type="checkbox"/> ELECTRONIC 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheel with Tickets
<input 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)
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APPROVALS

Attorney General	Date
Signature of City/County Official	Date 05/28/24
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INSTRUCTIONS:

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

RETURN ALL DOCUMENTS TO:

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



GAMING SITE AUTHORIZATION
 ND OFFICE OF ATTORNEY GENERAL
 SFN 17996 (4-2023)

10K

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

Full, Legal Name of Gaming Organization
West Fargo Hockey Association

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
Fort Noks

Street 52 Broadway N	City Fargo	ZIP Code 58102	County Cass
Beginning Date(s) Authorized 7-1-24	Ending Date(s) Authorized 6-30-25	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 bar area excluding the 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 checked="" type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> ELECTRONIC 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input checked="" type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheel w/ht Tickets
<input checked="" type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input 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



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

119

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 Brave the Shave		Dates of Activity (Does not include dates for the sales of tickets) June 22nd 2024	
Organization or Group Contact Person Jordan Johnson	E-mail jjohnson7734@yahoo.com	Telephone Number 701-205-7513	
Business Address 3234 43rd St S	City Fargo	State ND	ZIP Code 58104
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Fargo Billiards & Gastropub		County Cass	
Site Physical Address 3234 43rd St 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.) one time event june 22nd 2024 50/50 Raffle			

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

Game Type	Description of Prize	Exact Retail Value of Prize
50/50 Raffle	50% of the proceeds will go to winner the other half will go to Brave the Shave	1000.00
Total (limit \$40,000 per year)		\$ 1000.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Support Childhood Cancer

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 Jordan Johnson	Telephone Number 701-205-7513	E-mail Address jjohnson7734@yahoo.com
Signature of Organization Group's Permit Organizer <i>Jordan Johnson</i>	Title event organizer	Date May 3, 2024

Pd

116

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 52880 (0-2)

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 FM AM Rotary		Dates of Activity (Does not include dates for the sales of tickets) 9/9/2024 - 12/30/2024	
Organization or Group Contact Person Tom Thompson	E-mail rotarytt429@gmail.com	Telephone Number 701-793-4303	
Business Address PO Box 9359	City Fargo	State ND	ZIP Code 58106-9359
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Touchmark At Harwood Groves	County Cass
Site Physical Address 1200 Harwood Dr. 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.)
9/9, 9/16, 9/23, 9/30, 10/7, 10/14, 10/21, 10/28, 11/4, 11/11, 11/18, 11/25, 12/2, 12/9, 12/16, 12/23, 12/30

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

Game Type	Description of Prize	Exact Retail Value of Prize
Sports Pool	It cost \$25.00 per book with the chance to win \$50.00 for every	
	Monday night football game	\$6,300.00
Total (limit \$40,000 per year)		\$

ADDITIONAL REQUIRED INFORMATION


Intended Uses of Gaming Proceeds
Philanthropic

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 Tom Thompson	Telephone Number 701-793-4303	E-mail Address rotarytt429@gmail.com
Signature of Organization Group's Permit Organizer 	Title President	Date 5/18/2024

11c



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

11c

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 North Dakota CPA Society		Dates of Activity (Does not include dates for the sales of tickets) June 17-18, 2024	
Organization or Group Contact Person Ryan Olson	E-mail membership@ndcpas.org	Telephone Number 701-775-7111	
Business Address 3100 S Columbia Rd Ste 500	City Grand Forks	State ND	ZIP Code 58201
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Holiday Inn	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 June 18, 2024

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Medora Vacation (2 musical, 2 pitchfork Fondue, 1 night Lodging)	587.16
Raffle	Golf Swag and Apparel See attached	300.00
Raffle	Holiday Inn Stay and \$50 Drecker Gift Card	300.00
Total (limit \$40,000 per year)		\$ 1546.44

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
0 *Scholarships*

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: **1390.00** (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 Ryan Olson	Telephone Number 701-775-7111	E-mail Address membership@ndcpas.org
Signature of Organization Group's Permit Organizer <i>Ryan Olson</i>	Title Membership Manager	Date 5/20/2024



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

11d

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 UND Alumni Association & Foundation		Dates of Activity (Does not include dates for the sales of tickets) June 26, 2024	
Organization or Group Contact Person Ellie Johnson	E-mail EllieJ@undalumni.net	Telephone Number 701-777-6943	
Business Address 3501 University Avenue Stop 8157	City Grand Forks	State ND	ZIP Code 58202
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Rose Creek Golf Course		County Cass	
Site Physical Address 1500 E Rose Creek Pkwy 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 Board occurring on June 26,2024			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle Board	50/50 Drawing - Cash	500
Total (limit \$40,000 per year)		\$ 500

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
To benefit Athletic Scholarships at the University of North Dakota

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: **5,000** (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 Kristie Hunt	Telephone Number 701-777-6679	E-mail Address kristieh@undalumni.net
Signature of Organization Group's Permit Organizer 	Title Controller	Date 5/22/24

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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: Liquor License Extension – Borrowed Bucks

DATE: May 24, 2022

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from BFG, Inc. d/b/a Borrowed Bucks Roadhouse until December 31, 2024

Borrowed Bucks has been in operation in the City of Fargo since 1991. Borrowed Bucks closed its doors June 5th 2022. The owners are requesting an extension of ordinance 25-1512 in order to sell the building and liquor license. The owners have found a party interested in purchasing the building and the liquor license and need the extension to continue negotiations of the sale.

Please see the attached letter from the company.

Please approve an extension of 25-1512 for BFG, Inc. d/b/a Borrowed Bucks Roadhouse until December 31, 2024.

Recommended Motion:

Move an extension of the requirements of 25-1512 to BFG, Inc. d/b/a Borrowed Bucks Roadhouse until December 31, 2024.



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

May 16, 2024

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

ATTN: Steve Sprague

RE: Alcoholic Beverage License #A-8

Dear Steve:

In November of 2023, the City Commission approved an extension of the requirements of 25-1512 for BFG, Inc. dba Borrowed Bucks Roadhouse until June 30, 2024. The purpose of this letter is to request an additional six-month extension of this liquor license, to December 31, 2024.

BFG, Inc. has entered into an Agreement for Sale and Transfer of Fargo Liquor License with Brandt Real Estate, LLC for the purchase of this license. BFG, Inc. has agreed to hold this license at its present location at 1201 Westrac Drive until Brandt Real Estate files an application with the City of Fargo at a location to be determined. Brandt Real Estate has expressed interest in our property on Westrac Drive as well, and we continue to negotiate the terms of that proposed sale and purchase. We expect that Brandt Real Estate will determine the location and the transfer of the license will occur prior to the license expiration date of December 31, 2024.

If you have any questions or need additional information, please feel free to contact me at (701) 237-5151, extension 11, or Vonnie at extension 13.

Thank you.

Sincerely,

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

Randy Thorson
PRESIDENT

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

13

Type: Red River Water Course Setback Waiver

Location: 6405 & 6411 13th Street North

Date of Hearing: 5/20/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>5/28/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Jody Bertrand</u>

The Committee reviewed the accompanying correspondence from Storm Sewer Utility Engineer, Jody Bertrand, regarding the approval of a Red River Water Course Setback Waiver at 6405 13th Street North and 6411 13th Street North for the Limited Disturbance Zone Setback (LDZS) Area.

The Owners at 6405 13th Street North have requested to construct a single-family residential structure on the property, which will require placing fill within a portion of the LDZS. Fill will also be placed on the lot at 6411 13th Street North to prepare for construction of a future home. The proposed building at 6405 13th Street North will not be constructed within the LDZS. Staff is recommending approval of the Red River Water Course Setback Waiver with the following conditions:

1. A signed and recorded Waiver of Liability for each property; and
2. Placement of fill on both lots and building location at 6405 13th Street North to be constructed per the attached dimensioned site plan sheet; and
3. Building location at 6411 13th Street North to be verified and approved at the time of future construction; and
4. Construction shall follow the recommendations outlined in the Geotechnical report produced by Braun Intertec dated 5-31-2022

On a motion by Susan Thompson, seconded by Brenda Derrig, the Committee voted to recommend approval of the Red River Water Course Setback Waiver in the LDZS for construction of improvements at 6405 13th Street North and 6411 13th Street North with conditions of a signed setback liability waiver with recordation and the other identified conditions above.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve the Red River Water Course Setback Waiver in the LDZS for construction of improvements at 6405 13th Street North and 6411 13th Street North with conditions of a signed setback liability waiver with recordation and the other identified conditions above.

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)

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

COMMITTEE

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

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

Memorandum

To: Members of PWPEC

From: Jody Bertrand, Storm Sewer Utility Engineer

Date: May 20, 2024

Re: Red River Water Course Setback Waiver for the Property Located at 6405 and 6411 13th Street North for the Limited Disturbance Zone Setback (LDZS) Area

Background:

The Owners at 6405 13th Street North have requested to construct a single-family residential structure on the property, which will require placing fill within a portion of the LDZS. Fill will also be placed on the lot at 6411 13th Street North to prepare for construction of a future home. The proposed building at 6405 13th Street North will not be constructed within the LDZS. A general dimensioned site plan and the geotechnical report is attached to this Memorandum. Staff has reviewed the application and associated impacts along with the submitted geotechnical report from Braun Intertec stamped by Steven Nagle, PE dated 5-31-2022.

From staff's review of the submitted geotechnical report, we have determined that this property would be eligible for a waiver from the City's Watercourse Setbacks Ordinance (§20-0508) under the previously platted lands and not built upon section of the ordinance. This determination was made after reviewing the factors specified within the ordinance and determining that all criteria has been met.

Staff recommends approval of the requested waiver from the City's Watercourse Setbacks Ordinance with the following conditions;

1. A signed and recorded Waiver of Liability for each property; and
2. Placement of fill on both lots and building location at 6405 13th Street North to be constructed per the attached dimensioned site plan sheet; and
3. Building location at 6411 13th Street North to be verified and approved at the time of future construction; and
4. Construction shall follow the recommendations outlined in the Geotechnical report produced by Braun Intertec dated 5-31-2022

Recommended Motion:

Approve the Red River Setback Waivers in the LDZS for the construction of improvements at 6405 and 6411 13th Street North with the conditions of a signed setback liability waiver with recordation and the other identified conditions above.

JRB/klb
Attachments

Geotechnical Evaluation Report


Highlands Park River Lots
6405 and 6411 13th Street North
Fargo, North Dakota

Prepared for

Park Reality Company

Professional Certification:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of North Dakota.



Steven P. Nagle, PE
Principal Engineer
Registration Number: PE-3894
May 31, 2022



May 31, 2022

Project B2202623

Troy Peterson
Park Co. Realtors
4170 41st Avenue South, Suite 102
Fargo, ND 58104

Re: Geotechnical Evaluation
• Highlands Park River Lots
6405 and 6411 13th Street North
Fargo, North Dakota

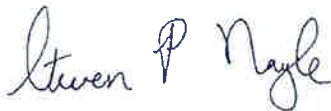
Dear Mr. Peterson:

We are pleased to present this Geotechnical Evaluation Report for the Highlands Park River Lots at 6405 and 6411 13th Street North in Fargo, North Dakota. The purpose of our work was to establish building setback requirements in accordance with City of Fargo Land Development Code 20-0508C for building within the Limited Disturbance Zone Setback (LDZS). This report summarizes the results of exploration, laboratory testing, and analytical tasks, and presents our building setback recommendations.

Thank you for making Braun Intertec your geotechnical consultant for this project. If you have questions about this report, or if there are other services that we can provide in support of our work to date, please contact Steve Nagle at 701.238.3425 (snagle@braunintertec.com).

Sincerely,

BRAUN INTERTEC CORPORATION



Steven P. Nagle, PE
Principal Engineer



Charles Hubbard
May 31 2022 12:31 PM

Charles D. Hubbard, PE
Technical Leader, Principal Engineer-Geologist

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Appendix

Soil Boring Location Sketch
 Cross Section Location Diagram
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 Unconfined Compressive Strength Test Results
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 Stability Analysis Diagrams

A. Introduction

A.1. Project Description

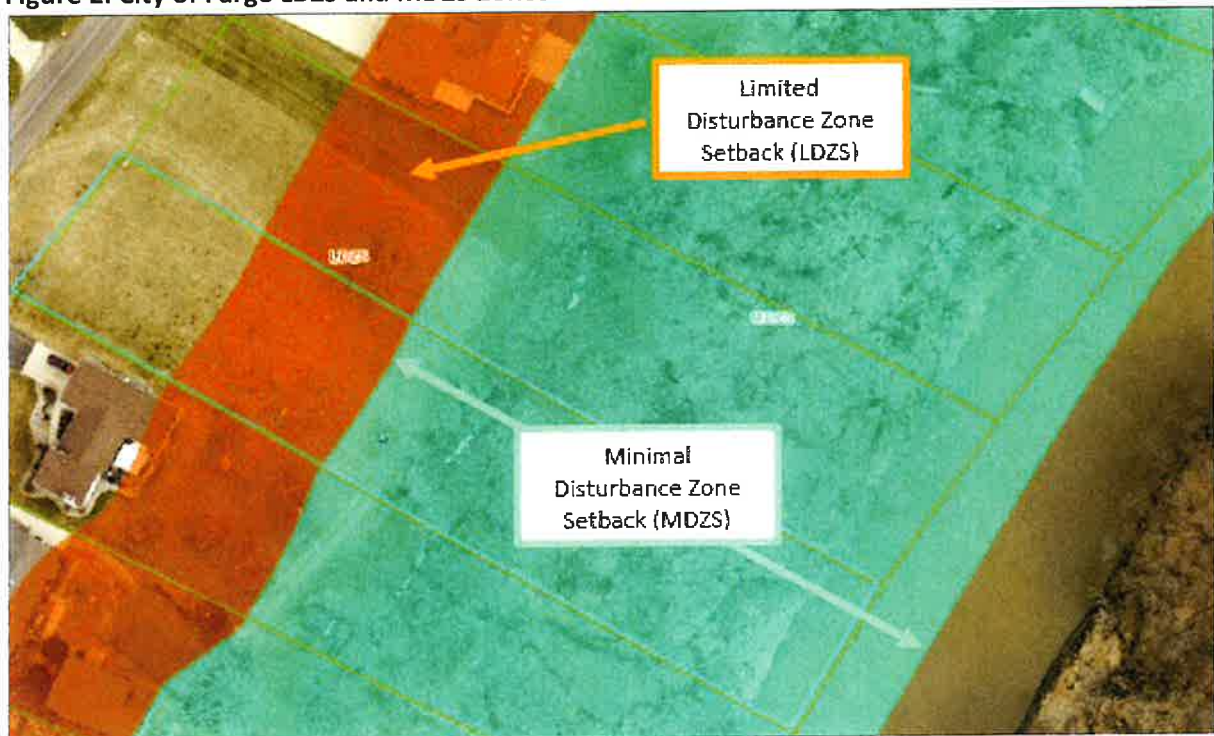
This Geotechnical Evaluation Report concerns two parcels – 6405 and 6411 13th Street North – within the Highlands Park development of Fargo, North Dakota. Federal Emergency Management Agency (FEMA) inundation maps show the parcels within the 100-year zone, a portion of which is designated by the City of Fargo under Land Development Code 20-0508C as being within the City’s Limited Disturbance Zone Setback (LDZS). Building within the LDZS requires flood mitigation and a slope stability assessment to confirm that mitigation is feasible under FEMA requirements for slope stability factors of safety.

Existing elevations between the parcels average 891 feet. The FEMA 100-year flood elevation is 893 feet, and flood protection is required to elevation 897 feet. There is a minimum 100-foot setback requirement from the “wet” side of the LDZS – coincidental with FEMA’s Zone AE Floodway or the City’s Minimal Disturbance Zone Setback (MDZS), beyond which no building is allowed. An additional 15 feet of separation is required between the limits of flood mitigation and future structures.

Figure 1 is a Google aerial of the two parcels on which topographic contours from the City GIS database was overlain. Figure 2 is a companion image showing the boundaries of the City LDZS and MDZS.

Figure 1. Parcel Location and Configuration



Figure 2. City of Fargo LDZS and MDZS Zones

A.2. Purpose

The purpose of our geotechnical evaluation was to establish building setback requirements compliant with City of Fargo Land Development Code 20-0508C.

A.3. Background Information and Reference Documents

For this evaluation, we reviewed the following documents:

- Geotechnical Evaluation Report, Preliminary Feasibility Analyses for a Flood Mitigation Program, Fargo, North Dakota, Braun Intertec Project SP11-3495, February 24, 2012.
- Design and Construction of Levees, Engineer Manual EM 1110-2-1913, US Army Corps of Engineers (USACE), April 30, 2000.
- Geology under the Fargo-Moorhead Region, North Dakota-Minnesota, Department of Geosciences, North Dakota State University, 2002.

- Correspondence between Roger Kluck of the City of Fargo Engineering Department and Troy Peterson of Park Reality Company.

We have described our understanding of the proposed construction and site to the extent others reported it to us. Depending on the extent of available information, we may have made assumptions based on our experience with similar projects. If we have not correctly recorded or interpreted the project details, the project team should notify us. New or changed information could require additional evaluation, analyses and/or recommendations.

A.4. Scope of Services

We performed our scope of services for the project in accordance with our March 21, 2022, Proposal to Park Reality Company, which was authorized on March 24, 2022. Our scope of services included the following tasks:

- Reviewing the previously cited reference documents.
- Performing a reconnaissance of the site to identify and document evidence of historic or recent slope instability such as settlement, ground cracking, seepage, and structure damage.
- Advancing one Standard Penetration Test (SPT) boring, identified as ST-01 in Figure 1, approximately 100 feet below existing grade. (A boring log is attached.)
- Perform laboratory tests on selected SPT and thin-walled tube samples of the materials encountered by the boring.
- Analyzing the stability of the parcels under existing and proposed conditions with the adjacent Red River at assumed Normal Water Level, and during and after drawdown from the 100-year flood elevation to assumed Low Water Level.
- Preparing this report summarizing the results of our exploration, laboratory testing, and analytical tasks, and presenting our building setback recommendations.

B. Results

B.1. Site Reconnaissance

Mr. Steve Nagle, PE, visited the site on April 18, 2022, to review parcel conditions, including slopes descending from prospective building areas down to the river, and document visually apparent evidence of slope instability. The boring location was also selected and staked at that time.

Evidence of slope instability was apparent along the riverbank, though the mobilized area appeared to be inactive. Features associated with slope instability – a steep scarp leading down to a hummocky terrace and, at some distance beyond, the actual riverbank – are common along outer bends of the Red River and are generally mitigated through analytically verified building setbacks.

B.2. Site History

Based on Google Earth™ imagery, the Highlands Park development is at least 30 years old. Topography from the City's GIS database shows the parcels at an average elevation of 891 feet and the historic failure scarp roughly midway between 13th Street North and the river, with total vertical relief between 13th Street North and the river amounting to approximately 30 feet.

B.3. Geologic Overview

Geologically, the area is dominated by lacustrine (lake-deposited) soils consisting mainly of fat clay that are strength sensitive and compressible. These soils are underlain at great depth by glacial till, also consisting mainly of clay but of greater strength and limited compressibility.

The lacustrine soils, from the ground surface down, are generally associated with the Sherack and Brenna Formations and are locally concealed by existing fill from historic construction. Though consisting mainly of fat clay, the existing fill and lacustrine soils of the Sherack Formation contain silt and silty sand, which in the case of the Sherack Formation help identify its boundary with the underlying Brenna Formation.

The Sherack and the upper portion of the Brenna are generally over-consolidated, while the lower Brenna is normally consolidated. Shear strength falls to a minimum below the zone of over-consolidation but rises again with depth. The soils are typically saturated or nearly so, even above the hydrostatic groundwater surface, and possess low to very low hydraulic conductivities.

B.4. Boring Results

Table 1 summarizes the boring data in the order we encountered the identified strata. Please refer to the Log of Boring sheet in the Appendix for additional details. The Descriptive Terminology sheet that follows the Log of Boring sheet defines the abbreviations given in Table 1.

Table 1. Subsurface Profile Summary

Strata	Soil Type - ASTM Classification	Range of Penetration Resistances	Commentary and Details
Fill	CH	N/A	<ul style="list-style-type: none"> ▪ Consists of fat clay with trace roots. ▪ Approximately 5 feet thick. ▪ Generally dark brown and moist.
Glacial Lake Deposits	CH	2 to 10 BPF	<ul style="list-style-type: none"> ▪ Consists of fat clay containing various amounts of silt lenses. ▪ Clays ranged from medium to very soft in consistency. ▪ Moisture condition ranged from moist to wet.

Groundwater was not observed prior to switching to mud rotary drilling techniques. We anticipate that groundwater could be within 5 feet of existing grades during times of high seasonal precipitation or flooding. Project planning should expect groundwater levels to fluctuate seasonally and periodically.

B.5. Laboratory Test Results

Laboratory test result, which are also provided on the Log of Boring sheet, are presented in Table 2.

Table 2. Laboratory Classification Test Results

Sample Depth (feet)	ASTM Class.	Dry Density (γ , pcf)	Moisture Content (w, %)	Undrained Shear Strength (S_u , psf)	Liquid Limit	Plastic Limit	Plastic Index
6 1/2– 8	Fat Clay (CH)	89	30	1,100	51	20	31
19 – 21	Fat Clay (CH)	85	35	1200	68	23	45
31 1/2-33	Fat Clay	67	55	--	106	27	79

B.6. Analytical Demonstrations

B.6.a. Cross section Development

We developed our analytical cross section using the City's LiDAR data as depicted in Figure 1. River bathymetry was estimated based on the availability of area survey data gathered to support our 2012 Preliminary Feasibility Analyses.

B.6.b. Analytical Method

We used SLOPE/W and SEEP/W by Geo-Slope, International, to perform our analyses. SLOPE/W was the sole program used to analyze parcel slope stability under existing and proposed conditions with the adjacent Red River at assumed Normal Water Level, and under post-steady seepage drawdown conditions. SLOPE/W was coupled with SEEP/W for a companion analysis of slope stability under transient drawdown conditions based on hydrograph information also provided to support our 2012 Preliminary Feasibility Analyses.

We first performed a back-calculation analysis to determine residual shear strengths for the materials impacted by historic slope instability. For this analysis, the factor of safety for the failed portion of the slope was assumed to be 1.0.

With residual shear strengths determined, we evaluated setback requirements for the parcels as they exist and as they might look after filling for flood mitigation. Consistent with USACE procedures for Red River Valley slope failures, residual shear strengths were assigned to materials within the presumed failure limits, while post-peak shear strengths were assigned to materials outside (upslope from) the failure limits. For the mitigated condition, we assumed the parcels would be filled to elevation 897 feet, rising from the setback established for the existing condition at a 3:1 (horizontal:vertical) gradient.

The steady seepage drawdown analysis used the USACE's dual piezometric surface method where drawdown is assumed to occur in the absence of water draining from the riverbank and grades beyond. The transient drawdown analysis relied on the flood hydrograph to simulate infiltration into and then drainage from the riverbank and grades beyond during the flood event in SEEP/W. Slope stability factors of safety were then determined for 15 timesteps during drawdown 21 to 250 days after the flood crest.

FEMA/USACE factor of safety minimums are 1.2 for failed sections under non-flood conditions and 1.0 to 1.2 under drawdown conditions.

B.6.c. Shear Strength Parameters

Braun Intertec has a database of triaxial shear tests from which we have evaluated composite and site-specific shear strength parameters for the materials and Formations referenced herein. Graphs of post-peak drained and 3-stage undrained shear strength data plots for existing fill and the Sherack and Brenna formations are attached. For the Sherack and Brenna formations, composite and site-specific plots are provided to demonstrate how the data can be used to determine upper bound, lower bound, or average shear strength parameters. This project lies within an area where the shear strength of the Brenna specifically is lower than average, and this is reflected in the graphs.

Table 3 summarizes the parameters used for our analyses. The cells are colored to match the strata defined in the attached analytical graphics.

Table 3. Shear Strength Parameters

		Shear Strength						Permeability	
		Effective Stress - Post Peak		Effective Stress - Residual		3-Stage Drawdown			
Material	γ , pcf	ϕ , deg.	C, psf	ϕ , deg.	C, psf	ϕ_R , deg.	C_R , psf	K _x , ft/d	K _v /K _x
Existing Fill	121	27.1	0	20	0	12.8	512	0.01	1.0
New Fill	121	27	0	NA		12	800	0.01	1.0
Sherack	115	27.1	0	15	0	9.6	608	0.0002	0.1
Brenna	102	13.1	0	8.3	0	6.5	402	0.0001	0.1
Glacial Till	122	30	0	NA		12	2000	0.01	1.0

B.6.d. Factors of Safety

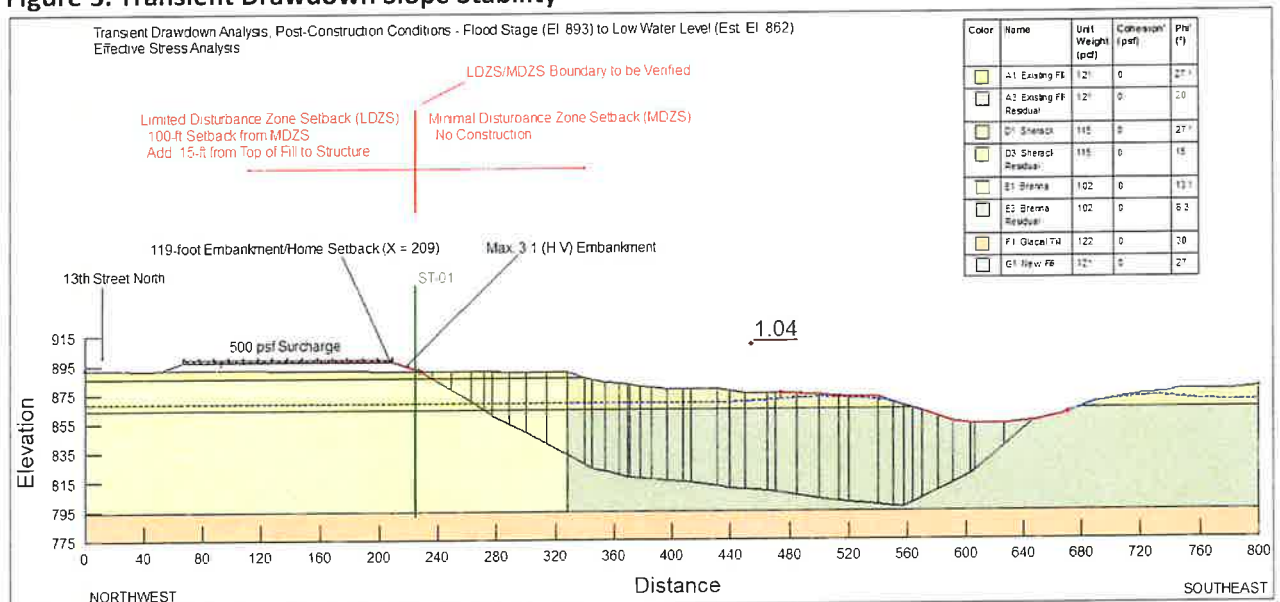
Computed factors of safety are presented in Table 4 and compared to FEMA/USACE minimum values. The computed factors of safety are also shown on the attached analytical graphics. Figure 3, from our transient drawdown analysis, shows the factor of safety 250 days post-flood and, like the rest of the attached graphics, shows how the trial failure surface aligns with the apparent LZDS/MZDS boundary (interpreted versus verified) and determines the building setback.

Table 4 and Figure 3 show that the building setback aligns with the apparent LZDS/MZDS boundary such that pad fill could be built up from the boundary – once verified by survey – and a structure setback an additional 15 feet from the crest of the fill. (As we understand it, the mitigation elevation – 897 feet for this project – needs to be maintained for 15 feet beyond a structure bearing on or behind the fill.)

Table 4. Factor of Safety Summary

Analytical Condition	Computed Factor of Safety	Factor of Safety Minimum
Back-Calculation of Residual Shear Strength Parameters - NWL (868)	1.00	NA
Setback Analysis, Existing Grade - NWL (868)	1.22	1.2
Setback Analysis, Post-Construction - NWL (868)	1.22	1.2
Transient Drawdown Analysis, Post-Construction - Flood Stage (893) to LWL (862)	1.04	1.0 - 1.2
Steady Seepage Analysis, Post Construction - Flood Stage (893) to LWL (862)	1.08	1.0 - 1.2

Figure 3. Transient Drawdown Slope Stability



C. Conclusions and Recommendations

C.1. LDC 20-0508C Compliance

Our findings demonstrate that the parcels in question can be developed in compliance with Land Development Code 20-0508C while also meeting FEMA/USACE slope stability factor of safety minimums. Parcel development, however, should proceed based on the following Construction Recommendations.

C.2. Construction Recommendations

C.2.a. Setback Establishment

Fill to raise the parcels to the mitigation elevation of 897 feet shall not be placed closer than 100 feet to the crest of the slope leading down to the river, or beyond the LZDS/MZDS boundary, whichever results in the farther setback from the river. (This will require survey to verify the location of the LZDS/MZDS boundary.) Structures shall be set back an additional 15 feet from the crest of the mitigation fill.

We assumed slab-on-grade construction at elevation 897 feet – we understand the first floor may be set as low as 895 feet if desired, however. If a basement is desired, plans shall comply with the provisions of FEMA Technical Bulletin (TB) 10-01 which addresses basements below the Base Flood Level (in this case, below elevation 893).

C.2.b. Further Evaluation

The present information suggests that structure foundations, slabs, and pavements will bear on new fill placed atop existing fill. We have not evaluated the existing fill or other underlying materials from the perspective of structure support. Furthermore, the limited information available should not be assumed to characterize potential structure footprints. Once plans have been developed for a home and other structures, we recommend performing a supplemental geotechnical evaluation to characterize foundation, slab, and pavement subgrades and develop recommendations for parcel grading and the design of said structures.

D. Procedures

D.1. Standard Penetration Test Boring

We drilled our SPT boring with a truck-mounted core and auger drill equipped with hollow-stem auger. We performed the boring in general accordance with ASTM D6151, taking SPT samples at 2 1/2- or 5-foot intervals in general accordance with ASTM D1586. We collected thin-walled tube samples in general accordance with ASTM D1587 at selected depths. The boring log shows the actual sample intervals and corresponding depths.

D.2. Log of Boring Sheet

The attached Log of Boring sheet identifies and describes the penetrated geologic materials and presents the results of SPT testing, groundwater measurements, and laboratory testing.

We inferred strata boundaries from changes in the penetration test samples and the auger cuttings. Because we did not perform continuous sampling, the strata boundary depths are only approximate. The boundary depths likely vary away from the boring, and the boundaries themselves may occur as gradual rather than abrupt transitions.

We assigned geologic origins to the materials shown on the log and referenced within this report, based on: (1) our reference documents, (2) visual and manual classification, (3) SPT testing, (4) laboratory test results, and (5) available common knowledge of the geologic processes and environments that have impacted the site and surrounding area in the past.

D.3. Material Classification and Testing

We visually and manually classified the geologic materials encountered based on ASTM D2488. When we performed laboratory classification tests, we used the results to classify the geologic materials in accordance with ASTM D2487. The Appendix includes a chart explaining the classification system.

We performed our laboratory tests in general accordance with ASTM procedures.

D.4. Groundwater Measurements

The drillers checked for groundwater while advancing the penetration test boring, and again after auger withdrawal. We left a single borehole open for an extended period of observation, as noted on the boring log before backfilling with bentonite chips.

E. Qualifications

E.1. Variations in Subsurface Conditions

E.1.a. Material Strata

We developed our evaluation, analyses, and recommendations from a limited amount of site and subsurface information. It is not standard engineering practice to retrieve material samples continuously. Therefore, we must infer strata boundaries and thicknesses to some extent. Strata boundaries may also be gradual transitions, and project planning should expect the strata to vary in depth, elevation, and thickness, away from exploration locations.

Variations in subsurface conditions may not be revealed until performing additional exploration work or starting construction. If future activity for this project reveals any such variations, you should notify us so that we may reevaluate our recommendations. Such variations could increase construction costs, and we recommend including a contingency to accommodate them.

E.1.b. Groundwater Levels

We made groundwater measurements under the conditions reported herein and shown on the exploration log and interpreted in the text of this report. Note that the observation periods were relatively short, and project planning can expect groundwater levels to fluctuate in response to rainfall, flooding, irrigation, seasonal freezing and thawing, surface drainage modifications and other seasonal and annual factors.

E.2. Continuity of Professional Responsibility

E.2.a. Plan Review

We based this report on a limited amount of information, and we made assumptions to help us develop our recommendations. We should be retained to review the geotechnical aspects of the designs and specifications. This review will allow us to evaluate whether we anticipated the design correctly, if any design changes affect the validity of our recommendations, and if the design and specifications correctly interpret and implement our recommendations.

E.2.b. Construction Observations and Testing

We recommend retaining us to perform the required observations and testing during construction as part of the ongoing geotechnical evaluation. This will allow us to correlate the subsurface conditions exposed during construction with those encountered by the borings and provide professional continuity

from the design phase to the construction phase. If we do not perform observations and testing during construction, it becomes the responsibility of others to validate the assumption made during the preparation of this report and to accept the construction-related geotechnical engineer-of-record responsibilities.

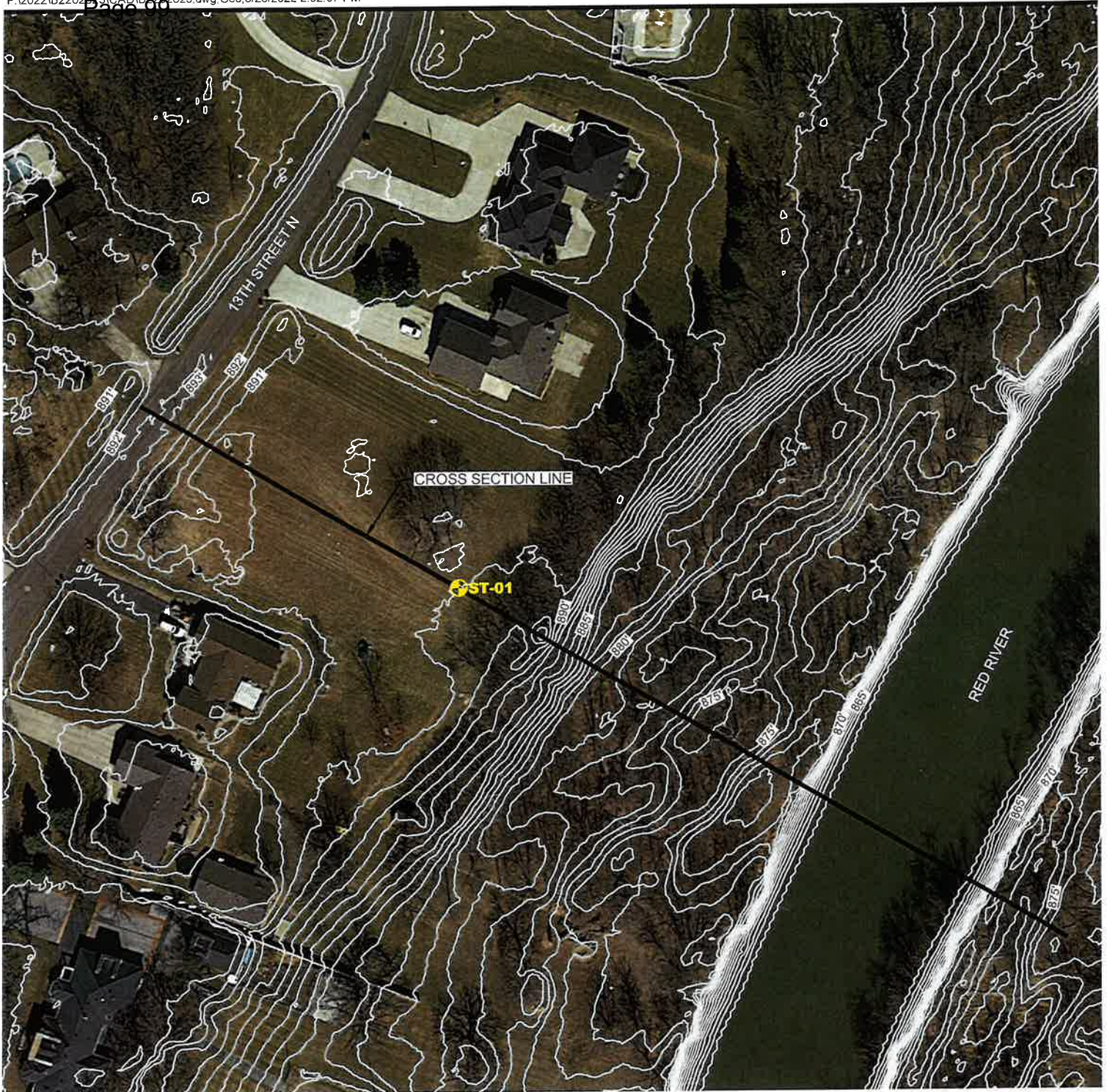
E.3. Use of Report

This report is for the exclusive use of the addressed parties. Without written approval, we assume no responsibility to other parties regarding this report. Our evaluation, analyses and recommendations may not be appropriate for other parties or projects.

E.4. Standard of Care

In performing its services, Braun Intertec used that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession currently practicing in the same locality. No warranty, express or implied, is made.

Appendix



 DENOTES APPROXIMATE LOCATION OF STANDARD PENETRATION TEST BORING



SCALE: 1" = 100'

**BRAUN
INTERTEC**
The Science You Build On.

526 10th Street NE, Suite 300
West Fargo, ND 58078
701.232.8701
braunintertec.com

Project No:
B2202623

Drawing No:
B2202623

Drawn By: BJB
Date Drawn: 5/25/22
Checked By: SN
Last Modified: 5/25/22

Highlands Park River Lots

6405 and 6411 13th Street North

Fargo, North Dakota

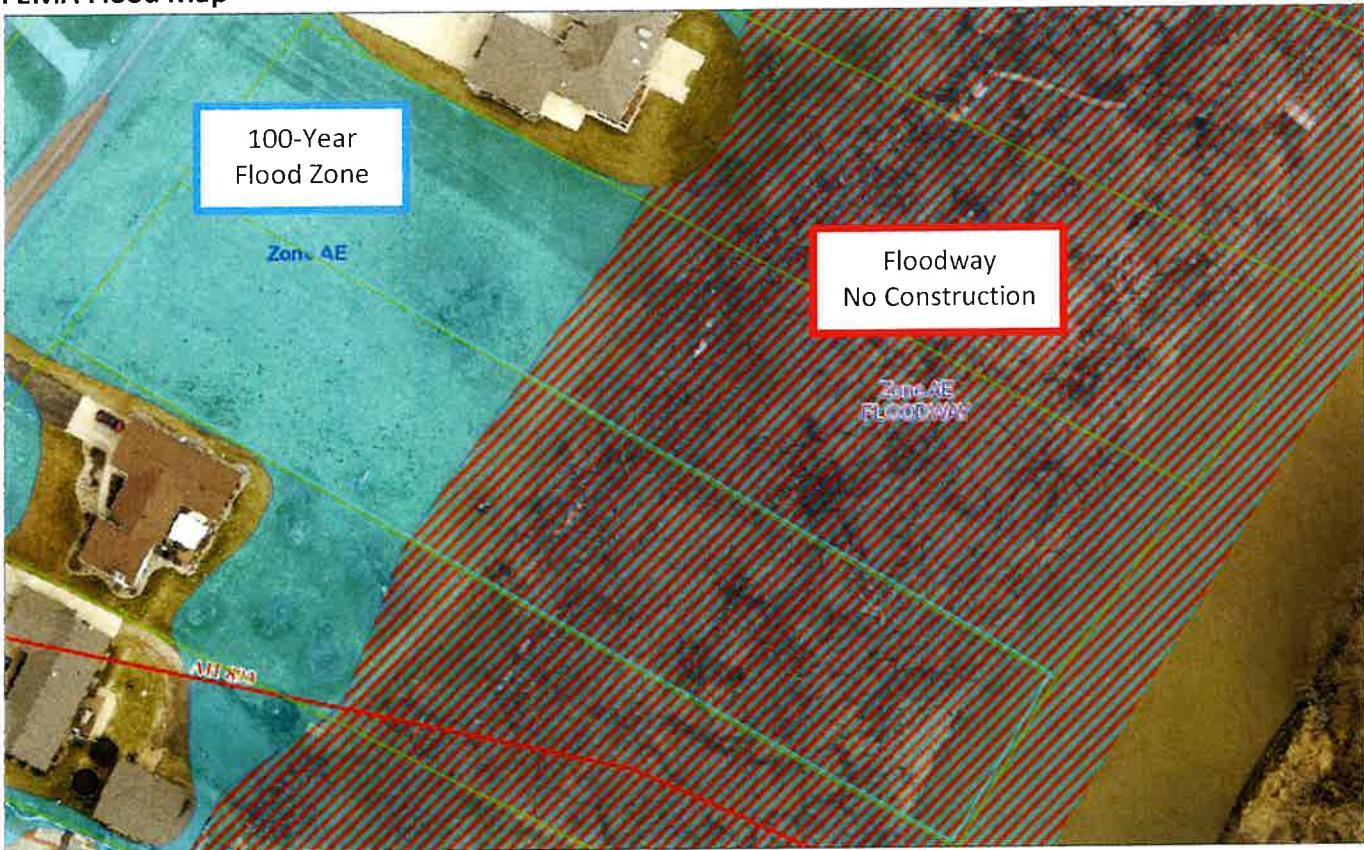
**Soil Boring
Location Sketch**

B2202623: Flood Mapping for Highlands Park River Lots

City of Fargo Land Development Code 20-0508C Disturbance Zones Map



FEMA Flood Map



See Descriptive Terminology sheet for explanation of abbreviations

Project Number B2202623				BORING: ST-01	
Geotechnical Evaluation				LOCATION: See attached sketch	
Highlands Park River Lots				LATITUDE: 46.96326	
6405 & 6411 13th Ave St N				LONGITUDE: -96.79884	
Fargo, North Dakota				START DATE: 04/19/22	
DRILLER: C. Gorman		LOGGED BY: C. Lindeman		END DATE: 04/19/22	
SURFACE ELEVATION: 891.0 ft	RIG: 7508	METHOD: 3 1/4" HSA	SURFACING: Grass	WEATHER: Clear	

Elev./Depth ft	Water Level	Description of Materials (Soil-ASTM D2488 or 2487; Rock-USACE EM 1110-1-2908)	Sample	Blows (N-Value) Recovery	q _p tsf	MC %	Tests or Remarks
886.0		FILL: FAT CLAY (CH), with roots, black to brown, moist to dry		AU			
5.0		FAT CLAY (CH), with Silt lenses, brown and gray, moist, stiff, becoming soft (GLACIAL LAKE)		2-3-4 (7) 6"		27	
				7-12-15 (27) 14"		22	
				TW 22"		30	LL=51, PL=20, PI=31
		Switched to mud rotary at 11 feet		3-4-5 (9) 16"		34	DD=89 pcf WD=115 pcf Su=1,100 psf
				4-5-5 (10) 18"		41	
				4-4-6 (10) 16"		35	
				4-5-6 (11) 18"		36	
		6 inch Silt layer at 22 1/2 feet		TW 24"		35	LL=68, PL=23, PI=45
				4-4-4 (8) 16"		32	DD=85 pcf WD=115 pcf Su=1,200 psf
				2-2-2 (4) 18"		43	DD=77 pcf WD=110 pcf
864.0		FAT CLAY (CH), gray, moist, soft (GLACIAL LAKE)		1-2-2 (4) 18"		61	DD=63 pcf WD=102 pcf
27.0				1-2-2 (4) 18"		61	
				TW 24"		55	LL=106, PL=27, PI=79
				1-1-2 (3) 18"		66	DD=67 pcf WD=104 pcf
				1-1-2 (3) 16"		64	
				1-2-2 (4) 18"		64	

Continued on next page

LOG OF BORING

See Descriptive Terminology sheet for explanation of abbreviations

Project Number B2202623				BORING: ST-01	
Geotechnical Evaluation				LOCATION: See attached sketch	
Highlands Park River Lots				LATITUDE: 46.96326	
6405 & 6411 13th Ave St N				LONGITUDE: -96.79884	
Fargo, North Dakota				START DATE: 04/19/22	
DRILLER: C. Gorman		LOGGED BY: C. Lindeman		END DATE: 04/19/22	
SURFACE ELEVATION: 891.0 ft		RIG: 7508		SURFACING: Grass	
		METHOD: 3 1/4" HSA		WEATHER: Clear	

Elev./ Depth ft	Water Level	Description of Materials (Soil-ASTM D2488 or 2487; Rock-USACE EM 1110-1-2908)	Sample	Blows (N-Value) Recovery	q _p tsf	MC %	Tests or Remarks
		FAT CLAY (CH), gray, moist, soft (GLACIAL LAKE)					
			45	1-1-1 (2) 18"		71	
			50	1-1-2 (3) 18"		71	DD=59 pcf WD=101 pcf
			55	1-1-1 (2) 18"		39	
			60	0-1-1 (2) 18"		70	
			65	1-1-2 (3) 18"		66	DD=59 pcf WD=98 pcf
			70	1-1-1 (2) 18"		62	
			75	1-1-2 (3) 18"		44	
			80	1-1-2 (3) 18"		51	

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LOG OF BORING

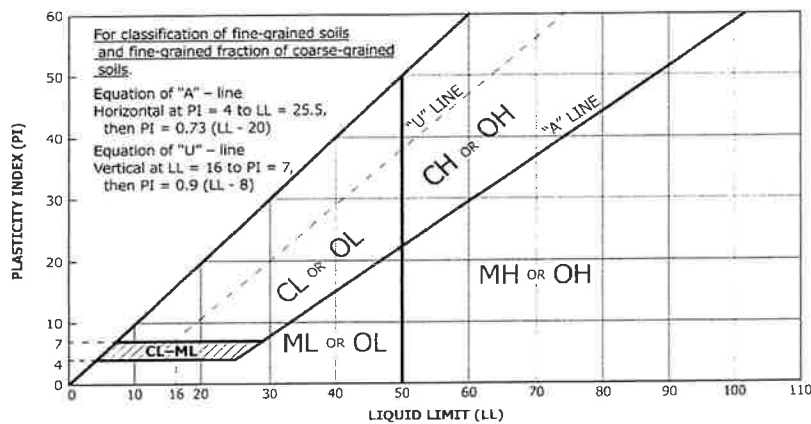
See Descriptive Terminology sheet for explanation of abbreviations

Project Number B2202623 Geotechnical Evaluation Highlands Park River Lots 6405 & 6411 13th Ave St N Fargo, North Dakota				BORING: ST-01	
				LOCATION: See attached sketch	
DRILLER: C. Gorman		LOGGED BY: C. Lindeman		START DATE: 04/19/22	END DATE: 04/19/22
SURFACE ELEVATION: 891.0 ft	RIG: 7508	METHOD: 3 1/4" HSA	SURFACING: Grass	WEATHER: Clear	

Elev./ Depth ft	Water Level	Description of Materials (Soil-ASTM D2488 or 2487; Rock-USACE EM 1110-1-2908)	Sample	Blows (N-Value) Recovery	q _p tsf	MC %	Tests or Remarks
		FAT CLAY (CH), gray, moist, soft (GLACIAL LAKE)	85	1-1-1 (2) 18"		48	
			90	1-1-2 (3) 18"		50	
			95	1-1-2 (3) 18"		50	DD=70 pcf WD=105 pcf
794.0							
97.0		SANDY LEAN CLAY (CL), trace Gravel, gray, wet, hard (GLACIAL TILL)					
791.2							
99.8		END OF BORING	100	23-50/-2" (REF) 6"		19	Water not observed while drilling.
		Boring sealed with bentonite					
			105				
			110				
			115				
			120				
			125				

Criteria for Assigning Group Symbols and Group Names Using Laboratory Tests ^a				Soil Classification	
				Group Symbol	Group Name ^b
Coarse-grained Soils (more than 50% retained on No. 200 sieve)	Gravels (More than 50% of coarse fraction retained on No. 4 sieve)	Clean Gravels (Less than 5% fines ^c)	$C_u \geq 4$ and $1 \leq C_c \leq 3^d$	GW	Well-graded gravel ^e
			$C_u < 4$ and/or ($C_c < 1$ or $C_c > 3$) ^d	GP	Poorly graded gravel ^e
		Gravels with Fines (More than 12% fines ^c)	Fines classify as ML or MH	GM	Silty gravel ^{efg}
		Fines Classify as CL or CH	GC	Clayey gravel ^{efg}	
	Sands (50% or more coarse fraction passes No. 4 sieve)	Clean Sands (Less than 5% fines ^h)	$C_u \geq 6$ and $1 \leq C_c \leq 3^d$	SW	Well-graded sand ⁱ
			$C_u < 6$ and/or ($C_c < 1$ or $C_c > 3$) ^d	SP	Poorly graded sand ⁱ
Sands with Fines (More than 12% fines ^h)		Fines classify as ML or MH	SM	Silty sand ^{fgi}	
	Fines classify as CL or CH	SC	Clayey sand ^{fgi}		
Fine-grained Soils (50% or more passes the No. 200 sieve)	Silt and Clays (Liquid limit less than 50)	Inorganic	PI > 7 and plots on or above "A" line ^j	CL	Lean clay ^{kLM}
			PI < 4 or plots below "A" line ^j	ML	Silt ^{kLM}
	Organic	Liquid Limit - oven dried		OL	Organic clay ^{kLMN}
		Liquid Limit - not dried	< 0.75		Organic silt ^{kLMO}
	Silt and Clays (Liquid limit 50 or more)	Inorganic	PI plots on or above "A" line	CH	Fat clay ^{kLM}
			PI plots below "A" line	MH	Elastic silt ^{kLM}
Organic	Liquid Limit - oven dried		OH	Organic clay ^{kLMP}	
	Liquid Limit - not dried	< 0.75		Organic silt ^{kLMQ}	
Highly Organic Soils	Primarily organic matter, dark in color, and organic odor			PT	Peat

- A. Based on the material passing the 3-inch (75-mm) sieve.
- B. If field sample contained cobbles or boulders, or both, add "with cobbles or boulders, or both" to group name.
- C. Gravels with 5 to 12% fines require dual symbols:
GW-GM well-graded gravel with silt
GW-GC well-graded gravel with clay
GP-GM poorly graded gravel with silt
GP-GC poorly graded gravel with clay
- D. $C_u = D_{60} / D_{10}$ $C_c = (D_{30})^2 / (D_{10} \times D_{60})$
- E. If soil contains $\geq 15\%$ sand, add "with sand" to group name.
- F. If fines classify as CL-ML, use dual symbol GC-GM or SC-SM.
- G. If fines are organic, add "with organic fines" to group name.
- H. Sands with 5 to 12% fines require dual symbols:
SW-SM well-graded sand with silt
SW-SC well-graded sand with clay
SP-SM poorly graded sand with silt
SP-SC poorly graded sand with clay
- I. If soil contains $\geq 15\%$ gravel, add "with gravel" to group name.
- J. If Atterberg limits plot in hatched area, soil is CL-ML, silty clay.
- K. If soil contains 15 to < 30% plus No. 200, add "with sand" or "with gravel", whichever is predominant.
- L. If soil contains $\geq 30\%$ plus No. 200, predominantly sand, add "sandy" to group name.
- M. If soil contains $\geq 30\%$ plus No. 200 predominantly gravel, add "gravelly" to group name.
- N. PI ≥ 4 and plots on or above "A" line.
- O. PI < 4 or plots below "A" line.
- P. PI plots on or above "A" line.
- Q. PI plots below "A" line.



- Laboratory Tests**
- DD Dry density, pcf
 - WD Wet density, pcf
 - P200 % Passing #200 sieve
 - MC Moisture content, %
 - OC Organic content, %
 - q_p Pocket penetrometer strength, tsf
 - q_u Unconfined compression test, tsf
 - LL Liquid limit
 - PL Plastic limit
 - PI Plasticity index

Particle Size Identification

- Boulders..... over 12"
- Cobbles..... 3" to 12"
- Gravel
Coarse..... 3/4" to 3" (19.00 mm to 75.00 mm)
Fine..... No. 4 to 3/4" (4.75 mm to 19.00 mm)
- Sand
Coarse..... No. 10 to No. 4 (2.00 mm to 4.75 mm)
Medium..... No. 40 to No. 10 (0.425 mm to 2.00 mm)
Fine..... No. 200 to No. 40 (0.075 mm to 0.425 mm)
- Silt..... No. 200 (0.075 mm) to .005 mm
- Clay..... < .005 mm

Relative Proportions^{L, M}

- trace..... 0 to 5%
- little..... 6 to 14%
- with..... $\geq 15\%$

Inclusion Thicknesses

- lens..... 0 to 1/8"
- seam..... 1/8" to 1"
- layer..... over 1"

Apparent Relative Density of Cohesionless Soils

- Very loose 0 to 4 BPF
- Loose 5 to 10 BPF
- Medium dense..... 11 to 30 BPF
- Dense..... 31 to 50 BPF
- Very dense..... over 50 BPF

Consistency of Cohesive Soils

- | Blows Per Foot | Approximate Unconfined Compressive Strength |
|-----------------------------------|---|
| Very soft..... 0 to 1 BPF..... | < 0.25 tsf |
| Soft..... 2 to 4 BPF..... | 0.25 to 0.5 tsf |
| Medium..... 5 to 8 BPF..... | 0.5 to 1 tsf |
| Stiff..... 9 to 15 BPF..... | 1 to 2 tsf |
| Very Stiff..... 16 to 30 BPF..... | 2 to 4 tsf |
| Hard..... over 30 BPF..... | > 4 tsf |

Moisture Content:

- Dry:** Absence of moisture, dusty, dry to the touch.
- Moist:** Damp but no visible water.
- Wet:** Visible free water, usually soil is below water table.

Drilling Notes:

Blows/N-value: Blows indicate the driving resistance recorded for each 6-inch interval. The reported N-value is the blows per foot recorded by summing the second and third interval in accordance with the Standard Penetration Test, ASTM D1586.

Partial Penetration: If the sampler could not be driven through a full 6-inch interval, the number of blows for that partial penetration is shown as #/x" (i.e. 50/2"). The N-value is reported as "REF" indicating refusal.

Recovery: Indicates the inches of sample recovered from the sampled interval. For a standard penetration test, full recovery is 18", and is 24" for a thinwall/shelby tube sample.

WOH: Indicates the sampler penetrated soil under weight of hammer and rods alone; driving not required.

WOR: Indicates the sampler penetrated soil under weight of rods alone; hammer weight and driving not required.

Water Level: Indicates the water level measured by the drillers either while drilling (∇), at the end of drilling (\blacktriangledown), or at some time after drilling (\blacktriangledown).

Sample Symbols

- Standard Penetration Test
- Modified California (MC)
- Auger
- Grab Sample
- Rock Core
- Thinwall (TW)/Shelby Tube (SH)
- Texas Cone Penetrometer
- Dynamic Cone Penetrometer

526 10th St NE, Suite 300
 PO Box 485
 West Fargo, ND 58078
 Phone: 701-232-8701

Client:
 Park Company Realtors
 614 Main Avenue, Suite 220
 Fargo, ND 58103

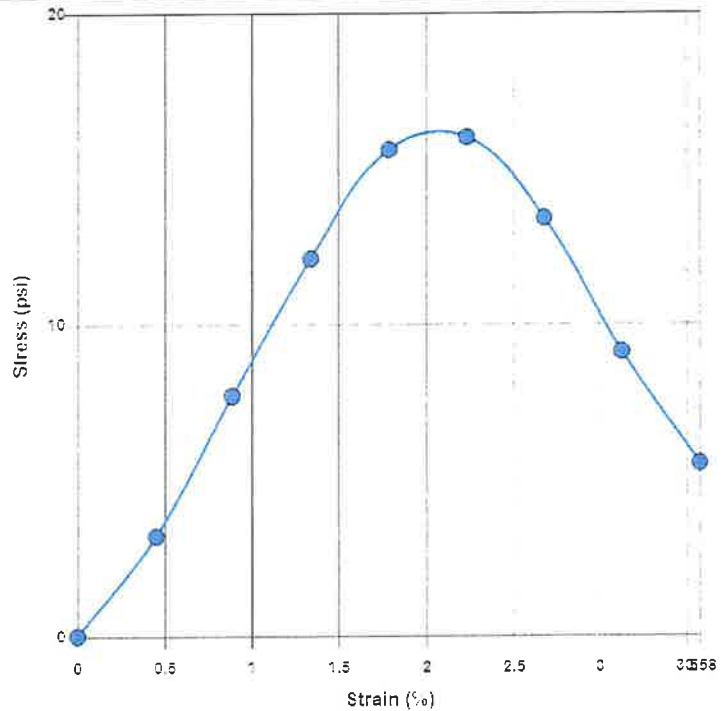
Project:
 B2202623
 Highlands Park River Lots
 6405 and 6411 13th Street North
 Fargo, ND

Sample Information

Sample Number:	441068	Alternate ID:	Sample # 4
Sampling Method:	Thinwall Tube ASTM D1587	Depth (ft):	6.5' - 8.5'
Boring Number:	ST-01	Sampled By:	Drill Crew
Sample Date:	04/19/2022		
Received Date:	05/02/2022	Lab:	526 10th Street NE, Suite 300, West Fargo, ND
Tested Date:	05/03/2022	Tested By:	Jacquemart, Trevor

Laboratory Data

Specimen Type:	Intact
Average Diameter (in):	2.869
Average Length (in):	5.593
Height to Diameter Ratio:	1.95
Wet Density (pcf):	115.3
Moisture Specimen:	Entire sample after shear
Moisture Content (%):	30.2
Dry Density (pcf):	88.6
Average Strain Rate (%/min):	3.91
Strain At Failure (%):	2.23
Unconfined Compressive Strength (psi):	16.1
Unconfined Compressive Strength (tsf):	1.16
Shear Strength (tsf):	0.58



Soil Classification: Fat Clay (CH) with Silt lenses

General

526 10th St NE, Suite 300
 PO Box 485
 West Fargo, ND 58078
 Phone: 701-232-8701

Client:
 Park Company Realtors
 614 Main Avenue, Suite 220
 Fargo, ND 58103

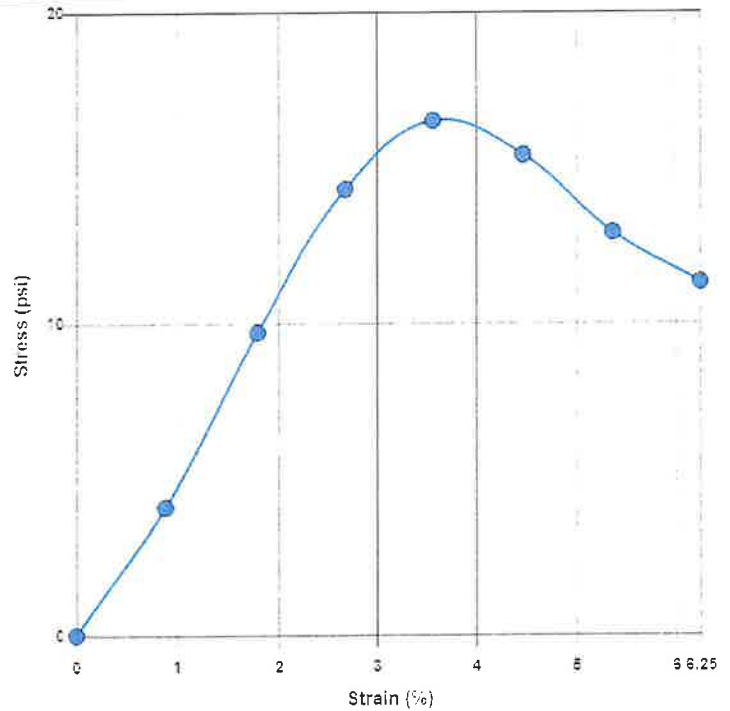
Project:
 B2202623
 Highlands Park River Lots
 6405 and 6411 13th Street North
 Fargo, ND

Sample Information

Sample Number:	441069	Alternate ID:	Sample # 9
Sampling Method:	Thinwall Tube ASTM D1587	Depth (ft):	19' -21'
Boring Number:	ST-01	Sampled By:	Drill Crew
Sample Date:	04/19/2022		
Received Date:	05/02/2022	Lab:	526 10th Street NE, Suite 300, West Fargo, ND
Tested Date:	05/03/2022	Tested By:	Jacquemart, Trevor

Laboratory Data

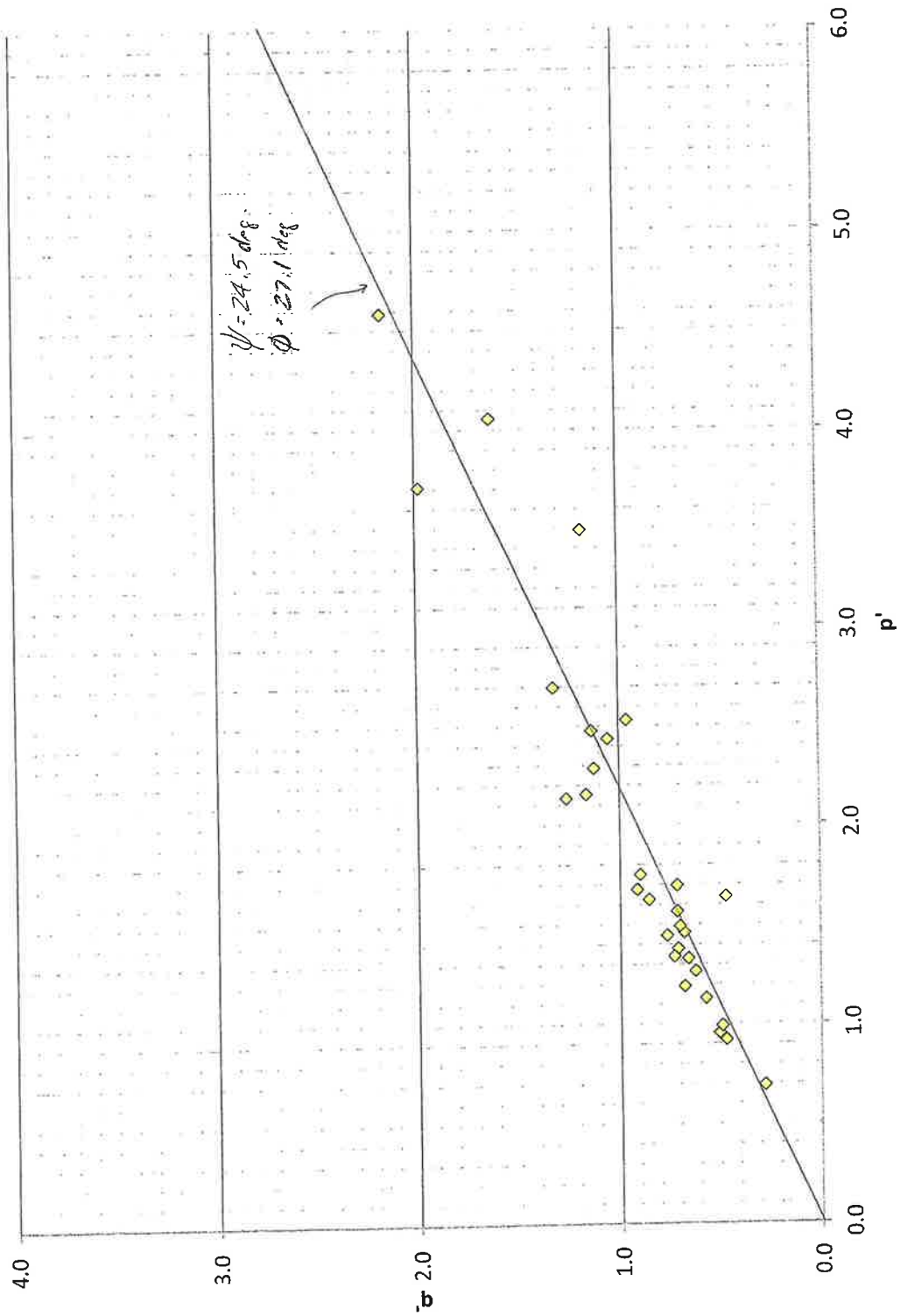
Specimen Type:	Intact
Average Diameter (in):	2.874
Average Length (in):	5.597
Height to Diameter Ratio:	1.95
Wet Density (pcf):	114.8
Moisture Specimen:	Entire sample after shear
Moisture Content (%):	34.9
Dry Density (pcf):	85.1
Average Strain Rate (%/min):	4.12
Strain At Failure (%):	3.57
Unconfined Compressive Strength (psi):	16.5
Unconfined Compressive Strength (tsf):	1.19
Shear Strength (tsf):	0.6



Soil Classification: Fat Clay (CH) with Silt lenses

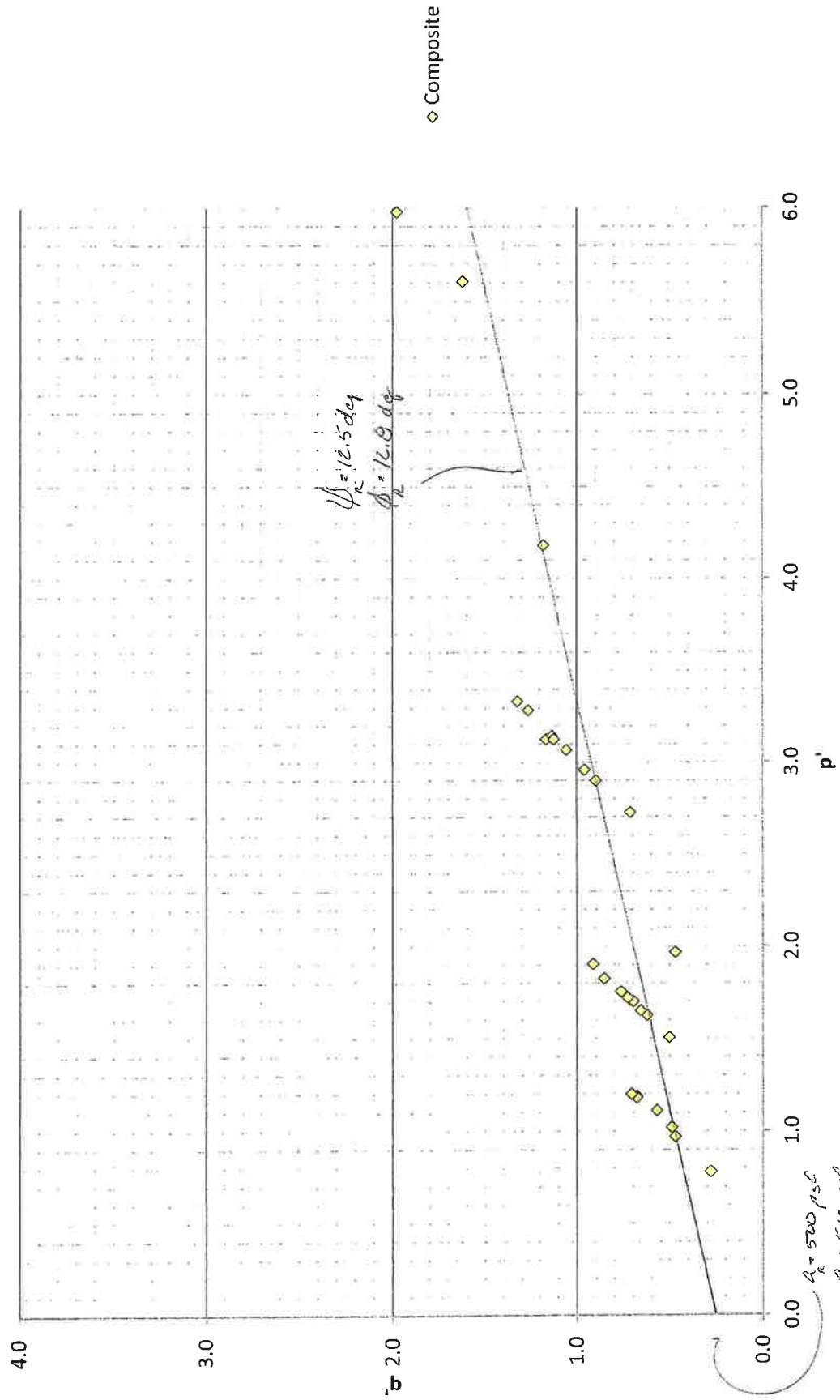
General

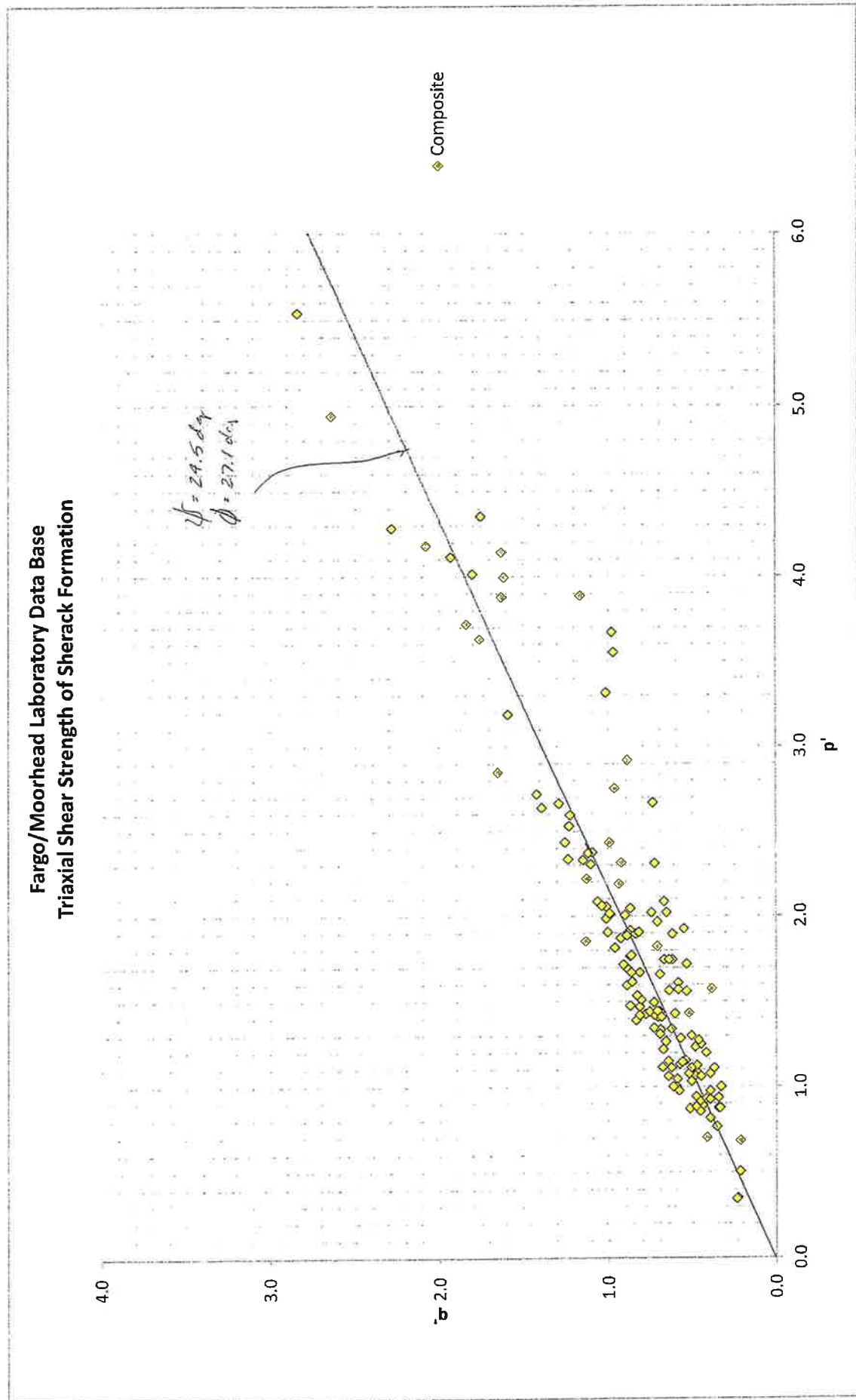
Fargo/Moorhead Laboratory Data Base Triaxial Shear Strength of Fill



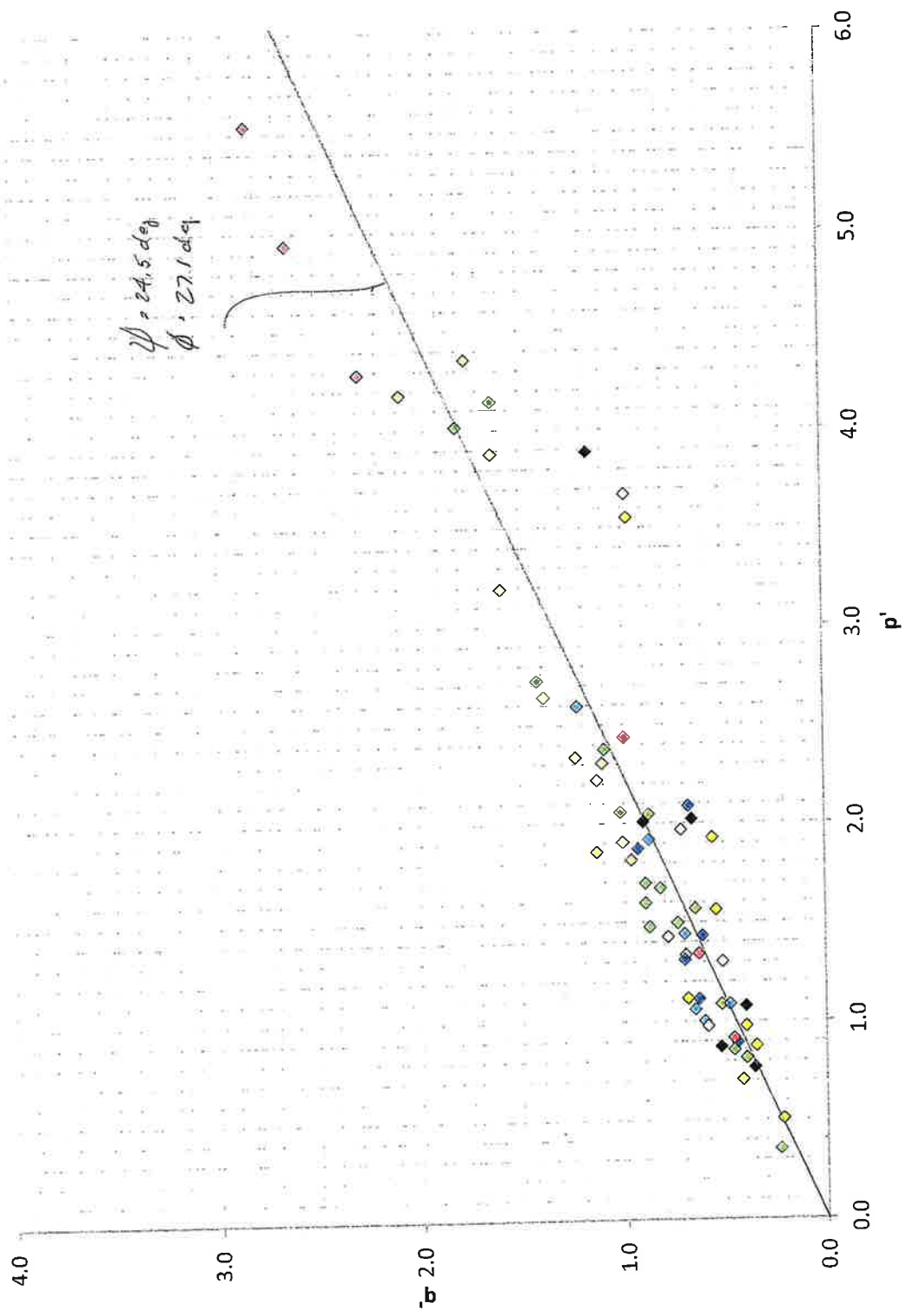
◇ Composite

Fargo/Moorhead Laboratory Data Base
3-Stage Shear Strength of Fill

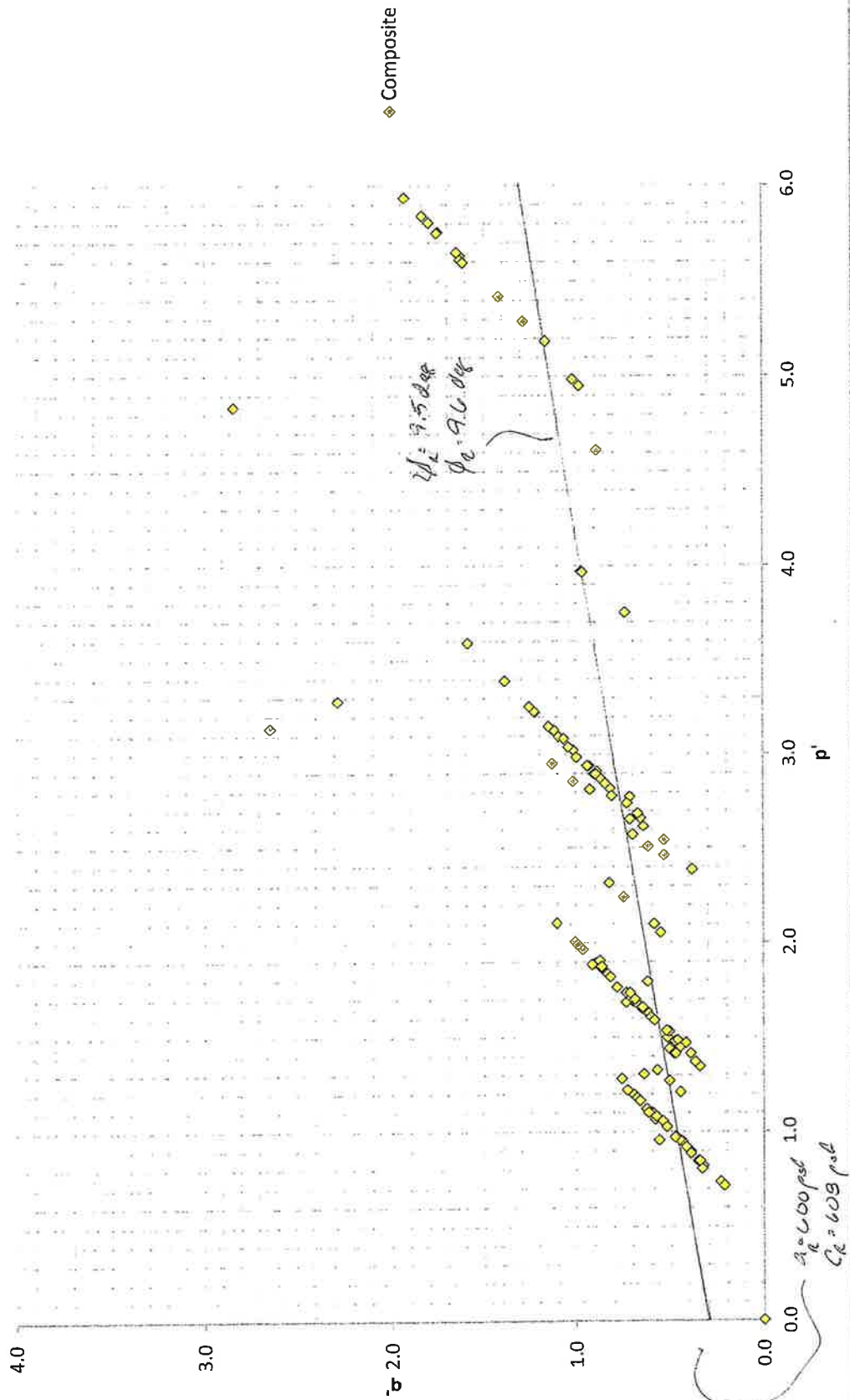




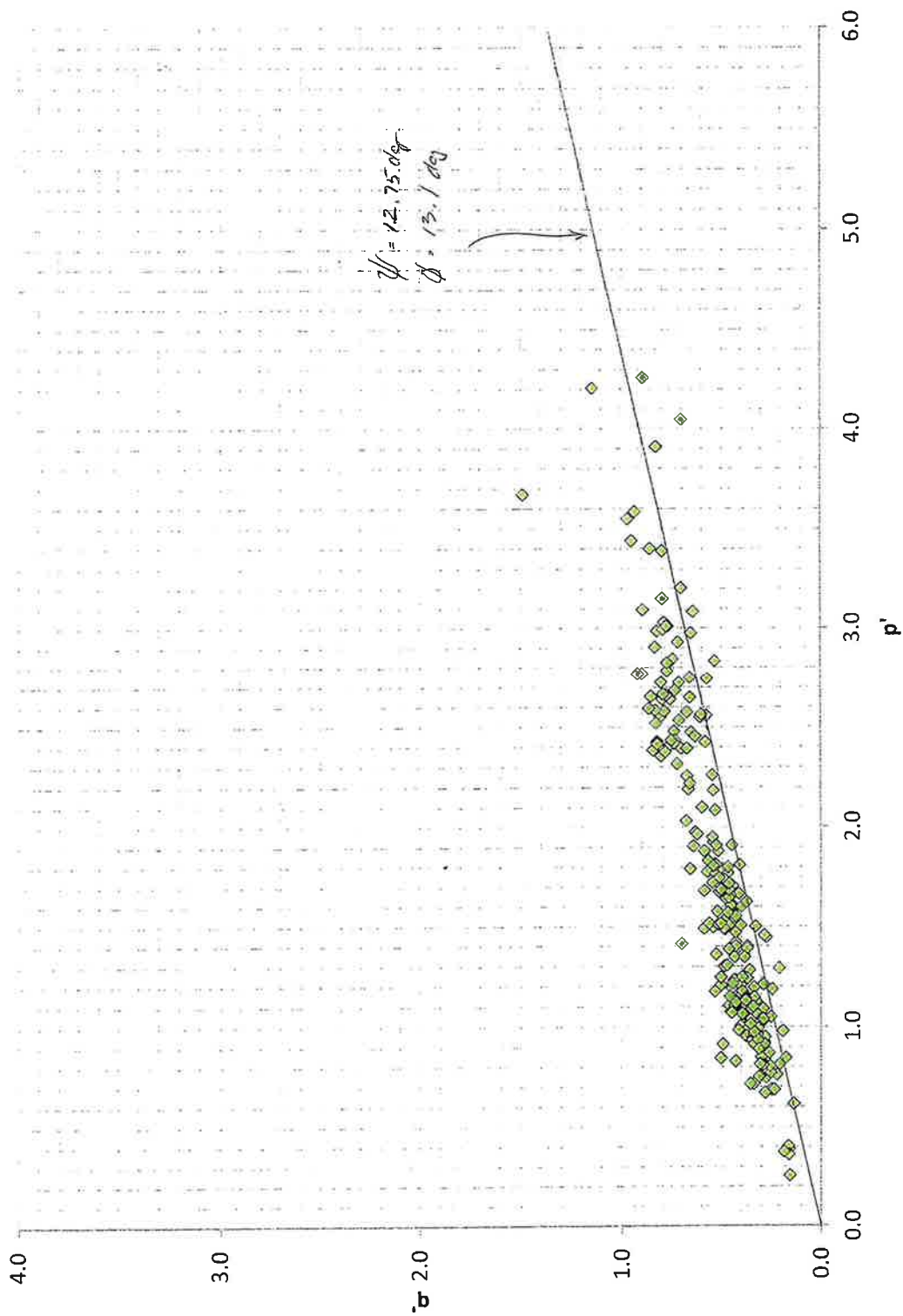
Fargo/Moorhead Laboratory Data Base
Triaxial Shear Strength of Sherack Formation



Fargo/Moorhead Laboratory Data Base
3-Stage Shear Strength of Sherack Formation

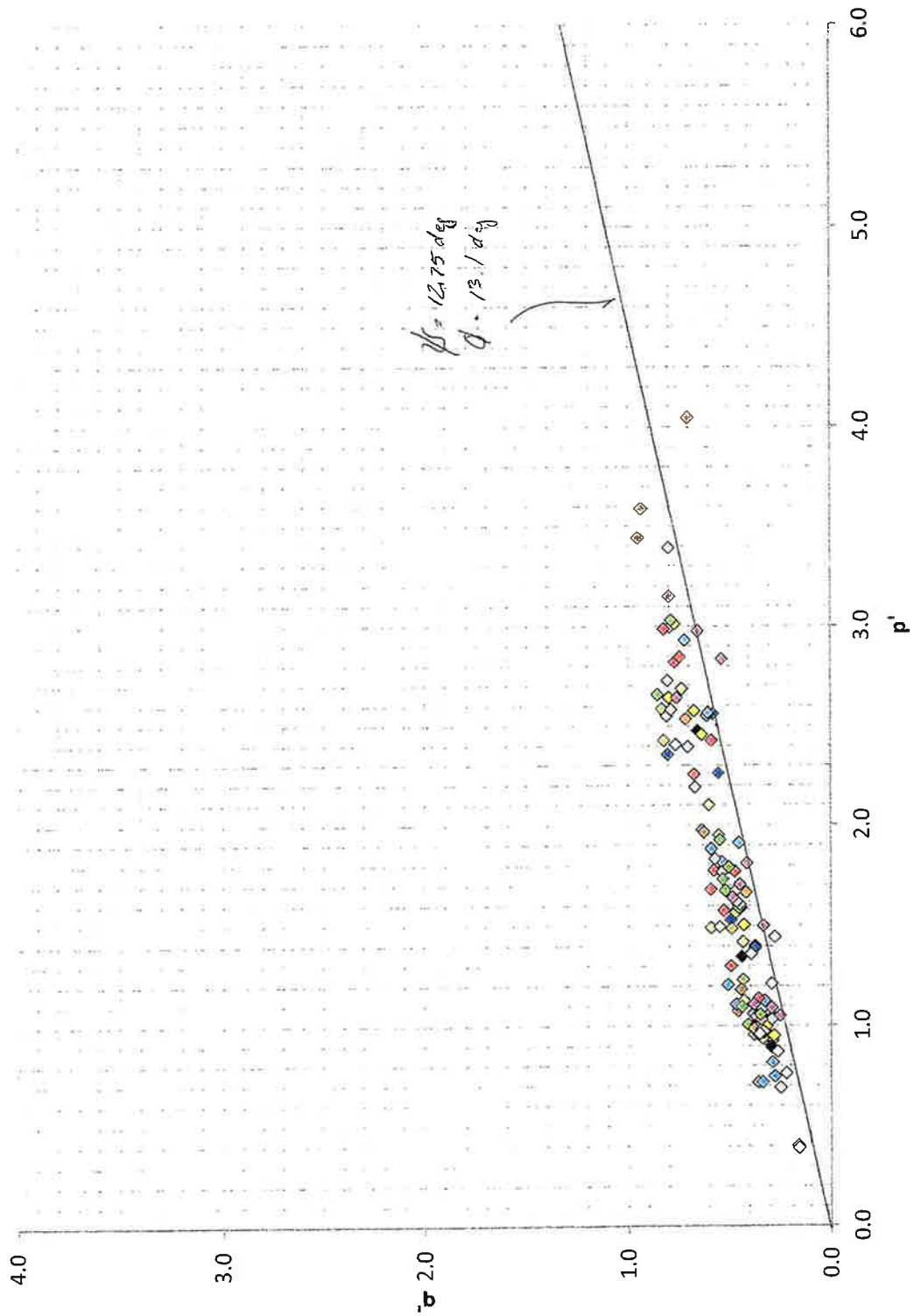


Fargo/Moorhead Laboratory Data Base
Triaxial Shear Strength of Brenna Formation



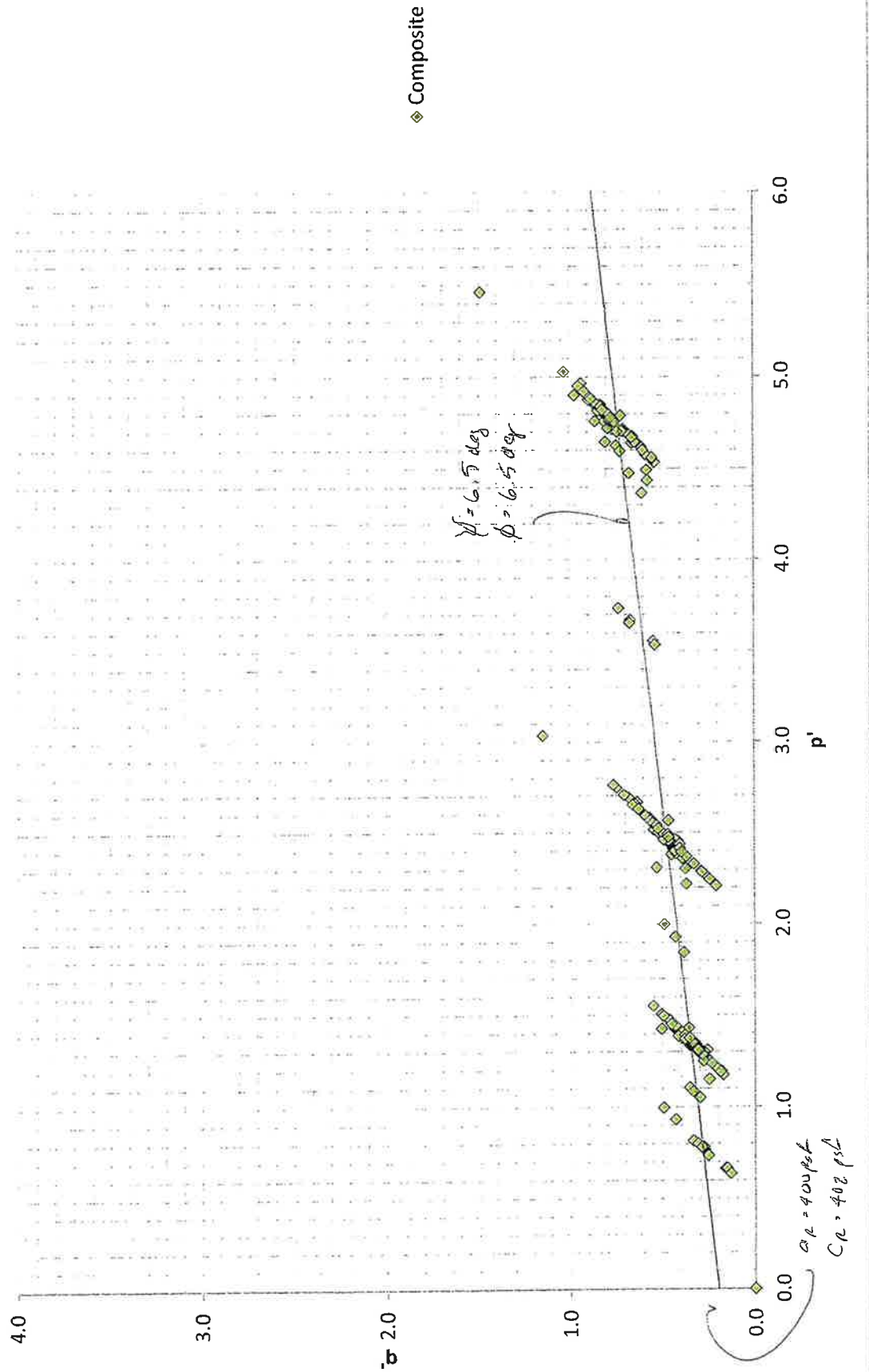
\diamond Composite

**Fargo/Moorhead Laboratory Data Base
Triaxial Shear Strength of Brenna Formation**



- ◇ 4th Street
- ◇ 9th Street
- ◆ Brookdale
- ◆ Metro Fargo
- ◇ Metro 4 Fargo
- ◇ Mickelson
- ◆ Moorhead C
- ◇ North Pinch Pt
- ◇ Pump Station
- ◇ RC Lift Station
- ◆ Ridgewood 205
- ◆ Ridgewood Braun
- ◇ River Drive
- ◆ River Villi
- ◇ Rose Coulee
- ◆ South Acres
- ◇ South River Rd
- ◇ Southwood
- ◇ Tessa Terrace
- ◇ Timberline
- ◇ Trollwood
- ◆ Woodlawn
- ◇ 40th Ave LS

Fargo/Moorhead Laboratory Data Base 3-Stage Shear Strength of Brenna Formation



B2202623: Highlands Park River Lots - 6405 and 6411 13th St N

Back-Calculation of Residual Shear Strength Parameters - Normal Water Level (Est. El. 868)
Effective Stress Analysis

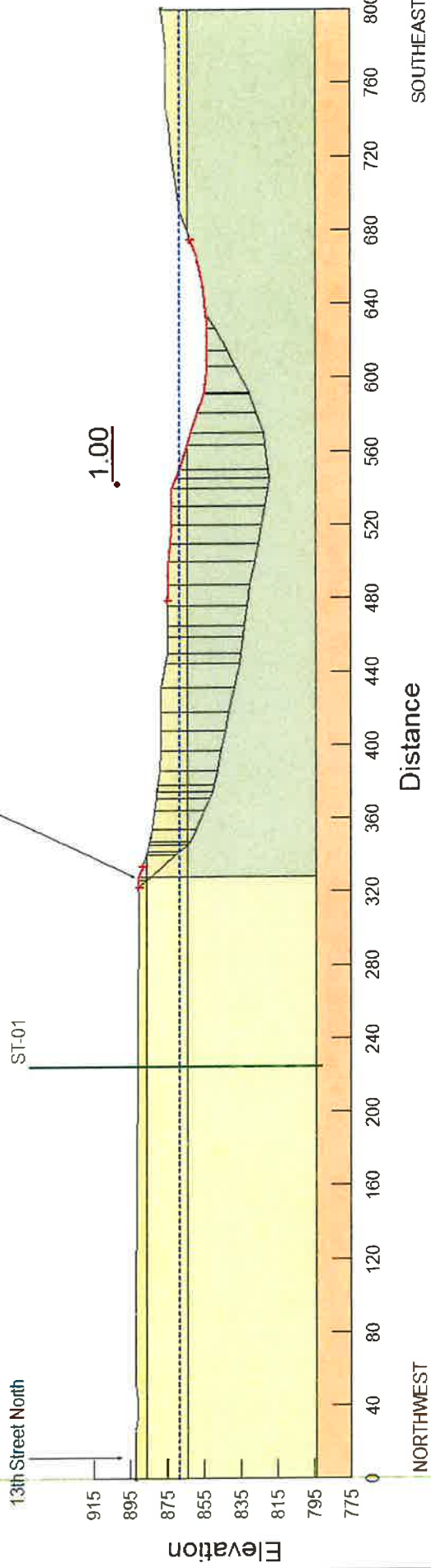
Color	Name	Unit Weight (pcf)	Cohesion (psf)	Phi (°)	Piezometric Line
Yellow	A1 Existing Fill	121	0	27.1	1
White	A3 Existing Fill Residual	121	0	20	1
White	D1, Sherack	115	0	27.1	1
Light Green	D3, Sherack Residual	115	0	15	1
White	E1, Brenna	102	0	13.1	1
Light Green	E3, Brenna Residual	102	0	8.3	1
Light Green	F1, Glacial Till	122	0	30	1

LDZS/MDZS Boundary to be Verified

Limited Disturbance Zone Setback (LDZS)
100-ft Setback from MDZS
Add. 15-ft from Top of Fill to Structure

Minimal Disturbance Zone Setback (MDZS)
No Construction

Residual Zone X = 328



Distance

NORTHWEST

SOUTHEAST

B2202623: Highlands Park River Lots - 6405 and 6411 13th St N

Setback Analysis, Existing Conditions - Normal Water Level (Est. El. 868)
Effective Stress Analysis

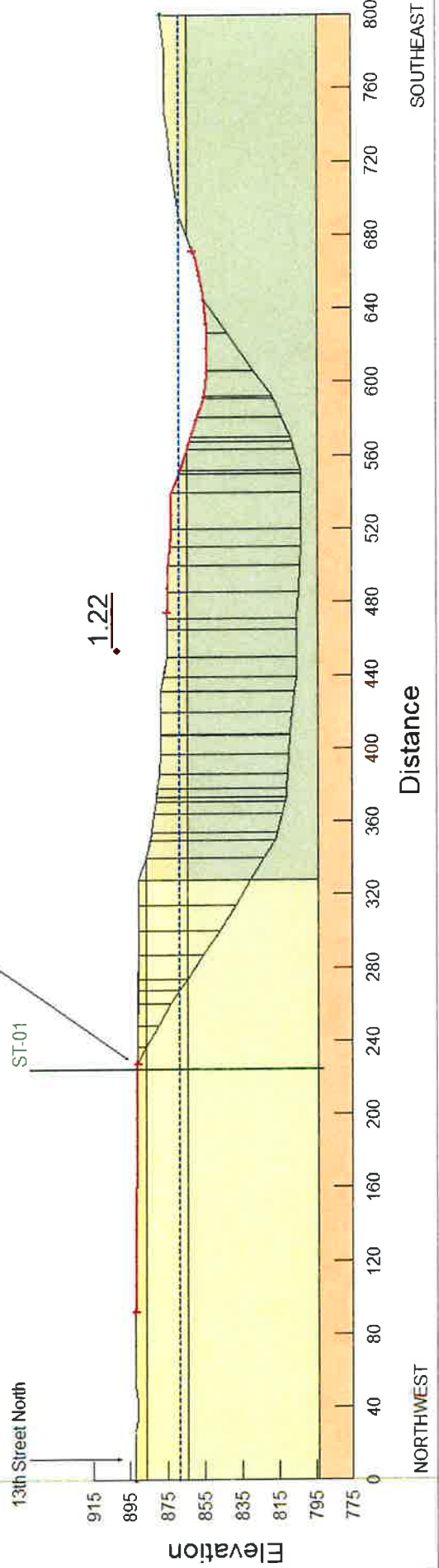
Color	Name	Unit Weight (pcf)	Cohesion* (psf)	Phi* (°)	Piezometric Line
	A1 Existing Fill	121	0	27.1	1
	A3 Existing F&B Residual	121	0	20	1
	D1 Sherack	115	0	27.1	1
	D3 Sherack Residual	115	0	15	1
	E1 Brenna	102	0	13.1	1
	E3 Brenna Residual	102	0	8.3	1
	F1 Glacial Till	122	0	30	1

Limited Disturbance Zone Setback (LDZS)
100-ft Setback from MDZS
Add. 15-ft from Top of Fill to Structure

LDZS/MDZS Boundary to be Verified

Minimal Disturbance Zone Setback (MDZS)
No Construction

100-foot Setback (X = 228)



Distance

NORTHWEST

SOUTHEAST

13th Street North

1.22

ST-01

915
895
875
855
835
815
795
775

0 40 80 120 160 200 240 280 320 360 400 440 480 520 560 600 640 680 720 760 800

B2202623: Highlands Park River Lots - 6405 and 6411 13th St N

Setback Analysis, Post-Construction Conditions w/ Rear Yard Slope - Normal Water Level (Est. EL 868)
Effective Stress Analysis

Limited Disturbance Zone Setback (LDZS)
100-ft Setback from MDZS
Add: 15-ft from Top of Fill to Structure

LDZS/MDZS Boundary to be Verified

Minimal Disturbance Zone Setback (MDZS)
No Construction

Color	Name	Unit Weight (pcf)	Cohesion (psf)	Phi (°)	Piezometric Line
Yellow	A1, Existing Fill	121	0	27.1	1
White	A3, Existing Fill Residual	121	0	20	1
White	D1, Sherack	115	0	27.1	1
White	D3, Sherack Residual	115	0	15	1
White	E1, Brenna	102	0	13.1	1
White	E3, Brenna Residual	102	0	8.3	1
White	F1, Glacial Till	122	0	30	1
White	G1, New Fill	121	0	27	1

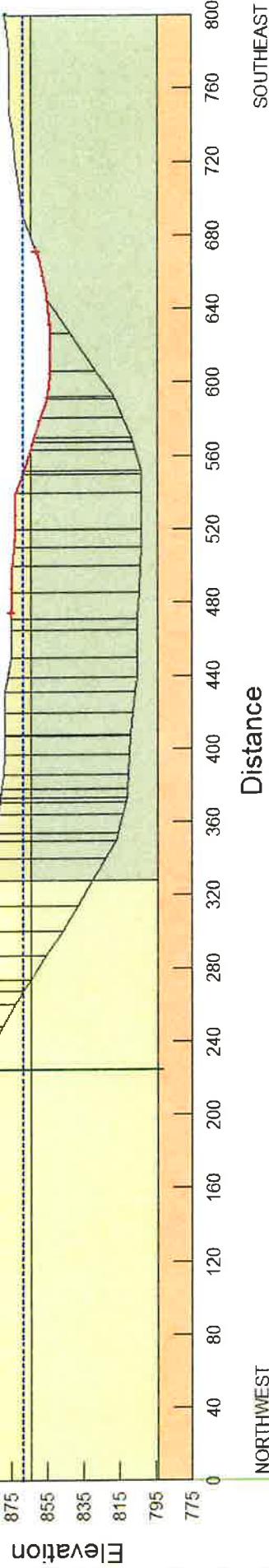
119-foot Embankment/Home Setback (X = 209) Max. 3:1 (H:V) Embankment

13th Street North

ST-01

500 psf Surcharge

1.22



Distance

NORTHWEST

SOUTHEAST

B2202623: Highlands Park River Lots - 6405 and 6411 13th St N

Transient Drawdown Analysis, Post-Construction Conditions - Flood Stage (El. 893) to Low Water Level Effective Stress Analysis

- Limited Disturbance Zone Setback (LDZS)
100-ft Setback from MDZS
Add 15-ft from Top of Fill to Structure
- LDZS/MDZS Boundary to be Verified
- Minimal Disturbance Zone Setback (MDZS)
No Construction

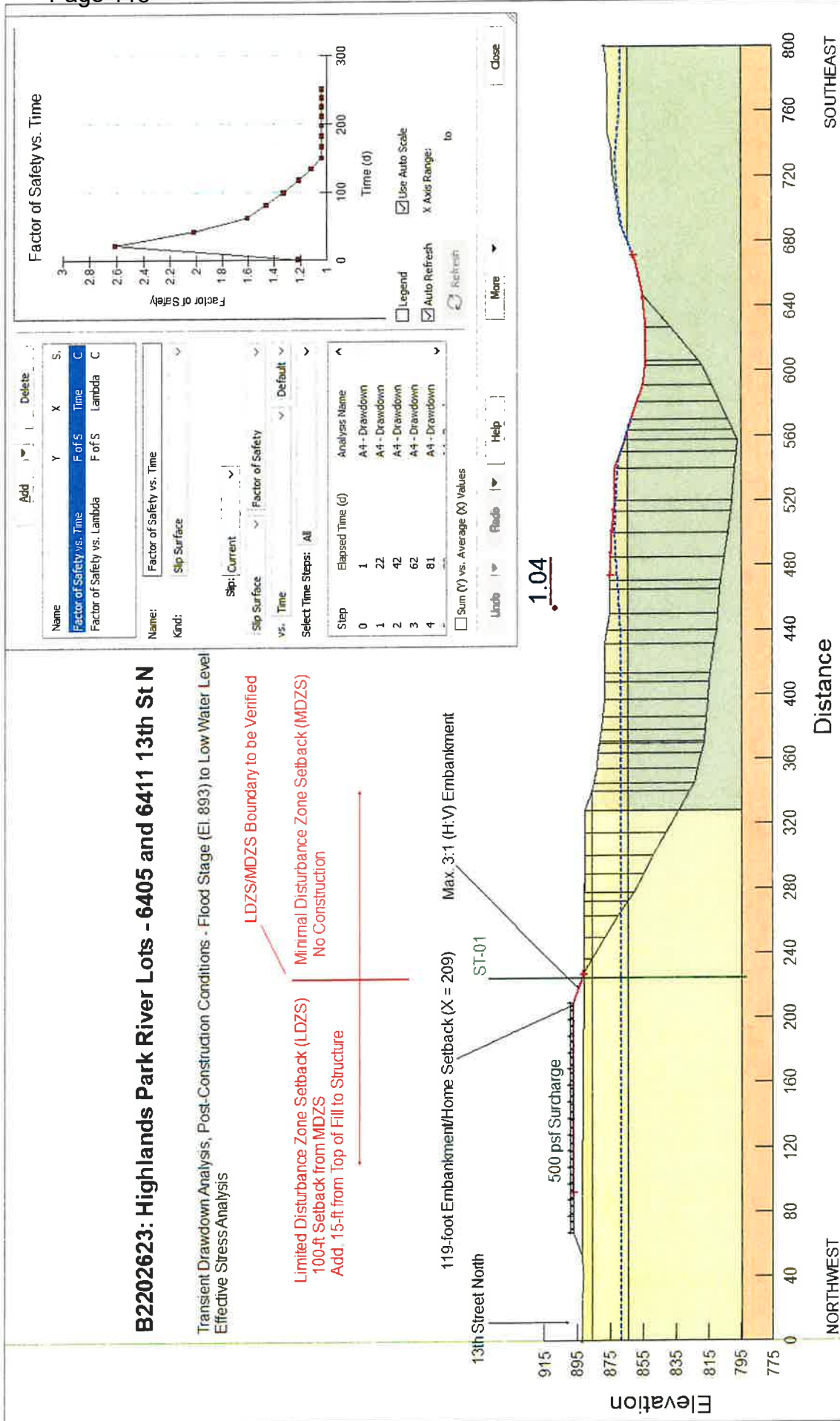
119-foot Embankment/Home Setback (X = 209)

ST-01

Max. 3:1 (H:V) Embankment

500 psf Surcharge

1.04



Distance

NORTHWEST

SOUTHEAST

B2202623: Highlands Park River Lots - 6405 and 6411 13th St N

Steady Seepage Drawdown Analysis, Post-Construction Conditions - Flood Stage (El. 893) to Low Water Level (Est. El. 862)
3-Stage Analysis

LDZS/MDZS Boundary to be Verified

Limited Disturbance Zone Setback (LDZS)
100-ft Setback from MDZS
Add: 15-ft from Top of Fill to Structure

Minimal Disturbance Zone Setback (MDZS)
No Construction

Color	Name	Unit Weight (pcf)	Cohesion (psf)	Phi' (°)	Cohesion R (psf)	Phi R (°)	Piezometric Line	Piezometric Line After Drawdown
Yellow	A1 Existing Fill	121	0	27.1	512	12.8	1	2
Light Green	D1 Sherack	115	0	27.1	608	9.6	1	2
Light Blue	E1 Brenna	102	0	13.1	402	6.5	1	2
Light Orange	F1 Clecat Till	122	0	30	2,000	12	1	2
White	G1 New Fill	121	0	27	800	12	1	2

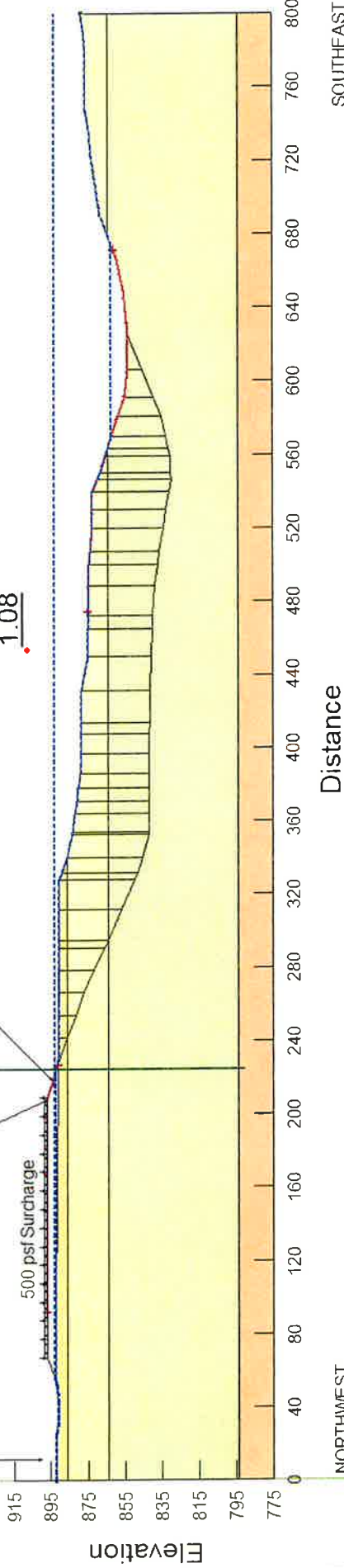
119-foot Embankment/Home Setback (X = 209) Max. 3:1 (H:V) Embankment

13th Street North

ST-01

500 psf Surcharge

1.08



Distance

NORTHWEST

SOUTHEAST

SETBACK WAIVER ELIGIBILITY

ADDRESS: 6411 13th Street North DATE: 5/8/2024

REQUESTED BY: Rob & Halle Bordson, Property Owner LOMR-F Work

SITE LAYOUT DRAWING PROVIDED: Y or **N (Future Submission)**

BUILDING FOOTPRINT LOCATED WITHIN (CHECK ALL THAT APPLY) **IF CHECKED NOT ELIGIBLE FOR WAIVER*

MINIMUM DISTURBANCE ZONE

LIMITED DISTURBANCE ZONE

CURRENT FEMA FLOODWAY*

100-FOOT SETBACK FROM CURRENT FEMA FLOODWAY*

PREVIOUSLY PLATTED LAND (AND NOT BUILT UPON): **Y** or N

IF YES, THEN THE FOLLOWING CONDITIONS MUST BE MET TO BE ELIGIBLE FOR A WAIVER

THE EXTENT TO WHICH THE SUBJECT PROPERTY IS ALREADY PROTECTED FROM THE RISK OF FLOODING
 DETAILS: Future Building to be elevated per policy at date of permitting, outside LDZS

THE EXTENT TO WHICH THE SOIL IS SUFFICIENTLY STABLE TO SUPPORT THE PROPOSED BUILDING OR STRUCTURE WITHOUT SLUMPING OR SHIFTING OF SOIL.
 DETAILS: Geotechnical Report - Braun Intertec Report Dated 5/31/2022

THE EXTENT TO WHICH THE PROPOSED BUILDING OR STRUCTURE MAY BE ELEVATED TO SUCH A LEVEL AS TO MITIGATE AGAINST FLOODING.
 DETAILS: Future Building to be elevated per policy at date of permitting, outside LDZS

THE ADEQUACY OF AREA AVAILABLE TO INSTALL EMERGENCY FLOOD PROTECTION IF THE PROPOSED BUILDING OR STRUCTURE WERE IN PLACE.
 DETAILS: Future Building to be elevated per policy at date of permitting, outside LDZS

N/A IF THE PROPOSED BUILDING OR STRUCTURE IS ACCESSORY TO A PRINCIPAL BUILDING OR STRUCTURE, THE EXTENT TO WHICH THE ACCESSORY BUILDING OR STRUCTURE TO EITHER BE CONSTRUCTED TO AN ELEVATION TO APPROPRIATELY MINIMIZE RISKS TO FLOODING OR, IN THE ALTERNATIVE, BE DESIGNED AND CONSTRUCTED SO AS TO TOLERATE BEING FLOODED.
 DETAILS: _____

VARIANCE ACKNOWLEDGEMENT AND LIABILITY WAIVER

The undersigned property owners, Rob and Halle Bordson, have requested a variance of the Limited Disturbance Zone Setback of City of Fargo Ordinance #4818, which sets guidelines on watercourse setback requirements, for the proposed construction and improvement of property located at 6411 13th Street North, Fargo, ND 58102, more particularly described as follows:

Lot 25, in Block 6, of Highland Park Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota

At the May 27, 2024 City Commission meeting, the Fargo City Commission approved the waiver request contingent upon satisfaction of the following conditions:

1. A signed and recorded Waiver of Liability by the property owners; and
2. Placement of fill to be constructed per the attached dimensioned site plan sheet; and
3. Building location to be verified and approved at the time of future construction; and
4. Construction shall follow the recommendations outlined in the Geotechnical report produced by Braun Intertec dated 5-31-2022

The City of Fargo (“City”) does not accept any liability for the stability of the proposed construction, including future structure(s), along with any other features constructed and/or installed within this property by the property owners. The property owners, their successors and assigns, accept all liability with the improvements completed on this property by the property owners and hereby expressly waive any and all liability against the City, and agree to indemnify and hold City harmless for any and all claims asserted as a result of the waiver granted herein. The property owners understand and agree that City shall not be liable for, and City does not accept any liability for the proposed structure along with any other features constructed and/or installed within this property.

Property owners understand and agree that any and all liability for any short term or long term improvements completed on this property shall be the sole responsibility of property owners, their successors and assigns.

Rob Bordson

Halle Bordson

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 Rob and Halle Bordson who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same.

(SEAL)

Notary Public
Cass County, North Dakota
My Commission expires:



City of Fargo, ND

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

6411 13 STREET N

1:4,514

5/20/2024 12:15 PM

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



SETBACK WAIVER ELIGIBILITY

ADDRESS: 6405 13th Street North

DATE: 5/8/2024

REQUESTED BY: Troy & Amelia Peterson, Property Owner

SITE LAYOUT DRAWING PROVIDED: **Y** or N

BUILDING FOOTPRINT LOCATED WITHIN (CHECK ALL THAT APPLY) **IF CHECKED NOT ELIGIBLE FOR WAIVER*

MINIMUM DISTURBANCE ZONE

LIMITED DISTURBANCE ZONE

CURRENT FEMA FLOODWAY*

100-FOOT SETBACK FROM CURRENT FEMA FLOODWAY*

PREVIOUSLY PLATTED LAND (AND NOT BUILT UPON): Y or N

IF YES, THEN THE FOLLOWING CONDITIONS MUST BE MET TO BE ELIGIBLE FOR A WAIVER

THE EXTENT TO WHICH THE SUBJECT PROPERTY IS ALREADY PROTECTED FROM THE RISK OF FLOODING
 DETAILS: Future Building to be elevated to BFE + 4'

THE EXTENT TO WHICH THE SOIL IS SUFFICIENTLY STABLE TO SUPPORT THE PROPOSED BUILDING OR STRUCTURE WITHOUT SLUMPING OR SHIFTING OF SOIL.
 DETAILS: Geotechnical Report - Braun Intertec Report Dated 5/31/2022

THE EXTENT TO WHICH THE PROPOSED BUILDING OR STRUCTURE MAY BE ELEVATED TO SUCH A LEVEL AS TO MITIGATE AGAINST FLOODING.
 DETAILS: Future Building to be elevated to BFE + 4'

THE ADEQUACY OF AREA AVAILABLE TO INSTALL EMERGENCY FLOOD PROTECTION IF THE PROPOSED BUILDING OR STRUCTURE WERE IN PLACE.
 DETAILS: Future Building to be elevated to BFE + 4'

N/A IF THE PROPOSED BUILDING OR STRUCTURE IS ACCESSORY TO A PRINCIPAL BUILDING OR STRUCTURE, THE EXTENT TO WHICH THE ACCESSORY BUILDING OR STRUCTURE TO EITHER BE CONSTRUCTED TO AN ELEVATION TO APPROPRIATELY MINIMIZE RISKS TO FLOODING OR, IN THE ALTERNATIVE, BE DESIGNED AND CONSTRUCTED SO AS TO TOLERATE BEING FLOODED.
 DETAILS: _____

VARIANCE ACKNOWLEDGEMENT AND LIABILITY WAIVER

The undersigned property owners, Troy and Amelia Peterson, have requested a variance of the Limited Disturbance Zone Setback of City of Fargo Ordinance #4818, which sets guidelines on watercourse setback requirements, for an issuance of a building permit for the proposed construction and improvement of property located at 6405 13th Street North, Fargo, ND 58102, more particularly described as follows:

Lot 24, in Block 6, of Highland Park Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota

At the May 28, 2024, City Commission meeting, the Fargo City Commission approved the waiver request contingent upon satisfaction of the following conditions:

1. A signed and recorded Waiver of Liability by the property owners; and
2. Building location and placement of fill to be constructed per the attached dimensioned site plan sheet, verifying that no portion of the building is within 100 feet of the boundary of the regulatory floodway; and
3. Construction shall follow the recommendations outlined in the Geotechnical report produced by Braun Intertec dated 5-31-2022

The City of Fargo (“City”) does not accept any liability for the stability of the proposed construction, including the structure(s), along with any other features constructed and/or installed within this property by the property owners. The property owners, their successors and assigns, accept all liability with the improvements completed on this property by the property owners and hereby expressly waive any and all liability against the City, and agree to indemnify and hold City harmless for any and all claims asserted as a result of the waiver granted herein. The property owners understand and agree that City shall not be liable for, and City does not accept any liability for the proposed structure along with any other features constructed and/or installed within this property.

Property owners understand and agree that any and all liability for any short term or long term improvements completed on this property shall be the sole responsibility of property owners, their successors and assigns.



City of Fargo, ND

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

6405 13 STREET N

1:4.514

5/20/2024 12:14 PM

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

THE CITY OF
Fargo
FAR MORE 



14

Engineering Department

225 4th Street North

Fargo, ND 58102

Phone: 701.241.1545 | Fax: 701.241.8101

Email: feng@FargoND.gov

www.FargoND.gov

May 22, 2024

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Improvement District No. PR-24-A1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, May 22, 2024, for Concrete Paving Rehab/Lane Widening, Improvement District No. PR-24-A1, located as follows: On 45th Street South from I-94 to 32nd Avenue South. On 32nd Avenue South from 42nd Street South to 45th Street South.

The bids were as follows:

Reede Construction, Inc.	\$10,696,257.57
Dakota Underground Co Inc	\$11,295,144.75
Northern Improvement Co	\$11,970,069.01
Engineers Estimate	\$10,604,358.94

Private financial security is not needed.

One protest was received amounting to 0.01% of the Improvement District.

The Engineering Department has determined that the low bid contractor meets the minimum qualifications described in the Special Instructions to Bidders. Therefore, this office recommends that the protest be declared insufficient and the contract be awarded to Reede Construction, Inc. in the amount of \$10,696,257.57 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE

City Engineer



Engineer's Statement Of Cost
Improvement District # PR-24-A1
Concrete Paving Rehab/Lane Widening

On 45th Street South from I-94 to 32nd Avenue South. On 32nd Avenue South from 42nd Street South to 45th Street South.

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:

Concrete Paving Rehab/Lane Widening Improvement District # PR-24-A1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
32nd Ave S: Lane Widening					
1	Mobilization	LS	1.00	550,000.00	550,000.00
2	F&I W-Beam Guardrail End Terminal	EA	1.00	3,500.00	3,500.00
3	F&I W-Beam Guardrail	LF	37.50	60.00	2,250.00
4	Remove Tree	EA	24.00	315.00	7,560.00
5	Remove Pavement All Thicknesses All Types	SY	6,471.00	45.00	291,195.00
6	F&I Pipe w/GB SDR 26 - 15" Dia PVC	LF	200.00	185.00	37,000.00
7	F&I Pipe w/GB SDR 26 - 18" Dia PVC	LF	100.00	210.00	21,000.00
8	F&I Fittings C153 Ductile Iron	LB	80.00	16.00	1,280.00
9	F&I Hydrant	EA	3.00	9,700.00	29,100.00
10	F&I Pipe w/GB C900 DR 18 - 6" Dia PVC	LF	80.00	135.00	10,800.00
11	F&I Gate Valve 6" Dia	EA	3.00	3,400.00	10,200.00
12	F&I Hydrant Ext. 6" High	EA	3.00	1,900.00	5,700.00
13	F&I Hydrant Ext. 12" High	EA	1.00	2,000.00	2,000.00
14	Modify Manhole	EA	2.00	2,500.00	5,000.00
15	F&I Manhole 5' Dia Reinf Conc	EA	1.00	9,300.00	9,300.00
16	Remove Manhole	EA	1.00	1,550.00	1,550.00
17	F&I Inlet - Double Box (DBI) Reinf Conc	EA	11.00	8,800.00	96,800.00
18	F&I Inlet - Round (RDI) Reinf Conc	EA	9.00	4,000.00	36,000.00
19	Remove Inlet	EA	20.00	1,050.00	21,000.00
20	Connect Pipe to Exist Pipe	EA	9.00	1,200.00	10,800.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
21	Connect Pipe to Exist Structure	EA	8.00	3,000.00	24,000.00
22	Remove Pipe All Sizes All Types	LF	725.00	25.00	18,125.00
23	F&I Pipe w/GB 12" Dia Reinf Conc	LF	24.00	160.00	3,840.00
24	F&I Pipe w/GB 18" Dia Reinf Conc	LF	140.00	180.00	25,200.00
25	F&I Pipe w/GB 24" Dia Reinf Conc	LF	10.00	235.00	2,350.00
26	F&I Pipe w/GB SDR 26 - 12" Dia PVC	LF	350.00	145.00	50,750.00
27	Topsoil - Strip & Spread	LS	1.00	15,000.00	15,000.00
28	Topsoil - Import	CY	2,500.00	60.00	150,000.00
29	Excavation	CY	7,824.00	19.00	148,656.00
30	Subcut	CY	2,000.00	11.00	22,000.00
31	Subgrade Preparation	SY	6,760.00	5.00	33,800.00
32	F&I Woven Geotextile	SY	6,760.00	4.00	27,040.00
33	F&I Class 5 Agg - 12" Thick	SY	6,760.00	29.50	199,420.00
34	F&I Edge Drain 4" Dia PVC	LF	3,490.00	16.00	55,840.00
35	F&I Curb & Gutter Standard (Type II)	LF	6,370.00	50.00	318,500.00
36	Remove Curb & Gutter	LF	6,840.00	10.00	68,400.00
37	F&I Pavement 10" Thick Doweled Conc	SY	10,306.00	125.00	1,288,250.00
38	F&I Median Nose Conc	SY	60.00	200.00	12,000.00
39	F&I Sidewalk Curb	LF	80.00	80.00	6,400.00
40	F&I Sidewalk 5" Thick Reinf Conc	SY	3,310.00	65.00	215,150.00
41	F&I Sidewalk 6" Thick Reinf Conc	SY	310.00	70.00	21,700.00
42	Remove Sidewalk All Thicknesses All Types	SY	6,001.00	12.00	72,012.00
43	F&I Impressioned 4" Thick Reinf Conc	SY	1,245.00	165.00	205,425.00
44	F&I Driveway 7" Thick Reinf Conc	SY	144.00	90.00	12,960.00
45	Remove Driveway All Thicknesses All Types	SY	105.00	20.00	2,100.00
46	F&I Det Warn Panels Cast Iron	SF	253.00	70.00	17,710.00
47	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	60.00	650.00	39,000.00
48	F&I Casting - Inlet	EA	10.00	1,900.00	19,000.00
49	F&I Casting - Std Manhole	EA	3.00	900.00	2,700.00
50	F&I Casting - Floating Manhole	EA	6.00	2,100.00	12,600.00
51	Casting to Grade Over-depth	EA	1.00	2,700.00	2,700.00
52	Casting to Grade - Blvd	EA	28.00	550.00	15,400.00
53	Casting to Grade - w/Conc	EA	32.00	750.00	24,000.00
54	GV Box to Grade - Blvd	EA	3.00	350.00	1,050.00
55	GV Box to Grade - w/Conc	EA	4.00	350.00	1,400.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
56	F&I Traffic Surface Gravel	Ton	1,000.00	52.00	52,000.00
57	Mulching Type 1 Hydro	SY	15,000.00	1.00	15,000.00
58	Seeding Type C	SY	15,000.00	1.50	22,500.00
59	Weed Control Type B	SY	15,000.00	0.10	1,500.00
60	Obliterate Pavement Markings	SF	1,629.00	7.50	12,217.50
61	F&I Grooved Plastic Film Message	SF	152.00	55.00	8,360.00
62	F&I Grooved Plastic Film 8" Wide	LF	2,548.00	18.00	45,864.00
63	F&I Grooved Plastic Film 16" Wide	LF	35.00	37.00	1,295.00
64	F&I Grooved Plastic Film 24" Wide	LF	1,010.00	58.00	58,580.00
65	F&I Grooved Contrast Film 7" Wide	LF	2,288.00	17.00	38,896.00
66	Paint Epoxy Message	SF	611.00	21.00	12,831.00
67	Relocate Signal Standard	EA	1.00	50,000.00	50,000.00
68	Relocate Signal Standard Type V	EA	2.00	19,000.00	38,000.00
69	Rem & Repl T-Base Type V	EA	2.00	2,500.00	5,000.00
70	F&I Detection Preformed Loop	EA	13.00	5,200.00	67,600.00
71	F&I Detection Sawed-In Loop	EA	27.00	5,200.00	140,400.00
72	F&I Signal Cable Loop Lead-in	LF	6,700.00	12.00	80,400.00
73	F&I Signal Cable AWG 14/20	LF	50.00	60.00	3,000.00
74	Fiber Optic Termination	EA	1.00	36,000.00	36,000.00
75	F&I Conduit 2" Dia	LF	2,915.00	20.00	58,300.00
76	F&I Conduit 4" Dia	LF	75.00	80.00	6,000.00
77	Relocate Pull Box	EA	8.00	7,100.00	56,800.00
78	Rem & Repl Pull Box Cover	EA	10.00	2,200.00	22,000.00
79	Install Traffic Signal Interim System	LS	1.00	100,000.00	100,000.00
80	F&I Sign Assembly	EA	5.00	75.00	375.00
81	Relocate Sign Assembly	EA	1.00	140.00	140.00
82	F&I Sign Assembly & Anchor	EA	14.00	155.00	2,170.00
83	F&I Diamond Grade Cubed	SF	122.94	28.00	3,442.32
84	F&I High Intensity Prismatic	SF	48.00	26.00	1,248.00
85	F&I Sign Assembly Mast Arm	EA	4.00	410.00	1,640.00
86	F&I Flexible Delineator	EA	16.00	90.00	1,440.00
87	Relocate Street Light	EA	4.00	8,400.00	33,600.00
88	F&I Base 7' Deep Reinf Conc	EA	4.00	4,000.00	16,000.00
89	Remove Base	EA	4.00	1,700.00	6,800.00
90	F&I Conductor #6 USE Cu	LF	6,816.00	10.00	68,160.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
91	F&I Innerduct 2" Dia	LF	1,276.00	26.00	33,176.00
92	F&I Luminaire Type A	EA	18.00	3,800.00	68,400.00
93	F&I Pull Box	EA	1.00	10,500.00	10,500.00
94	F&I Landscaping	LS	1.00	6,500.00	6,500.00
95	F&I Decid Tree 2" Dia	EA	9.00	1,000.00	9,000.00
32nd Ave S: Lane Widening Total					5,481,647.82
32nd Ave S - CPR					
96	Repair Inlet	EA	3.00	2,500.00	7,500.00
97	Modify Inlet Type A	EA	3.00	2,500.00	7,500.00
98	Modify Inlet Type B	EA	3.00	5,400.00	16,200.00
99	Clean & Seal Concrete Joints	LF	35,000.00	3.00	105,000.00
100	F&I Curb & Gutter Standard (Type II)	LF	250.00	60.00	15,000.00
101	Remove Curb & Gutter	LF	250.00	10.00	2,500.00
102	Repair Pavement - Partial Depth Conc	SF	500.00	125.00	62,500.00
103	Rem & Repl Pavement 10" Thick Doweled Conc	SY	3,312.00	245.00	811,440.00
104	F&I Casting - Inlet	EA	3.00	1,900.00	5,700.00
105	F&I Casting - Std Manhole	EA	3.00	850.00	2,550.00
106	F&I Casting - Floating Manhole	EA	3.00	2,100.00	6,300.00
107	Casting to Grade - w/Conc	EA	2.00	750.00	1,500.00
108	GV Box to Grade - w/Conc	EA	2.00	350.00	700.00
109	Mill / Grind Conc Pvmt	SY	12,800.00	8.50	108,800.00
32nd Ave S - CPR Total					1,153,190.00
45th St S - CPR					
110	Mobilization	LS	1.00	290,000.00	290,000.00
111	F&I Bollards	EA	2.00	1,500.00	3,000.00
112	Remove Pavement All Thicknesses All Types	SY	4,744.00	50.00	237,200.00
113	Cut in Valve 16" Dia	EA	1.00	44,000.00	44,000.00
114	F&I Inlet - Double Box (DBI) Reinf Conc	EA	1.00	8,800.00	8,800.00
115	Repair Inlet	EA	5.00	2,500.00	12,500.00
116	Modify Inlet Type A	EA	5.00	2,500.00	12,500.00
117	Modify Inlet Type B	EA	5.00	5,300.00	26,500.00
118	Connect Pipe to Exist Pipe	EA	2.00	1,200.00	2,400.00
119	F&I Pipe w/GB 12" Dia Reinf Conc	LF	9.00	160.00	1,440.00
120	F&I Pipe w/GB 18" Dia Reinf Conc	LF	15.00	180.00	2,700.00
121	Topsoil - Import	CY	200.00	70.00	14,000.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
122	Excavation	CY	32.00	32.00	1,024.00
123	Subgrade Preparation	SY	70.00	12.00	840.00
124	F&I Class 5 Agg - 12" Thick	SY	70.00	45.00	3,150.00
125	Clean & Seal Concrete Joints	LF	75,000.00	3.00	225,000.00
126	F&I Edge Drain 4" Dia PVC	LF	110.00	25.00	2,750.00
127	F&I Curb & Gutter Standard (Type II)	LF	2,005.00	60.00	120,300.00
128	Remove Curb & Gutter	LF	3,190.00	10.00	31,900.00
129	Repair Pavement - Partial Depth Conc	SF	600.00	130.00	78,000.00
130	F&I Pavement 10" Thick Doweled Conc	SY	5,422.00	130.00	704,860.00
131	F&I Median Nose Conc	SY	30.00	210.00	6,300.00
132	F&I Sidewalk Curb	LF	80.00	80.00	6,400.00
133	F&I Sidewalk 5" Thick Reinf Conc	SY	798.00	85.00	67,830.00
134	F&I Sidewalk 6" Thick Reinf Conc	SY	540.00	90.00	48,600.00
135	Remove Sidewalk All Thicknesses All Types	SY	2,264.00	12.00	27,168.00
136	F&I Impressed 6" Thick Reinf Conc	SY	410.00	195.00	79,950.00
137	F&I Det Warn Panels Cast Iron	SF	510.00	70.00	35,700.00
138	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	40.00	650.00	26,000.00
139	F&I Casting - Inlet	EA	17.00	1,900.00	32,300.00
140	F&I Casting - Std Manhole	EA	4.00	850.00	3,400.00
141	F&I Casting - Floating Manhole	EA	10.00	2,100.00	21,000.00
142	Casting to Grade - Blvd	EA	8.00	550.00	4,400.00
143	Casting to Grade - w/Conc	EA	40.00	750.00	30,000.00
144	GV Box to Grade - w/Conc	EA	4.00	350.00	1,400.00
145	GV Box to Grade - no Conc	EA	2.00	350.00	700.00
146	Mill / Grind Conc Pvmt	SY	17,400.00	8.50	147,900.00
147	Mulching Type 1 Hydro	SY	2,500.00	1.00	2,500.00
148	Seeding Type C	SY	2,500.00	1.25	3,125.00
149	Obliterate Pavement Markings	SF	566.50	7.50	4,248.75
150	F&I Grooved Plastic Film Message	SF	229.00	57.00	13,053.00
151	F&I Grooved Plastic Film 8" Wide	LF	1,056.00	18.00	19,008.00
152	F&I Grooved Plastic Film 16" Wide	LF	228.00	37.00	8,436.00
153	F&I Grooved Plastic Film 24" Wide	LF	1,379.00	58.00	79,982.00
154	F&I Grooved Contrast Film 7" Wide	LF	296.00	17.00	5,032.00
155	Paint Epoxy Message	SF	319.00	21.00	6,699.00
156	F&I Sign Assembly	EA	2.00	73.00	146.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
157	Relocate Sign Assembly	EA	2.00	140.00	280.00
158	F&I Sign Assembly & Anchor	EA	1.00	160.00	160.00
159	F&I Diamond Grade Cubed	SF	101.00	28.00	2,828.00
160	F&I Sign Assembly Mast Arm	EA	6.00	410.00	2,460.00
161	F&I Flexible Delineator	EA	12.00	90.00	1,080.00
162	Furnish Temp Water Svc	LS	1.00	52,000.00	52,000.00
45th St S - CPR Total					2,562,949.75
Miscellaneous					
163	Temp Fence - Safety	LF	1,500.00	7.00	10,500.00
164	Stormwater Management	LS	1.00	20,000.00	20,000.00
165	Temp Construction Entrance	EA	2.00	3,000.00	6,000.00
166	Inlet Protection - New Inlet	EA	22.00	250.00	5,500.00
167	Inlet Protection - Existing Inlet	EA	71.00	250.00	17,750.00
168	Traffic Control - Type 2	LS	1.00	345,000.00	345,000.00
169	Construction Signing	SF	400.00	21.00	8,400.00
170	Flagging	MHR	5,000.00	52.00	260,000.00
171	Traffic Control - Changeable Message Board	EA	4.00	4,200.00	16,800.00
172	F&I Rock Mulch	Ton	40.00	220.00	8,800.00
Miscellaneous Total					698,750.00
45th St S - Traffic Signals & Street Lighting					
173	Rem & Repl T-Base Type IV	EA	4.00	26,000.00	104,000.00
174	Paint Signal Standard	EA	4.00	4,200.00	16,800.00
175	Salvage Signal Standard Type V	EA	2.00	8,400.00	16,800.00
176	Sandblast Signal Standard	EA	4.00	3,200.00	12,800.00
177	F&I Detection Preformed Loop	EA	16.00	5,200.00	83,200.00
178	F&I Detection Sawed-In Loop	EA	39.00	5,200.00	202,800.00
179	F&I Signal Cable AWG 14/2	LF	1,330.00	19.00	25,270.00
180	F&I Signal Cable AWG 16/3	LF	250.00	21.00	5,250.00
181	F&I Signal Cable Loop Lead-in	LF	2,000.00	13.00	26,000.00
182	F&I Fiber Vault	EA	1.00	15,000.00	15,000.00
183	F&I Conduit 1.5" Dia	LF	150.00	52.00	7,800.00
184	F&I Conduit 2" Dia	LF	100.00	63.00	6,300.00
185	F&I Conduit 4" Dia	LF	100.00	84.00	8,400.00
186	F&I Ped Push Button & Sign	EA	12.00	3,700.00	44,400.00
187	F&I Ped Push Button Post	EA	12.00	2,100.00	25,200.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
188	F&I Pull Box	EA	3.00	10,500.00	31,500.00
189	Relocate Pull Box	EA	8.00	7,150.00	57,200.00
190	Rem & Repl Pull Box Cover	EA	12.00	2,200.00	26,400.00
191	Salvage Traffic Signal Equipment	LS	1.00	52,500.00	52,500.00
192	Remove Base	EA	2.00	3,000.00	6,000.00
193	F&I Luminaire Extension	EA	1.00	16,000.00	16,000.00
194	Remove Street Light	EA	2.00	3,150.00	6,300.00
195	F&I Luminaire Type A	EA	2.00	1,900.00	3,800.00
45th St S - Traffic Signals & Street Lighting Total					799,720.00
Total Construction in \$					10,696,257.57

Engineering	10.00%	1,069,625.76
Admin	4.00%	427,850.30
Legal	3.00%	320,887.72
Interest	4.00%	427,850.30
Contingency	5.00%	534,812.88
Total Estimated Costs		13,477,284.53
Special Assessments		8,645,185.16
State Funds - Other ND		4,464,136.61
Utility Funds - Street Lights - 528		367,962.76
Unfunded Costs		0.00

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

Date: 05/22/2024



Thomas Knakmuhs

City Engineer



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

May 22, 2024

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Improvement District No. AN-24-A1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, May 22, 2024, for Alley Paving, Improvement District No. AN-24-A1, located as follows: From 16th Street to 18th Street South between 4th Avenue & 5th Avenue South.

The bids were as follows:

Master Construction Co Inc	\$187,545.00
Northern Improvement Co	\$198,170.00
Border States Paving Inc	\$212,187.75
Key Contracting Inc	\$212,819.00
Dirt Dynamics	\$225,665.00
Paras Contracting Inc	\$234,415.00
Engineers Estimate	\$188,005.00

Private financial security is not needed.

4 protests were received amounting to 20.75% of the Improvement District.

This office recommends that the protests be declared insufficient and the contract be awarded to Master Construction Co Inc. in the amount of \$187,545.00 as the lowest and best bid.

Sincerely,



Thomas Knakmuhs, PE
City Engineer



Engineer's Statement Of Cost
Improvement District # AN-24-A1
Alley Paving

From 16th Street to 18th Street South between 4th Avenue & 5th Avenue South

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:

Alley Paving Improvement District # AN-24-A1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
Storm Sewer					
1	F&I Inlet - Round (RDI) Reinf Conc	EA	2.00	3,000.00	6,000.00
2	Connect Pipe to Exist Pipe	EA	1.00	1,100.00	1,100.00
3	F&I Pipe w/GB SDR 26 - 8" Dia PVC	LF	401.00	100.00	40,100.00
Storm Sewer Total					47,200.00
Paving					
4	Excavation	CY	540.00	17.00	9,180.00
5	Subgrade Preparation	SY	1,015.00	4.00	4,060.00
6	F&I Pavement 6" Thick Reinf Conc	SY	1,015.00	110.00	111,650.00
7	Remove Driveway All Thicknesses All Types	SY	15.00	15.00	225.00
8	Casting to Grade - w/Conc	EA	2.00	350.00	700.00
9	Mulching Type 1 Hydro	SY	40.00	30.00	1,200.00
10	Seeding Type B	SY	40.00	30.00	1,200.00
11	Inlet Protection - New Inlet	EA	2.00	270.00	540.00
12	Inlet Protection - Existing Inlet	EA	2.00	270.00	540.00
13	Traffic Control - Type 1	LS	1.00	10,000.00	10,000.00
14	F&I Rock Mulch	Ton	5.00	210.00	1,050.00
Paving Total					140,345.00
Total Construction in \$					187,545.00

Engineering	10.00%	18,754.50
Admin	4.00%	7,501.80
Legal	3.00%	5,626.35
Interest	4.00%	7,501.80
Contingency	5.00%	9,377.25
Total Estimated Costs		236,306.70
Special Assessments		236,306.70
Unfunded Costs		0.00

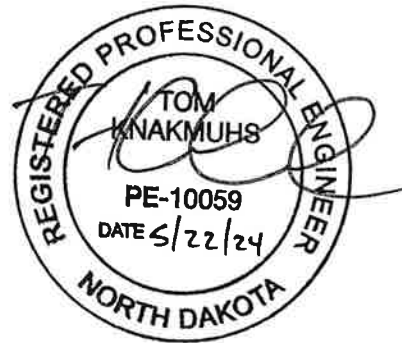
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 05/22/2024



Thomas Knakmuhs

City Engineer



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

16

Improvement District No. BR-22-A0

Type: Amendment #5

Location: 32nd Ave S, 32nd St – 22nd St

Date of Hearing: 5/20/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>5/28/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Eric Hodgson</u>

The Committee reviewed the accompanying correspondence from Project Manager, Eric Hodgson, for Amendment #5 in the amount of \$9,095.00 for additional work.

Staff is recommending approval of Amendment #5 in the amount of \$9,095.00, bringing the total contract amount to \$2,037,605.00.

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of Amendment #5 to Apex Engineering.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve Amendment #5 in the amount of \$9,095.00, bringing the total contract amount to \$2,037,605.00 to Apex Engineering.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Sales Tax & Special Assessments

	<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

- 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>
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<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: Eric Hodgson, Civil Engineer II
Date: May 20th, 2024
Re: Improvement District No. BR-22-A0 – Amendment #5
32nd Avenue South (32nd Street South to 22nd Street South)

Background:

Improvement District No. BR-22-A0 is for the Utilities and Paving Replacement/Rehab of 32nd Avenue South from 32nd Street to 22nd Street.

Dakota Underground is the Prime Contractor and Apex Engineering is the design and construction administration firm for this project.

Flint Group is a sub-consultant to Apex who was hired to help with public outreach. They helped organize and distribute information to the public in regards to the project's progress, schedule, and traffic impacts. Due to the need for additional traffic shifts during construction, Flint Group had to perform more work than originally scoped to do.

The attached Amendment #5 in the amount of \$9,095 is to cover the cost of the additional work.

Recommended Motion:

Approve Amendment #5 in the amount of \$9,095.

EBH/klb

Attachments:

- Amendment #5
- Flint Groups Scope of extra work.



Water | Transportation | Municipal | Facilities

701.373.7980
4733 Amber Valley Parkway
Fargo, ND 58104

Engineering Services Agreement
Amendment #5 – Project No. BR-22-A1

Project: Amendment #5 for Phase III – Construction Administration
32nd Avenue South Reconstruction – 32nd St S to University Drive
City Project No. BR-22-A1
Apex Project No. 20.103.0063

Client: City of Fargo (Engineering Department)
Attn: Eric Hodgson, PE – Engineering Department

Background / Description of Work:

This amendment includes additional direct costs required by Fling Group to provide press releases, exhibits and social media updates for the traffic control impacts to the traveling public during the construction phase of the project. Flint's original scope included up to four (4) traffic shifts during construction, because of the contractor's operations and change to allow the contractor the ability to close sections 32nd Avenue South with a detour for local traffic, eight (8) traffic shifts were required. Flint provided press releases, exhibits, and social media updates for all eight (8) traffic control changes.

The additional direct costs required to provide press releases, exhibits, and social media updates is represented in the following attachments:

- 1. Flint Group Cost Proposal – 32nd Ave South Construction Changes - \$9,095

Fee Amendment Request:

Amendment #5: Phase III – Construction Administration = **\$9,095**

Contract Terms & Conditions:

Apex Engineering Group, Inc. ("Consultant") hereby proposes, and the City of Fargo ("City") hereby authorizes, the above-described Amendment #5 and additional services described here in, including attachments, to be completed under the same Terms & Conditions of the original agreement signed by both parties and approved by the City of Fargo on June 23rd, 2020.

City of Fargo Authorization:

Signature: _____
Dr. Tim Mahoney

Title: Mayor

Date: _____

Consultant:

Signature:  _____
Joshua C. Olson

Title: Vice President

Date: April 11, 2024



Flint Group Cost Proposal

Type: Phase III – 32nd Avenue South, Fargo Construction

This proposal is based on hourly rates and excludes direct costs not already outlined. NO TRAVEL TIME IS BILLED. DIRECT COSTS ESTIMATED IN PROPOSAL. DIRECT COSTS INCLUDE ALL COSTS INCURRED FOR PLAN EXECUTION OUTSIDE OF PROJECT WORK TIME.

PROJECT WORK	ESTIMATED BUDGET
<p>Account Management</p> <ul style="list-style-type: none"> • Day-to-day contact • Complete project brief • Attendance at planning meetings • Anticipate needs and brainstorm solutions • Provides direction to Flint team • Quality assurance checks <p>Project Management</p> <ul style="list-style-type: none"> • Defining project deliverables • Construction of project plan and timeline(s) • Coordination of tasks and resources • Enforce project timelines and deadlines • Quality assurance checks • Monitoring of project budget 	<p>24 hours, \$3,660</p> <ul style="list-style-type: none"> • Account Management <ul style="list-style-type: none"> ○ 12 hours @ \$155 = \$1,860 • Project Management <ul style="list-style-type: none"> ○ 12 hours @ \$150 = \$1,800
<p>Public Relations and Social Media</p> <ul style="list-style-type: none"> • Update key messaging • Updated and distribute business toolkit • Create and distribute press releases and advisories regarding project updates • Facilitate media interviews (print, TV, radio) • Email updates • Social media updates • Website updates • Media and Social Media monitoring and reporting • Proofreading of assets 	<p>24.5 hours, \$3,635</p> <ul style="list-style-type: none"> • PR Strategy & Implementation <ul style="list-style-type: none"> ○ 15 hours @ \$150 = \$2,250 • Proofreading <ul style="list-style-type: none"> ○ 2 hours @ \$130 = \$260 • Social Media Implementation <ul style="list-style-type: none"> ○ 5.5 hours @ \$150 = \$825 • Website Updates <ul style="list-style-type: none"> ○ 2 hours @ \$150 = \$300

<p>E-mail Marketing</p> <ul style="list-style-type: none">• Mailchimp Account Creation & Configuration• Email Design & Nurture Campaign Creation	<p>6.5 hours, \$975</p> <ul style="list-style-type: none">• Design, Creation & Deployment + address list management<ul style="list-style-type: none">○ 6.5 Hours @ \$150 = \$975• Mailchimp Costs: \$20/month (\$240/year)<ul style="list-style-type: none">○ Plan Type: Standard
<p>Creative Services</p> <ul style="list-style-type: none">• Develop study branding/graphics• Design maps and project graphics• Printing coordination at client request (PRINTING HARD COSTS NOT INCLUDED)	<p>5 hours, \$825</p> <ul style="list-style-type: none">• Graphic Design + Art Production<ul style="list-style-type: none">○ 5 Hours @ \$165 = \$825
<p>TOTAL:</p>	<p>Time: 60 hours \$9,095</p> <p>Mailchimp Hard Costs: \$20/month (\$240/year)</p>

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-23-G1

Type: Encroachment Agreement

Location: Veteran's Industrial Park Addition

Date of Hearing: 5/20/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>5/28/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Jason Leonard</u>

The Committee reviewed a communication from Division Engineer, Jason Leonard, regarding an Encroachment Agreement with Magellan Pipeline Company for installation of utilities and roadway pavement within their easement.

There is an existing Magellan Pipeline Petroleum Easement on the property located in Section 28, Township 140 North Range 49 West, within the platted Veteran's Industrial Park Addition. Engineering is in the process of bidding Improvement District No. BN-23-G1, which has future underground and paving encroachments into the Magellan easement. This Encroachment Agreement delineates the terms and conditions under which Magellan Pipeline Company will grant the City permission to install utilities and roadway pavement within their easement, while ensuring the integrity and safety of the existing pipeline infrastructure.

On a motion by Tim Mahoney, seconded by Ben Dow, the Committee voted to recommend approval of the Encroachment Agreement with Magellan Pipeline Company.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Encroachment Agreement with Magellan Pipeline Company for installation of utilities and roadway pavement within their easement.

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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<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: Jason Leonard, Division Engineer
Date: May 20, 2024
Re: Encroachment Agreement – Magellan Pipeline Company

Background:

There is an existing Magellan Pipeline Petroleum Easement on the property located in Section 28, Township 140 North Range 49 West, within the platted Veteran's Industrial Park Addition. Engineering is in the process of bidding Improvement District No. BN-23-G1 which has future underground and paving encroachments into the Magellan easement.

Attached you will find the Proposed Final Encroachment Agreement between the City of Fargo and Magellan Pipeline Company, which has undergone thorough review and approval by our Engineering and Legal team. This document delineates the terms and conditions under which Magellan Pipeline Company will grant the City permission to install utilities and roadway pavement within their easement, while ensuring the integrity and safety of the existing pipeline infrastructure.

Recommended Motion:

Recommend approval of the Encroachment Agreement with Magellan Pipeline Company.

JTL/klb
Attachment

(Drafted by & when filed return to: Magellan Pipeline Company, L.P., P. O. Box 22186, OTC-9 (S. Guthrie), Tulsa, Oklahoma 74121-2186, 918/574-7350.)

ENCROACHMENT AGREEMENT

This Encroachment Agreement ("**Agreement**") is made and entered into by and between Magellan Pipeline Company, L.P., a Delaware limited partnership, whose address is P.O. Box 22186, Tulsa, Oklahoma, 74121-2186, (hereinafter called "**Magellan**"), and City of Fargo, a North Dakota municipal corporation, its successors, assigns and grantees (hereinafter "**City**") whose mailing address is 225 4th Street North, Fargo, North Dakota 58102. **Magellan** and **City** are referred to as "**Party**" and "**Parties**" herein.

WITNESSETH:

WHEREAS, **City** represents and warrants that **City** owns the right and desires to perform or cause the performance, construction and completion of a project to include the construction of the 23rd Avenue North as a concrete roadway with concrete curb and gutters within the 80-foot road right of way, Veterans Industrial Park Addition, City of Fargo, ND (hereinafter, the "**Project**"), described on attached **Exhibit "A"** and made a part hereof; and

WHEREAS, **Magellan** is the owner of certain pipelines, pipeline facilities and appurtenances (hereinafter referred to as the "**Magellan Facilities**") and easement rights therefor, (hereinafter referred to as the "**Easement**", whether or not rights were granted in one or more documents or acquired by operation of law). For purposes of this **Agreement** only, "**Magellan's Easement Tract**" shall be considered to be any area within Fifty (50) feet of any **Magellan Facilities**, unless a different right of way tract width is specifically described in the **Easement**, in which case such specified width shall define **Magellan's Easement Tract**. The land referenced in the **Easement** includes a portion of the Veterans Industrial Park Addition in Cass County, North Dakota that is part of the Southwest Quarter, Section 28, Township 140 North, Range 49 West, Cass County, North Dakota, pursuant to those certain instruments recorded in the records of said county and state and described as follows:

- 1) Right of Way Agreement executed by Eugene N. Tessier and Rose Tessier, his wife, on the 4th day of February, 1946, and filed for record in the office of the Register of Deeds of Cass County, North Dakota on the 26th day of April, 1946, in Book U-1 of Misc., Page 412, as Document No. 256387.

WHEREAS, for the purposes of this **Agreement** an “**Encroachment**” is defined as any use of the land within **Magellan’s Easement Tract** by someone other than **Magellan** which could interfere with **Magellan’s Easement** rights or could create safety concerns related to **Magellan’s Facilities** as more fully described in **Magellan’s General Encroachment Requirements** as set forth in attached **Exhibit “B”** and incorporated herein by reference. **Magellan does not permit or authorize any Encroachments unless specifically approved in a written agreement identifying all “Approved Encroachments”**; and

WHEREAS, **City** desires to obtain **Magellan’s** consent for one or more **Encroachments** on **Magellan’s Easement Tract**;

NOW, THEREFORE, in consideration of the covenants and agreements herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **Magellan**, subject to the following terms and provisions, hereby consents to the **Encroachments** listed below as “**Approved Encroachments**” described and limited pursuant to the following specified plan drawings, which were furnished by **City** to **Magellan** (“**Plan Drawings**”) and attached hereto as **Exhibit “C”**:

- 1) **Overall Layout & Index**: Section No. 002, Sheet No. 1, Plot Date- March 11, 2024.
- 2) **Typical Sections**: Section No. 030, Sheet No. 1, Plot Date- March 11, 2024.
- 3) **23rd Avenue-Paving**: Section No. 060, Sheet No. 3, Plot Date- March 11, 2024.
- 4) **23rd Avenue- Utilities**: Section No. 055, Sheet No. 3, Plot Date- March 11, 2024.
- 5) **Street Lighting-Layout & Notes**: Section No. 140, Sheet No. 2, Plot Date- March 11, 2024.
- 6) **MH GB Detail**: Section No.020, Sheet No. 3, Plot Date: March 11, 2024.

TERMS AND PROVISIONS

1. **Approved Encroachments.** The **Approved Encroachments**, as further identified, described and limited in the **Plan Drawings** as set forth in **Exhibit “C”** are limited to the following:

(a) **23rd Ave. N. and Associated Grading:**

(Section No. 002, Sheet No. 1; Section No. 030, Sheet No. 1; Section No. 060, Sheet No. 3)
The project proposes to construct a new roadway labeled 23rd Avenue North across the **Magellan Pipeline and Easement**. The pavement section consists of 10-inches Portland cement concrete (PCC); over 12-inches aggregate base class 5; over woven geotextile fabric. The roadway also has concrete curb and gutter underlain by 4-inches PVC drain tile. Future 4.5 feet wide concrete sidewalks 13 feet from the back of curb are indicated in the typical section.

The existing depth of cover over the pipeline is approximately 2.5 feet and after the roadway is constructed, the depth of cover will be approximately 4.3 feet in the roadway gutter flowlines.

(b) **12-Inch PVC Watermain:**

(Section No. 002, Sheet No. 1; Section No. 055, Sheet No. 3)

The project proposes to install a 12-inches PVC watermain that will cross under the **Magellan Pipeline** with approximately 4.85 feet of clearance.

(c) **1.5-Inch Innerduct with Conductor for Street Lighting:**

(Section No. 002, Sheet No. 1; Section No. 140, Sheet No. 2)

The project proposes to install 1.5-inch schedule 40 street lighting innerduct that will cross over the **Magellan Pipeline** with approximately 2 feet of clearance. The conductor will be one triplex #6 USE conductor at 240V.

(d) **12-Inch PVC SDR 35 Sanitary Sewer:**

(Section No. 002, Sheet No. 1; Section No. 020, Sheet No. 3; Section No. 055, Sheet No. 3)

The project proposes to install a 12-inch PVC SDR 35 sanitary sewer that will cross under the **Magellan Pipeline** with approximately 3.88 feet of clearance. Compacted class 3 (modified) gravel backfill will extend approximately 9 feet into the east side of the **Magellan Easement**, as part of the sanitary sewer structure SS-8 installation. (Structure SS-8 is located outside the **Magellan Easement** and the gravel backfill will remain approximately 41 feet from the **Magellan Pipeline**.)

(e) **12-Inch Storm Sewer:**

(Section No. 002, Sheet No. 1; Section No. 055, Sheet No. 3)

The project proposes to install a 12-inch storm sewer that will cross under the **Magellan Pipeline** with approximately 2.08 feet of clearance. The storm sewer pipe material is unknown at the time of this report.

(f) **Heavy Equipment Crossings and Working Over Pipeline:**

Magellan should be provided with the specific list of construction equipment that will be working in the Magellan Easement and across the Magellan Pipeline so that Magellan can perform pipeline stress calculations and provide the City with work limits and stipulations.

2. **No Other Encroachments.** Except for the **Approved Encroachments** as defined in the **Agreement**, City shall not create, erect, place or construct any other **Encroachment** on, above or below the surface of the ground on **Magellan's Easement Tract**, or change the grade or elevation of the ground surface within **Magellan's Easement Tract** or at any time plant or allow any trees thereon or cause or permit any of these to be done by others, without the express prior written permission of **Magellan**.
3. **Magellan On-Site Representative.** Exclusive of Saturday, Sunday, and legal holidays, City shall notify **Magellan** a minimum of 48 hours in advance of any **Encroachment** activities on **Magellan's Easement Tract** so that **Magellan** may arrange to have a representative present.

At **Magellan's** option and at **City's** sole cost and expense, **Magellan's** representative may be on site during all **Encroachment** activities over or within ten feet (10') of the **Magellan Facilities** to confirm that no damage occurs to the **Magellan Facilities**. The presence of **Magellan's** representative or any verbal instructions given by such representative shall not relieve **City** of any liability under the **Easement** or this **Agreement**, and will not change the terms of the **Easement** or this **Agreement**, which may only be changed by written agreement by authorized representatives of **City** and **Magellan**. If pipeline, coating, cathodic protection and/or any other repair of **Magellan Facilities** is required by **Magellan** or if the safety of the **Magellan Facilities** is jeopardized, in **Magellan's** sole judgment, **City** shall stop all construction activities on **Magellan's Easement Tract** until said repairs are completed or until any unsafe construction practices are resolved to the satisfaction of **Magellan's** on-site representative. Written notification of such construction activity shall be made to **MAGELLAN PIPELINE COMPANY, Coordinator of Operations & Maintenance, Paul Klabunde, 902 Main Avenue East, West Fargo, ND 58078, Cell: (701) 793-8377**, or such other representative of **Magellan**, which **Magellan** may from time to time designate.

4. **Protection of Magellan Facilities.** **City** shall protect the **Magellan Facilities** if excavating and backfilling become necessary within **Magellan's Easement Tract**. If excavating within 2 feet of any **Magellan** pipeline or when otherwise deemed necessary by **Magellan's** on-site representative, **City** shall perform any necessary digging or excavation operations by hand digging. The **Magellan Easement** is required to be staked during construction by the appropriate contractor and maintained throughout the construction duration. **City** shall reimburse **Magellan** for all costs of having a representative of **Magellan** on-site during construction activities related to the **Approved Encroachments**.
5. **Breach.** If either **City** or **Magellan** breaches this **Agreement** and the non-breaching party commences litigation to enforce any provisions of this **Agreement**, the reasonable cost of attorneys' fees and expenses will be payable to the non-breaching party by the breaching party, for all claims upon which the non-breaching party prevails.
6. **Insurance.** **City** shall cause its contractors and subcontractors to procure and maintain in force throughout the entire term of the **Project** insurance coverage described below with insurance companies acceptable to **Magellan** for work performed related to the construction of the **Approved Encroachments**. All costs and deductible amounts will be the responsibility and obligation of the **City's** contractors and subcontractors. Prior to commencing any activities related to the construction of the **Approved Encroachments**, the **City** must deliver to **Magellan** certificate(s) of insurance obtained by **City's** contractors and subcontractors, naming **Magellan Midstream Partners, L.P. and its Affiliates as an additional insured**. The limits set forth below are minimum limits and will not be construed to limit the **City's** liability or that of its contractors and subcontractors:

- (a) Workers' Compensation insurance complying with the laws of the State or States having jurisdiction over each employee and Employer's Liability insurance with limits of \$1,000,000 per accident for bodily injury or disease.
- (b) Commercial General Liability insurance on an occurrence form with a combined single limit of \$5,000,000 each occurrence; and for project specific, an annual aggregate of \$5,000,000. Coverage must include premises/operations, products/completed operations, and sudden and accidental pollution. **Magellan Midstream Partners, L.P. and its Affiliates** (hereinafter defined), and its and their respective directors, officers, partners, members, shareholders, employees, agents, and contractors shall be included as additional insureds. The term "Affiliate(s)" as used herein means, with respect to Magellan Midstream Partners, L.P., any individual, corporation, partnership, limited partnership, limited liability company, limited liability partnership, firm, association, joint stock company, trust, unincorporated organization, governmental body, or other entity (collectively, a "Person") that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with Magellan Midstream Partners, L.P. The term "control" (including the terms "controlled by" and "under common control with"), as used in the previous sentence means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Magellan Midstream Partners, L.P. or such Person, as applicable, whether through ownership of voting stock, ownership interest or securities, by contract, agreement or otherwise.
- (c) The Sudden and Accidental Pollution can be a separate, at the option of the **City's** contractors and subcontractors, a stand alone policy, but must still meet the \$5,000,000 minimum limit requirement. If the coverage is written on a claims-made policy form, the coverage must be maintained for two (2) years following the completion of the work activities related to the **Approved Encroachments**.
- (d) In each of the above policies, the **City's** contractors and subcontractors must agree to waive and will require their insurers to waive any rights of subrogation or recovery either may have against **Magellan** and its affiliated companies.
- (e) Regardless of the insurance requirements above, the insolvency, bankruptcy, or failure of any such insurance company providing insurance for the **City's** contractors and subcontractors, or the failure of any such insurance company to pay claims that occur, such requirements, insolvency, bankruptcy or failure will not be held to waive any of the provisions hereof.
- (f) In the event of a loss or claim arising out of or in connection with the construction of the **Approved Encroachments**, the **City** agrees, upon request of **Magellan**, to require its contractors and/or subcontractors to submit a certified copy of their insurance policies for inspection by **Magellan**.

(g) The City shall require all of its contractors and subcontractors for work related to the construction of the **Approved Encroachments** to provide adequate insurance coverage, all to be endorsed with the Waiver of Subrogation wording referenced in Section (d) above; any deficiency in the coverage, policy limits, or endorsements of said contractors and subcontractors, shall be the sole responsibility of the City.

7. **Indemnification.** City, to the extent permitted by law, will indemnify, save, and hold harmless **Magellan**, its affiliated companies, directors, officers, partners, employees, agents and contractors from any and all environmental and non-environmental liabilities, losses, costs, damages, expenses, fees (including reasonable attorneys' fees), fines, penalties, claims, demands, causes of action, proceedings (including administrative proceedings), judgments, decrees and orders resulting from City's breach of this **Agreement** or caused by or as a result of the construction, use, maintenance, existence or removal of the **Approved Encroachments** and **Other Encroachments** located on the **Magellan Easement Tract**. The presence of **Magellan's** representative or any instructions given by such representative will not relieve City of any liability under this **Agreement**, except to the extent that such liability results from **Magellan's** or its representative's negligence or willful misconduct.

8. **Damage or Loss.** City covenants that:

(a) If at any time, in the sole opinion of **Magellan**, it becomes necessary for **Magellan**, to cross, occupy, utilize, move or remove all or portions of the **Approved Encroachments** placed on **Magellan's Easement Tract** or constructed pursuant to this **Agreement**, for any purpose, including but not limited to surveying, constructing new facilities, maintaining, inspecting, operating, protecting, repairing, replacing, removing or changing the size of a pipeline(s) and appurtenances on **Magellan's Easement Tract** and such activities by **Magellan** result in damage to or destruction of the **Approved Encroachments**, then repair, replacement or restoration of such **Approved Encroachments** shall be at the sole cost and responsibility of City.

(b) If at any time, any encroachments belonging to or permitted by City which are not authorized by this or another written agreement ("**Other Encroachments**") are found to be on **Magellan's Easement Tract**, **Magellan** may at any time request City to remove such **Other Encroachments**, and if City refuses or fails to do so within a reasonable time, **Magellan's** may remove them from **Magellan's Easement Tract** to a location off of **Magellan's Easement Tract** at City's expense, unless they are allowed to remain by a written agreement between **Magellan** and City. Should such removal activities by **Magellan** result in damage to or destruction of the **Other Encroachments**, then repair, replacement or restoration of such **Other Encroachments** shall be at the sole cost and responsibility of City, and such **Other Encroachments** may not be repaired, replaced or rebuilt on **Magellan's Easement Tract** without a written agreement between **Magellan** and City.

(c) If during the exercise of the rights granted by the **Easement** or by this **Agreement**, the **Approved Encroachments** and **Other Encroachments**, if any, are damaged, destroyed or suffer loss of value, **City** agrees to release **Magellan**, its affiliates, and its and their respective directors, officers, members, partners, shareholders, employees, agents and contractors from and against any and all liabilities, and damages or losses which may arise as a result of the damage to or loss of use of the **Approved Encroachments** and **Other Encroachments**, if any, caused by **Magellan**, its employees, agents and contractors.

9. **Magellan Rights.** **Magellan** and **City** agree that the existence of the **Approved Encroachments** or this **Agreement** does not constitute a waiver of **Magellan's** rights under the **Easement**. **Magellan** hereby reserves and **City** hereby grants and confirms all of **Magellan's** rights, title and estate as set forth in the **Easement**.

10. The terms and conditions of this **Agreement** will constitute covenants running with the land and be binding upon and inure to the benefit of the parties hereto, their successors, assigns and grantees. This **Agreement** may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. This **Agreement** shall become effective upon its complete execution by the parties hereto.

IN WITNESS WHEREOF, the parties have set their hands on the dates expressed below.

MAGELLAN PIPELINE COMPANY, L.P.

By Its General Partner, Magellan Pipeline GP, LLC

By Its Undersigned Authorized Signatory:

By: _____

Name: _____

Date: _____, 2024

STATE OF OKLAHOMA)
)
COUNTY OF TULSA) SS

Before me, the undersigned, a Notary Public in and for the county and state aforesaid, on this _____ day of _____, 2024 personally appeared _____, to me personally known to be the Authorized Signatory for MAGELLAN PIPELINE GP, LLC, a Delaware limited liability company, who being duly sworn did acknowledge to me that he/she executed the foregoing instrument on behalf of said limited liability company as the free and voluntary act and deed, for the uses, purposes and consideration therein set forth.

Witness my hand and official seal.

Notary Public

My commission expires:

CITY OF FARGO
a North Dakota municipal corporation

By: _____

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

Date: _____

ATTEST

Steve Sprague, City Auditor

EXHIBIT "A"
(Page 1 of 2)

SUBJECT LAND

Veterans Industrial Park Addition, a plat of part of the Southwest Quarter of Section 28, Township 140 North, Range 49 West, Cass County, North Dakota.
(See Attached Exhibit "A"-Page 2)

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EXHIBIT "B"

GENERAL ENCROACHMENT REQUIREMENTS
(ATTACHED)

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<p>MAGELLAN PIPELINE COMPANY, L.P.</p> <p>General Encroachment Requirements</p> <p>A. GENERAL - These requirements define the minimum standards governing permitted encroachments by a landowner (including any developer, business entity, utility company or individual working for, or on behalf of, or with permission of landowner), its and their heirs, successors, and assigns (herein referred to collectively as "Owner") to pipeline corridors and rights of way ("Magellan's Easement Tract") owned or operated by Magellan Pipeline Company, L.P. ("Magellan"). Upon written request by Owner to Magellan, a copy of these minimum requirements shall be provided to any developer, business entity, utility company or individual working on behalf of Owner or with the permission of Owner within Magellan's Easement Tract. Specific circumstances may require additional precautions or more stringent methods in order to protect the integrity of Magellan's pipelines and facilities. Magellan's Easement Tract, for purposes of these General Encroachment Requirements, shall be considered to be any area within fifty (50) feet of any Magellan pipeline or other Magellan-owned or operated facility unless a different right of way width is specified by one or more recorded right of way or easement documents (herein collectively called "Easement", whether one or more), in which case such specified width shall define Magellan's Easement Tract.</p> <p>1. Encroachment Definition. An "encroachment" is any use of the land within Magellan's Easement Tract which is not permitted by the express provisions of the Easement or which could interfere with Magellan's Easement rights or which Magellan determines could create safety concerns for pipelines and/or facilities located on Magellan's Easement Tract. Encroachments include, but are not limited to: structures, fixtures, personal property, landscaping, foreign utilities, foreign pipelines, roadways, railroads, waterway crossings, water impoundments, walls, heavy equipment and heavy loads on Magellan's Easement Tract, and also any excavation, digging, drilling, tunneling and addition, removal or disturbance of soil or subsoil within Magellan's Easement Tract. All encroachments as described in this section 1 are hereinafter referred to as "Encroachments", whether one or more.</p> <p>2. Magellan Representative Required On-Site. Magellan pipeline systems operate at high pressures, and for safety reasons, Magellan requires its company representatives to be on-site while Owner is excavating or performing other activities which could endanger the pipelines or other facilities on</p>	<p>Magellan's Easement Tract. For other activities of the Owner on the Magellan Easement Tract, the Magellan field representative shall determine whether Magellan's continuous presence or periodic monitoring of encroachment activities will be required and shall inform the Owner. A Magellan representative will be made available upon 48 hours notice (exclusive of weekends and holidays) to determine the location and approximate depth of any Magellan pipelines. No excavation shall be commenced without prior written approval from Magellan and verification by Magellan of the location and approximate depth of its pipelines.</p> <p>3. Magellan's Facilities. The facilities include, but are not limited to, the Easement, rights of way, pipelines, meter and valve sites, aboveground piping manifolds, and cathodic protection systems.</p> <p>4. Land Use Change - Notification. The Owner and tenant, if any, must notify Magellan at any and every time when the land use will be changed for land on or adjacent to Magellan's Easement Tract. Examples of such land use changes are, without limitation:</p> <ul style="list-style-type: none"> • Change from pasture to cultivation • Change in depth of tilling (e.g. plowing deeper or deep-breaking the land) • Change in that terraces will be cut or re-cut • Change from agricultural use to residential, commercial or industrial use. • Change from residential to commercial or from commercial to industrial. <p>5. Governmental Regulations and Industry Guidelines. Owner must comply with all applicable laws and regulations, as well as Magellan's policies as expressed herein. Owner is also hereby referred to the Common Ground Alliance Best Practices which can be found on the web site: www.commongroundalliance.com (See "Program Information" / "Best Practices") and which is available from Common Ground Alliance in booklet form for easy reference. Best Practices addresses the most common issues for damage prevention for an encroaching party, including, among others: Planning and Design; One-Call Center; Locating and Marking; Excavation; and Mapping.</p> <p>In the event of a conflict between laws and regulations, Magellan's policies and the Common Ground Alliance Best Practices, the following priority shall govern all encroachments on Magellan's Easement Tract: 1st - laws and regulations; 2nd - Magellan policies; and 3rd - Common Ground Alliance Best Practices.</p>	<p>B. MAGELLAN RIGHT OF WAY PRACTICES</p> <p>1. Personal Property and Fixtures To Be Kept Off of Magellan's Easement Tract. In order to keep Magellan rights of way clear for operations, maintenance, inspection, repair, replacement, and emergency access, personal property and fixtures shall not be placed, stored, or maintained on Magellan's Easement Tract. Personal property and fixtures include, but are not limited to, storage sheds, automobiles, trailers, mobile homes, above-ground swimming pools, business equipment, product inventory, scrap metal, boulders, large rocks, debris, junk, and piles of materials.</p> <p>2. Encroachments Subject to Being Cleared from Magellan's Easement Tract. Subject to the terms of its Easement (including right of way agreement[s] and other written agreements), Magellan shall have the right, but not the obligation, to keep Magellan's Easement Tract clear of items that Magellan determines may hinder the exercise of Magellan's rights to construct, operate, inspect, maintain, repair, replace, and access its pipelines and other facilities. Clearing of the Magellan Easement Tract shall include, but not be limited to, the following: removal of trees, brush, crops, other vegetation and non-permitted encroachments located on or overhanging all or part of any Magellan's Easement Tract. Trees or other vegetation overhanging Magellan's Easement Tract may be side-trimmed.</p> <p>C. ENCROACHMENT PLANNING</p> <p>1. Plan Review Required by Magellan. For any Encroachment, Magellan must be provided project plans to review and approve, prior to such encroachment occurring, for purposes of damage prevention.</p> <p>2. Submission of Complete Plans. Owner must submit complete plans to Magellan for review. Incomplete plans could delay Magellan's engineering impact study and insufficient information could result in increased costs. Plans must include:</p> <ul style="list-style-type: none"> • A plan view of the project with the pipeline(s) location included. • An illustration in profile of the existing surface elevations, the proposed surface elevations and the elevation of the pipeline(s). • A comprehensive utility/structure/grading plan depicting the relationship to the pipeline(s). • A proper legal description of the project location. • Complete landscaping plans. • Complete plans for backfilling and compaction of backfill material. <p>3. Plans Must Show Magellan's Easement Tract, Pipelines and Facilities. All construction plans (prints) showing lands where all or any part of Magellan's Easement Tract, and where any pipeline or facility is located thereon must contain the following:</p>	<ul style="list-style-type: none"> • Location and depth of all pipelines and facilities • The width of Magellan's Easement Tract • A standard warning statement conspicuously displayed containing the following language: <p style="text-align: center;">WARNING</p> <p>HIGH-PRESSURE PIPELINE(S) Excavation and/or Construction Prohibited Without compliance with State One-Call, AND Without Written Permission From MAGELLAN PIPELINE COMPANY, L.P.</p> <p>4. Written Encroachment Agreement Required. A written, fully executed Encroachment Agreement must be in place between Magellan and Owner before Owner commences work on any encroachment.</p> <p>5. Costs. Unless otherwise agreed in writing, all costs and expenses sustained or incurred by Magellan that result from any encroachment shall be the obligation of Owner and shall be paid in full to Magellan pursuant to Magellan invoice. Such costs and expenses may include, but shall not be limited to: Modification, replacement, lowering, and protection of pipelines, including engineering evaluation and design, field labor and real estate research and document preparation and handling.</p> <p>6. Pipeline Integrity Inspection. Prior to the installation of any structure, parking lot, roadway or other facility which might interfere with or hinder Magellan's inspection of any pipeline or facility, Magellan will perform an integrity review of its pipeline and any other assets which may be affected by the proposed structure, parking lot, roadway or other encroaching facility in order to determine that Magellan's assets comply with integrity requirements and to allow Magellan to make any needed changes prior to construction of any approved encroachments.</p> <p>7. Soil On Magellan's Easement Tract - Removing and Adding. No soil shall be removed from or added to Magellan's Easement Tract without prior written authorization from Magellan. Any soil added must be clean fill dirt (without contaminants, trash or debris) and must be limited in amount so that the</p>	<p>resulting cover (vertical distance from the surface of the land to the top of Magellan's pipeline) is not greater than eight feet (8').</p> <p>8. Erosion Control Materials. Erosion-control materials may be allowed on Magellan's Easement Tract for temporary periods of construction and restoration.</p> <p>9. Proof of Title to Property. Magellan may require Owner to provide proof of current ownership of the land and all interests in the land where the proposed encroachment is to be located. Such proof shall be such proof as is satisfactory to Magellan and, without limitation of the foregoing, may be in the form of a title commitment or title policy.</p> <p>10. Subdivision Plat. Magellan requires a copy of the Subdivision Plat, if applicable. If the plat has been recorded, Magellan requires a copy of the recorded plat which reflects the book and the page of the recording.</p> <p>11. Location and Approximate Depth of Pipelines. A Magellan representative is normally available with 48 hours notice (exclusive of weekends and holidays) to determine the location and approximate depth of the pipeline(s). Determining actual depths of pipelines may require pot-holing or hand-digging by, and at the expense of Owner in the presence of an authorized Magellan representative. No excavation on Magellan's Easement Tract shall take place without prior approval by Magellan.</p> <p>12. Vertical Separation Between Magellan Pipeline or Facility and an Encroaching Object or Structure. Vertical separation is defined in this document as the vertical distance between the outermost part of a pipeline, facility or appurtenance (for example, the outside of the pipe [for uncased pipe] or the outside of the pipe casing [for cased pipe]) and the outermost part of the encroaching object (for example, the outside of the encroaching pipeline or the outside of its conduit).</p> <p>13. Construction Equipment Information. Owner shall provide to Magellan information as to the type, size, and weight of construction equipment that Owner proposes to use over or in the vicinity of the pipeline(s).</p> <p>D. ENCROACHMENT DESIGN REQUIREMENTS & STANDARDS</p> <p>1. Risk of Loss and Damage. Owner shall bear the risk of loss for all damage and/or destruction to any structure, fence, landscaping or improvement placed within the boundaries of Magellan's Easement Tract (whether approved by Magellan or not), and shall indemnify and hold Magellan harmless</p>
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from and against any such damages or destruction of structures (including, without limitation, any consequential damages) which may arise out of Magellan or its designees exercising Magellan's Easement rights or which may arise out of accessing Magellan's Easement Tract, pipelines or facilities.

2. Buildings, Structures and Fences.

a. Buildings and Structures. No buildings, houses, barns, garages, patios, playhouses, sheds, septic systems or drain fields, swimming pools (above-ground or below-ground), reinforced concrete slabs or other similar structures will be permitted on the Magellan's Easement Tract.

b. Septic System not permitted. No septic-system, including any lateral lines will be permitted on Magellan's Easement Tract.

c. Retaining Walls. Retaining walls are not permitted on Magellan's Easement Tract.

d. Fences. No fence shall be constructed or maintained on Magellan's Easement Tract without a written agreement.

e. Requirements for Fences. If fencing on Magellan's Easement Tract is authorized by a written agreement with Magellan, the fencing must comply with the following:

- 1) Not Parallel to Pipeline.** No fence shall be allowed to be constructed parallel to, and closer than 10 feet to, any pipeline within the boundaries of Magellan's Easement Tract.
- 2) Fence Posts Location.** No fence posts will be allowed to be within five (5) feet of any pipeline or facility.
- 3) Gates Required.** Magellan may require any fence constructed within the boundaries of Magellan's Easement Tract to have gates of such size and suitability as is necessary or convenient for Magellan to access its pipelines and/or facilities for its operations, including inspections, at each point where the fence crosses a Magellan pipeline or facility boundary. Magellan shall be allowed to put a Magellan lock on such gates, which will allow access to Magellan's Easement Tract and/or facilities through such gates.
- 4) Angle of Fence Crossing.** Fence crossings across Magellan's Easement Tract must be as close to 90 degrees as possible.

3. Landscaping, Elevation Changes and Water.

a. Landscaping Definition. Landscaping shall include, but not be limited to, trees, shrubs, underground irrigation or sprinkler systems, sidewalks or other paths, retaining walls, terraces or other land grade changes, within Magellan's Easement Tract.

b. General Landscaping Requirements. The following are the general rules for landscaping on Magellan's Easement Tract:

- 1) Written Approval.** Landscaping proposed to be done on Magellan's Easement Tract must be approved by Magellan in a written encroachment agreement. Among other terms, the encroachment agreement will release Magellan from any liability for damages to the landscaping from the exercise of Magellan's Easement rights.
- 2) Trees Not Permitted.** Trees are not permitted on Magellan's Easement Tract.
- 3) Shrubs.** Shrubs exceeding 3 feet in height and/or obstructing the view of any Magellan pipeline marker posts are not permitted on Magellan's Easement Tract.
- 4) Irrigation Systems, Field Drain Lines, and Sidewalks.** Irrigation systems, field drain lines and sidewalks that are to cross a pipeline must cross such pipeline at an angle as close to 90 degrees as possible, but in no event at an angle less than 45 degrees and must comply with other applicable provisions of this document.

c. No Water Bodies on Magellan's Easement Tract. Retention of water, including but not limited to, livestock ponds, lakes, retention ponds, or wetlands, may not be constructed or formed on Magellan's Easement Tract.

d. Surface Grade and Elevation Changes. Surface grade or elevation changes must be reviewed and approved in writing by Magellan.

4. Foreign Pipeline & Utility Crossings. No foreign pipelines or utility lines of any type shall be allowed to be constructed parallel to any pipeline within the boundaries of Magellan's Easement Tract.

a. Minimum Angle for Pipeline/Utility Crossing. Any foreign pipeline or utility that is proposed to cross a pipeline on Magellan's Easement Tract must cross such pipeline at an angle as close to 90 degrees as possible, but in no event at an angle less than 45 degrees.

b. Vertical Separation Requirements for Crossing. Foreign pipeline(s), utilities (except high-voltage lines - see below) or flow lines should cross pipeline(s) on Magellan's Easement Tract with at least 24 inches of vertical separation. Special written authorization must be given in the event vertical separation is less than that specified in these General Encroachment Requirements. The preferred method for a foreign pipeline or utility to cross a pipeline is to cross below the Magellan pipeline.

c. Warning Tape Required. When any foreign pipeline or utility line is proposed to cross a pipeline on Magellan's Easement Tract, Owner must place 6" wide McMaster-Carr No. 8288T12 or equal within Magellan's Easement Tract

in the following manner:

- 1) The tape must be placed directly over (parallel to) and at least 15 inches above the foreign line for the entire distance that it occupies Magellan's Easement Tract.** Additionally, the tape must be placed directly over (parallel to) and at least 15 inches above each pipeline that is crossed for a minimum distance which is the greater of:
 - (a) a minimum distance of 20 feet on each side of the Magellan pipeline, or
 - (b) across the entire width of Magellan's Easement Tract
- 2) The placement of warning tape on each side of pipeline(s) on Magellan's Easement Tract will not be required for utility cables that are installed using the directional drill or jacking method.**

d. Crossings by Metal Pipelines or Conduits. Metallic pipe crossing pipeline(s) on Magellan's Easement Tract may require Magellan to perform a cathodic protection interference survey. If interference with Magellan's cathodic protection system is detected and remediation is necessary, Owner agrees to cooperate with Magellan and to make necessary adjustments in Owner's interfering metallic pipe or other remediation to correct such interference problem ensure that the Magellan cathodic protection system is operating properly.

e. Crossing Requirements. Electrical, fiber optic, local service communication, long distance carrier telephone, and utility cables should cross Magellan pipeline(s) with a *minimum of 24-inches of vertical separation*. All such lines must be covered with a *Concrete Slab* for the full width of the Easement Tract, if requested by Magellan. If such lines have an exposed concentric neutral, a test point from the ground wire shall be installed by the power company.

f. Crossing Requirements for Lines Going Over a Magellan Pipeline. In the event the electrical, fiber optic, local service communication, long distance carrier telephone, and utility cable crosses over a pipeline on Magellan's Easement Tract, such line shall be *encased in red concrete across the full width of Magellan's Easement Tract*, unless a variance is granted by Magellan, as set forth below.

g. Written Authorization for Variance. Owner must have written authorization from Magellan for any variance from the vertical separation requirements listed above and/or for any variance from the requirement for encasement of high-voltage electrical lines in red concrete.

h. Utility Poles and Guy Anchors. Utility poles and guy anchors shall not be placed on Magellan's Easement Tract without a written agreement. With a written agreement, poles and anchors may be placed no closer than 20 feet to any pipeline on Magellan's Easement Tract. Poles shall not be allowed to run parallel to a pipeline within the Magellan

Easement Tract.

i. Directional Drilling / Boring.

- 1) Prior to commencing any horizontal directional drilling,** Owner shall submit plans showing procedure and material descriptions for Magellan's approval. The plans and description shall include, but not be limited to the following:
 - Profile and plan showing location of entry and exit points
 - Work space required to perform the work
 - Mud containment and disposal sites
- 2) Owner shall positively locate and stake the location of existing pipelines and other underground facilities on Magellan's Easement Tract,** including exposing any facilities located within 10 feet of the designed drilled path. Prior to commencing drilling operations, Owner shall modify drilling practices and down-hole assemblies to prevent damage to existing pipelines and other facilities. Owner shall be responsible for losses and repairs occasioned by damage to all pipelines and other facilities resulting from drilling or boring operations.
 - If a pipeline cannot be confidently located with the above or be positively identified by daylighting or other means, line locating measures shall be in accordance with (add hyperlink)
- 3) At all times, Owner shall provide and maintain instrumentation to document and accurately locate the pilot hole and the drill bit, to measure drill-string axial and torsional loads, and to measure drilling fluid discharge rate and pressure.** At Magellan's request, Owner shall promptly provide Magellan with reasonable access to information and readings provided by these instruments, including copies of any written documentation.
- 4) Pilot Hole.**
 - The pilot hole shall be drilled along the path shown in the plan and profile drawings. No pilot hole shall be made that will result in any of the encroaching utility being installed in violation of laws and regulations or of Magellan's requirements described herein. However, safety for any adjacent utilities and/or structures is of utmost importance. Therefore, the listing of separation distances or tolerances herein does not relieve Owner from responsibility for safe operations or for damage to adjacent utilities and structures.
 - If tolerances are not specified in the plan and profile drawings, the pilot hole shall have the following tolerances:

- Elevation of +0 feet and -15 feet
- Alignment of +/-20 feet as long as it does not come to within 10 feet of a pipeline on Magellan's Easement Tract
- Initial penetration of ground surface at exact location shown in the plan and profile drawings
- Fungal penetration of the ground surface within +/-10 feet of the alignment and within +30 feet and -0 feet of the length shown in the plan and profile drawings
- Curves shall be drilled at a radius equal to or greater than that specified in the plan and profile drawings. The drilled radius will be calculated over any 3 joints (range 2 type drill pipe) segment using the following formula:
 $R_{drilled} = (L_{drilled}/A_{avg}) \times 180/\pi$
 Where: $R_{drilled}$ = drilled radius over $L_{drilled}$
 $L_{drilled}$ = length drilled; no less than 75 feet and no greater than 100 feet
 A_{avg} = total change in angle over $L_{drilled}$
- At the completion of the pilot-hole drilling, Owner shall provide to Magellan a tabulation of horizontal and vertical coordinates, referenced to the drilled entry point, which accurately describe the location of the pilot hole.

5) Drilling Fluids.

- The composition of drilling fluids proposed for use shall comply with all applicable laws and regulations.
- Owner is responsible for obtaining, transporting and storing any water required for drilling fluids.
- Disposal of drilling fluids and drill cuttings shall be Owner's responsibility and shall be conducted in compliance with applicable laws and regulations. Drilling fluid shall *not* be disposed of by placing fluids on or under the surface of Magellan's Easement Tract.
- Owner shall employ best efforts to maintain full annular circulation of drilling fluids. Drilling fluid returns at locations other than entry and exit points shall be minimized. If annular circulation is lost, Owner shall take steps to restore circulation. If inadvertent surface returns of drilling fluids occur, they shall be immediately contained with hand-placed barriers (e.g., bay bales, sand bags, silt fences, etc.) and collected using pumps as practical. If the amount of surface return is not great enough to allow practical collection, the affected area will be diluted with fresh water and the fluid will be allowed to dry and dissipate naturally. If

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EXHIBIT "B" TO ENCROACHMENT AGREEMENT, 3 of 4

the amount of surface return exceeds that which can be contained with hand-placed barriers, small collection sumps (less than 5 cubic yards) may be used unless permits or other regulations prohibit the use of collection sumps. If the amount of surface return exceeds that which can be contained and collected using barriers or small sumps, or if the return of drilling fluids occurs in the body of water proper, drilling operations will be suspended until surface return volumes can be controlled.

6) **As-Built Drawing.** Owner shall promptly provide to Magellan an as-built plan and profile drawing of the drilled crossing showing the location of the new crossing as well as the location of pipelines on Magellan's Easement Tract.

5. **Roadway, Driveway, Railroad and Equipment Crossings.** No roadway, driveway, railroad or equipment crossings of any type shall be allowed to be constructed parallel to any pipeline within the boundaries of Magellan's Easement Tract.

a. **Pipeline Integrity Inspection.** A pipeline integrity review shall be performed by Magellan as described in provision "6" under "C. ENCROACHMENT PLANNING" (above).

b. **Load Bearing and Stress Limit Requirements.** Prior to any road, driveway, rail bed or equipment crossing construction, Magellan's engineer must determine whether the proposed compacted cover meets load-bearing requirements and provides adequate protection to limit stress on pipelines or other facilities, and must advise Owner of any additional requirements necessary to provide adequate protection.

c. **No Crossing Over Pipeline Bend.** Paved surfaces or rail beds shall not be allowed to cross a pipeline bend (point of inflection).

d. **Minimum Angle of Crossing.** Crossings should be as close as possible to 90 degrees to pipeline(s) on Magellan's Easement Tract, but not less than 45 degrees.

e. **Pipeline Casing Issues.** Magellan prefers that cased roadway and railroad crossings no longer be installed. If the carrier pipe under roadways and railroads requires adjustment or relocation, then instead of using casing, the carrier pipe will consist of extra strength material or heavier wall thickness to accommodate the additional longitudinal stress due to external loads. If a road or railroad crossing currently uses casing and the road or railroad is being widened and no other adjustment or relocation of the carrier pipe is required, then Magellan may elect to extend the casing pipe on the existing crossing(s) to accommodate additional road surface. If casing is used, it must not end under the roadway surface or track structure, but must extend across the entire length of the roadway or railroad right of way.

f. **Railroad Crossing Requirements.** Railroads shall be installed with a

minimum compacted cover over the carrier pipe, as measured from the base of the rail to the top of the pipe, as follows (see Figures 1 and 3):

Location of Pipeline	Minimum Compacted Cover Over Top of Pipeline
Under track structure proper (Below bottom of rail)	6.0 feet
Under all other surfaces within the right of way or from the bottom of ditches	3.0 feet

g. **Roadway and Driveway Crossings.** Roadways and driveways, shall be installed with a minimum compacted cover over the carrier pipe, as measured from the top of the roadway surface to the top of the pipe, as follows (see Figures 2 and 4):

Location of Pipeline	Minimum Compacted Cover Over Top of Pipeline
Under roadway surface proper (Below surface of pavement)	4.0 feet
Under all other surfaces within the right of way or from the bottom of ditches	3.0 feet

h. **Crossing Pipelines Transporting Highly Volatile Liquids.** For pipelines transporting highly volatile liquids, minimum cover for a crossing at a drainage ditch must be 4.0 feet.

i. **When Additional Depth Required.** Depth greater than the minimum depths stated above may be required for a pipeline due to the combined stress of internal pipeline pressure and external loading pressure. Magellan will analyze each proposed crossing based on information provided by Owner to determine any additional depth that may be required for the pipeline for safe operation.

j. **Temporary Roads and Equipment Crossings.** Any such road or crossing must meet the following requirements:

- Must be located at a site approved by a Magellan field representative.
- Must provide adequate protection for pipelines and other facilities, as determined by the appropriate Magellan engineer, so that the compacted cover meets load-bearing requirements and provides adequate protection to limit stress on the pipeline or other facilities.

• Owner shall place Six-inch wide plastic warning tape, McMaster-Carr No. 8288T12 or equal, over each pipeline for the width of the temporary road or equipment crossing, plus an additional 20 feet past each outside edge of such temporary road or equipment crossing.

k. **Owner Required to Protect Magellan Pipelines.** Magellan may require Owner to put in place additional cover and/or stabilization (timbers, steel plate, crushed rock, concrete slab, etc.) at any approved equipment crossing in order to protect pipelines on Magellan's Easement Tract, taking into account possible effects of weather, pipeline depth, and type of vehicles proposed to cross the pipelines. Magellan will analyze each proposed crossing based on information provided by Owner to determine any additional depth or protection that may be required for safe pipeline operation.

l. **Heavy Equipment - Definition and Requirements.** Heavy equipment shall be defined as any vehicle having a gross weight in excess of 80,000 pounds. Heavy equipment shall be prohibited from working directly on top of the active pipeline. For vehicles having a gross weight of 80,000 pounds or less, the pipeline must have a minimum of 4 feet of cover. Magellan must analyze the additional longitudinal stress due to external loads if the vehicles have a gross weight in excess of 80,000 pounds in order to determine required pipeline depth for safe operation.

6. **Parking Lots and Other Pavement.**

a. **Parking Lot and Pavement Requirements.** All parking lots and other pavement installed on Magellan's Easement Tract shall consist of a flexible surface such as asphalt. No reinforced concrete will be allowed.

b. **Pipeline Depth Under Parking Lot.** The depth of pipelines under a parking lot must meet or exceed compacted cover requirements listed in the previous "Roadway, Driveway, Railroad, and Equipment Crossings" section above.

7. **Waterway Crossings.**

a. **Pipeline Depth Requirements.** If Owner proposes to cross a pipeline with a waterway (river, stream, creek, irrigation canal, or drainage ditch), such crossing must result in the pipelines meeting or exceeding the minimum depth below the bottom of the waterway for compliance with then current pipeline construction standards and federal, state, and local regulations.

b. **Requirements for Waterway Crossings:**

- 1) **Minimum Angle or Crossing.** Crossings should be as close as possible to 90 degrees to pipeline(s) on Magellan's Easement Tract, but not less than 45 degrees.

2) **Vertical Separation Requirements for Waterway Crossing.** Pipelines to be crossed must have a minimum vertical separation of five (5) feet, as measured from the bottom of the waterway to the outermost part of such pipelines, facility or appurtenance.

3) **Adding Weight to Pipeline for Negative Buoyancy.** Owner shall bear all liability and obligation for the cost of Magellan adding sufficient weight or mechanical devices to any pipeline on Magellan's Easement Tract crossed by a waterway in order to create negative buoyancy for such pipeline.

8. **Blasting.**

a. **Magellan Written Approval Required - Plan To Be Submitted.** Magellan must approve any proposed blasting operations that could affect pipelines or facilities on Magellan's Easement Tract. Should blasting be necessary, a comprehensive plan must be submitted to Magellan for review and written approval.

b. **Safety Considerations - Damage Prevention Plan.** For safety and preservation of Magellan assets, all blasting shall be in accordance with federal, state, and local governing agencies and the Magellan's "Damage Prevention Plan for Blasting Near Company Facilities". A copy of said plan will be made available upon request.

E. **EXCAVATION NEAR MAGELLAN PIPELINES.**

1. **STATE "ONE-CALL" REQUIRED.** No excavation or activity listed in "A. GENERAL - 1. Encroachment Definition" above shall be performed by Owner in the vicinity of Magellan's facilities or within Magellan's Easement Tract until proper telephone notification has been made to the appropriate "One Call" system and a Magellan representative is on-site to monitor excavation activities. All of the states in which Magellan conducts pipeline operations have "One Call" laws, which require 48-72-hours notification prior to any excavation related activities. After making a One-Call, the state One-Call agency will notify Magellan to mark accurately, in a reasonable and timely manner, the location of Magellan's pipeline facilities in the vicinity of the proposed encroachment.

2. **ONE-CALL NOTIFICATION.** The following list is provided for convenience, but is not warranted by Magellan to be complete or accurate (telephone numbers were copied from each state's web site on 1/5/2004). Owner is required to acquire and call the appropriate One-Call number(s) for its location of activity.

Current "ONE-CALL" numbers and information can be found on each state's "ONE-CALL" website:

- Arkansas - www.arkonecall.com/ - 800 482-8998
- Colorado - www.uncc2.org/ - 800 922-1987
- Connecticut - www.uncc2.org/ - 800 922-4455
- Delaware - www.misutility.net/delaware - 800 257-7777
- Illinois - www.illinois1call.com/ - 800 892-0123
- Iowa - www.iowaonecall.com/ - 800 292-8989
- Kansas - www.kansasonecall.com/ - 800 344-7233
- Minnesota - www.gopherstateonecall.org/ - 800 252-1166
- Missouri - www.mo1call.com/ - 800 344-7483
- Nebraska - www.ne-diggers.com/ - 800 331-5666
- New Mexico - www.nmonecall.org - 800-321-2537
- North Dakota - www.ndonecall.com/ - 800 795-0555
- Oklahoma - www.callokic.com/ - 800 522-6543
- South Dakota - www.sdonecall.com/index.asp - 800 781-7474
- Texas - www.texasonecall.com/ - 800 245-4545
- Wisconsin - www.diggershotline.com/ - 800 242-8511
- Wyoming - www.onecallofwyoming.com/ - 800 849-2476

Alternatively, the National One-Call number - (888) 258-0808 - may be used to register a proposed excavation and to subsequently notify underground utility operators with assets in the vicinity.

3. Excavation Plan Approval. Owner shall submit to Magellan for its approval plans for any proposed excavation on Magellan's Easement Tract. No excavation on Magellan's Easement Tract shall be commenced until Owner has secured Magellan's written approval of the plans. The excavation work shall be in compliance with all applicable laws and regulations. Owner is also referred to the Common Ground Alliance Best Practices (referenced in this document).

4. Magellan Representative On-Site for Excavation. A Magellan representative must be on-site when an excavation is occurring on Magellan's Easement Tract (see provision "2" under "A. General" beginning on page 1).

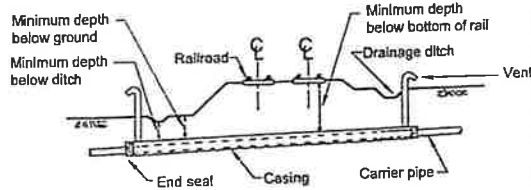
5. Removal of Side-Cutting Teeth from Equipment. Side-cutting teeth shall be removed from buckets of excavating equipment.

6. Parallel Excavating Required. When, in preparation for crossing any pipeline on Magellan's Easement Tract with any other pipeline or with electric line, communication line, roadway or any other structure or facility, Owner needs to locate the pipelines by use of mechanical means. Owner must perform such locating activity by excavating parallel to each of the pipelines with such mechanical means, but

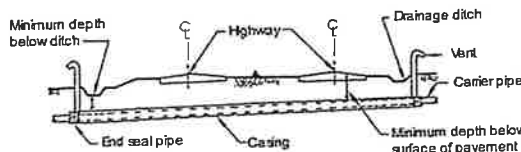
shall cease using the mechanical means when it reaches a point within two feet of the Magellan (see next provision).

7. Exposing Pipeline by Hand. Excavating within 2 feet of any pipeline on Magellan's Easement Tract shall be done by hand-digging until the pipeline is exposed and its location is accurately known. Then, Owner must position the excavation equipment so that from the point of operations the equipment will not reach within 2 feet of any pipeline

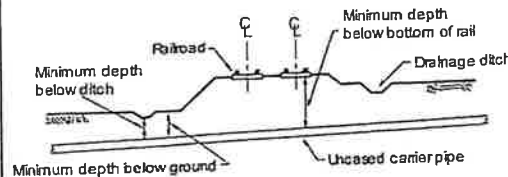
RAILROAD AND HIGHWAY CROSSINGS



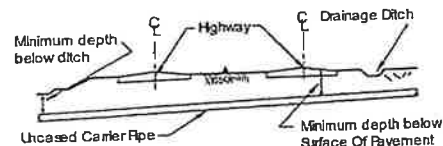
**CASED RAILROAD CROSSING
 FIGURE 1**



**CASED HIGHWAY CROSSING
 FIGURE 2**



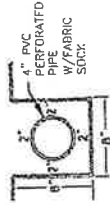
**UNCASED RAILROAD CROSSING
 FIGURE 3**



**UNCASED HIGHWAY CROSSING
 FIGURE 4**

EXHIBIT “C”
PLAN DRAWINGS
(ATTACHED)

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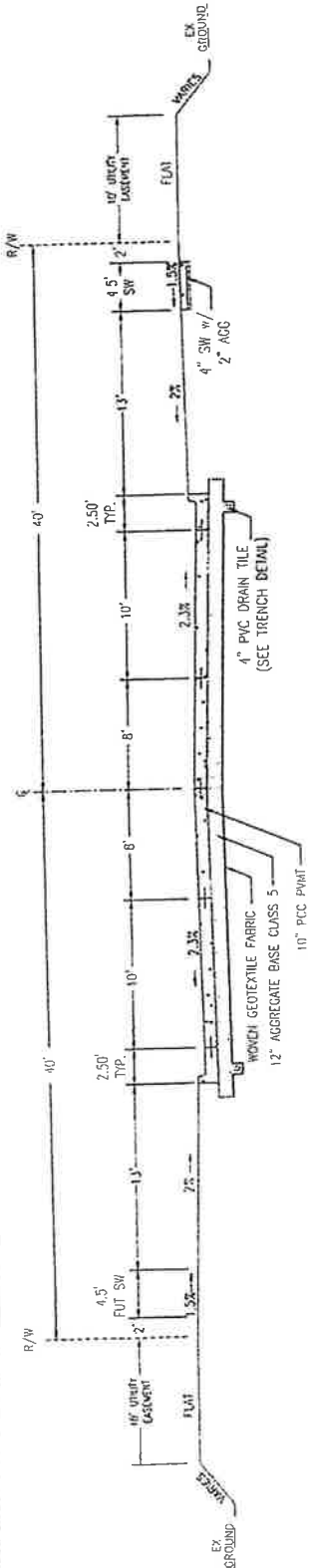
- NOTES:
- 1) SEE SECTION 90 FOR JOINTING AND REINFORCING PLANS
 - 2) ALL CURB & OUTER SHALL BE STANDARD TYPE II UNLESS OTHERWISE NOTED ON PLANS.
 - 3) SEE SECTION 200 FOR TYPICAL CROSS SECTIONS SHOWING: EXPOSED SUBGRADE, CLAY GROUND, FINISHED GRADE AND FINISHED GRADE.

ALL DIMENSIONS ARE BASED ON THE CENTERLINE UNLESS OTHERWISE NOTED

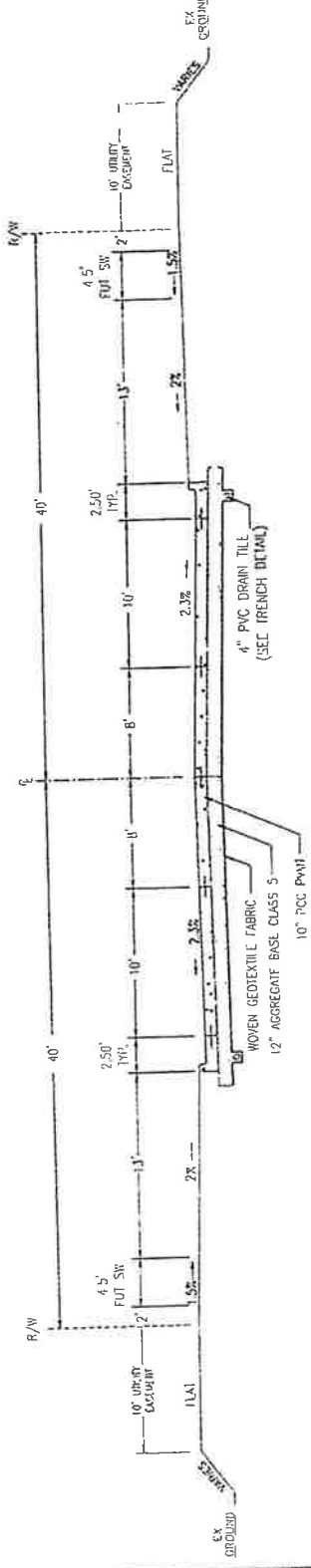
ADDITIONAL A. CONSTRUCTION INFORMATION

EXHIBIT C
SECTION 030
SHEET 1

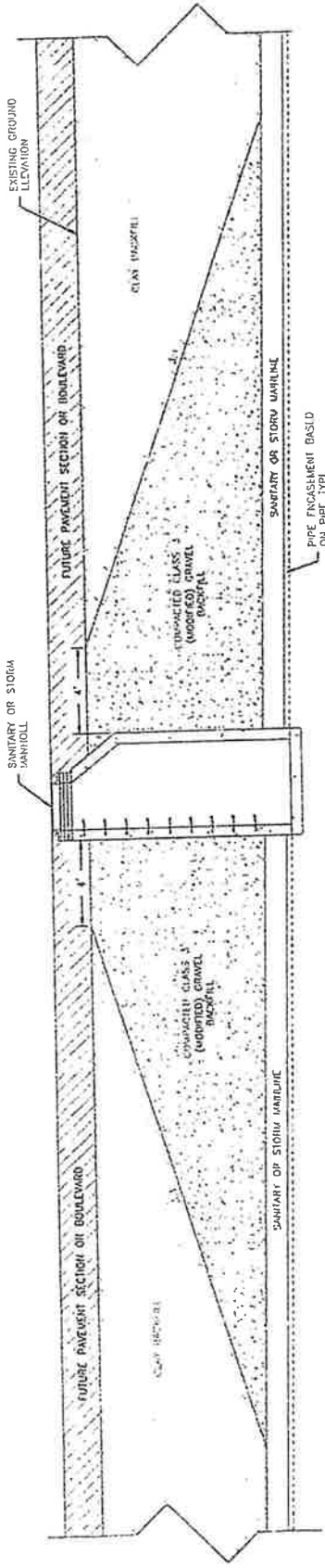
Typical Sections	
New Paving and Utility Construction	
Improvement District <i>BN-23-GJ</i>	
PROJECT NO.	030
SECTION NO.	030
SHEET NO.	1



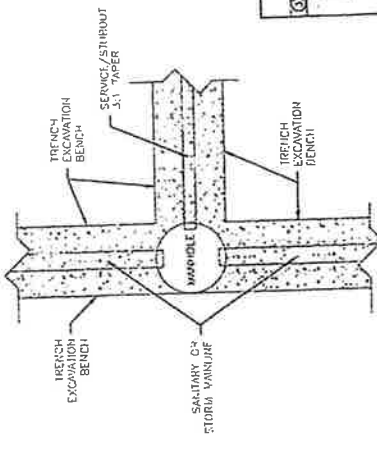
PROPOSED TYPICAL SECTION - 53rd St N
STA. 61+74.78 TO 74+37.82 N.T.S.



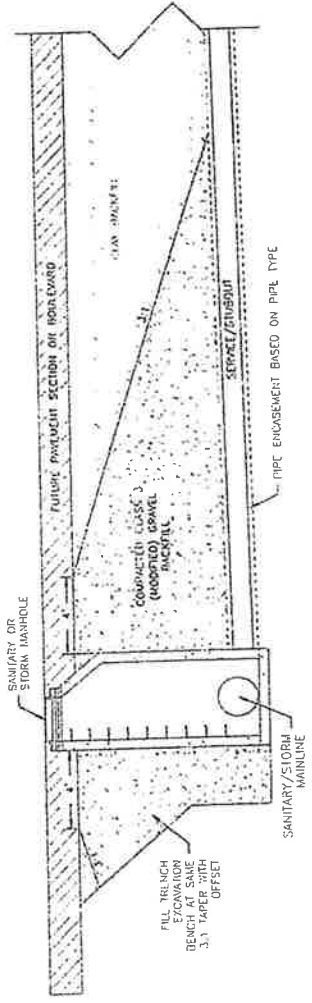
PROPOSED TYPICAL SECTION - 23rd Ave N
STA. 41+56.42 TO 74+37.82 N.T.S.



SANITARY AND STORM MANHOLE



MANHOLE WITH SERVICE OR STUBOUT - PLAN



MANHOLE WITH SERVICE OR STUBOUT - PROFILE

- NOTES:
1. GRAVEL BACKFILL SHALL BE UTILIZED AT EACH SANITARY MANHOLE & STORM MANHOLE DESIGNATED BY HATCH BY CONTRACTOR SHALL COMPACT IN LIFTS UTILIZING PLATE COMPACTION METHODS. SEE SECTION 1000-3.9.4.A. FOLLOWING A LONGITUDINAL 3:1 TAPER. THIS INCLUDES SERVICE LINES AND STUB OUTS, WITH THE EXCEPTION OF LATERAL INLET STORM RIMS.
 2. 1" CLAY GAP TO BE UTILIZED UNDER FUTURE PAVEMENT AND FUTURE BOULEVARD, SEE DETAIL 1200-5.2
 3. CONTRACTOR SHALL COMPACT IN LIFTS UTILIZING PLATE COMPACTION METHODS. SEE SECTION 1000-3.9.4.A.
 4. LENGTH OF 3:1 TAPER CALCULATED BASED OFF THE TOP OF PIPE TO EXISTING GROUND ELEVATION
 5. THIS OPERATION WILL BE PAID BY THE BID ITEM "TM MANHOLE GB".

MANHOLE GRAVEL BACKFILL DETAILS

EXHIBIT C
SECTION 020
SHEET 3

MANHOLE WITH SERVICE OR STUBOUT

SUBMITTAL & CONSTRUCTION	
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SECTION NO. 020	
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PROJECT NO. 020	
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Engineering Department
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1545 | Fax: 701.241.8101
Email: feng@FargoND.gov
www.FargoND.gov

May 22, 2024

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Project No. UR-24-G1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, May 22, 2024, for Utility Rehab/Reconstruction, Project No. UR-24-G1, located as follows: 40th Avenue South and Milwaukee Trail Tunnel.

The bids were as follows:

Border States Paving Inc	\$65,887.80
Master Construction Co Inc	\$77,460.00
Key Contracting Inc	\$83,205.50
Dirt Dynamics	\$88,728.00
Engineers Estimate	\$45,899.70

Private financial security is not needed.

No protests have been received.

Although the lowest bid was approximately 43.5% higher than the Engineer's Estimate, I believe the bids received align with the current market costs for this small project. Therefore, this office recommends award of the contract to Border States Paving Inc. in the amount of \$65,887.80 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE
City Engineer

Engineer's Statement Of Cost
Project # UR-24-G1
Utility Rehab/Reconstruction

40th Avenue South and Milwaukee Trail Tunnel.

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:

Utility Rehab/Reconstruction Project # UR-24-G1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
Water Main					
1	F&I Controlled Density Fill	LS	1.00	1,410.00	1,410.00
2	F&I Fittings C153 Ductile Iron	LB	688.00	15.60	10,732.80
3	F&I Pipe C900 DR 18 - 12" Dia PVC	LF	175.00	137.00	23,975.00
Water Main Total					36,117.80
Paving					
4	Site Grading	LS	1.00	5,980.00	5,980.00
5	Rem & Repl Sidewalk 5" Thick Reinf Conc	SY	50.00	161.00	8,050.00
6	Mulching Type 1 Hydro	SY	670.00	2.90	1,943.00
7	Seeding Type B	SY	670.00	5.50	3,685.00
Paving Total					19,658.00
Erosion Control					
8	Stormwater Management	LS	1.00	6,740.00	6,740.00
9	Inlet Protection - Existing Inlet	EA	12.00	246.00	2,952.00
10	Sediment Control Log 6" to 8" Dia	LF	100.00	4.20	420.00
Erosion Control Total					10,112.00
Total Construction in \$					65,887.80

Engineering	10.00%	6,588.78
Admin	4.00%	2,635.51
Legal	3.00%	1,976.63
Interest	4.00%	2,635.51
Contingency	5.00%	3,294.39
Total Estimated Costs		83,018.62
Utility Funds - Water - 501		83,018.62
Unfunded Costs		0.00

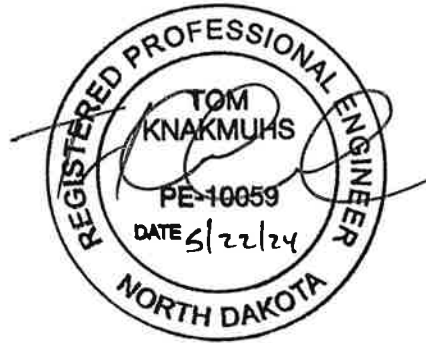
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 05/22/2024



Thomas Knakmuhs

City Engineer



COVER SHEET
CITY OF FARGO PROJECTS

21

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 project as it will appear in the contract:

Micro Surfacing

Project No.	<u>PR-24-F</u>
Call For Bids	<u>May 28</u> , <u>2024</u>
Advertise Dates	<u>June 5, 12 & 19</u> , <u>2024</u>
Bid Opening Date	<u>July 3</u> , <u>2024</u>
Substantial Completion Date	<u>September 2</u> , <u>2024</u>
Final Completion Date	<u>October 2</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)
- N/A Notice to Property Owners (Special Assessments)
- 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:

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



**ENGINEER'S REPORT
MICRO SURFACING
PROJECT NO. PR-24-F**

**ON 37TH STREET NORTH BETWEEN 40TH AVENUE
NORTH AND 46TH AVENUE NORTH, AND ON 40TH
AVENUE NORTH BETWEEN 32ND STREET NORTH AND
THE RED RIVER BRIDGE.**

Nature & Scope

Micro Surfacing consists of applying a thin overlay material composed of modified emulsified asphalt, aggregate, water, and additives over a prepared pavement.

Purpose

This micro surfacing project extends the life of asphalt pavement and provide a more traffic and weather resistant surface.

Feasibility

The estimated cost of construction is \$511,708.52. The cost breakdown is as follows:


100% City Funds			
Construction Cost			\$511,708.52
Fees			
Admin	4%		\$20,468.34
Contingency	5%		\$25,585.43
Engineering	10%		\$51,170.85
Interest	4%		\$20,468.34
Legal	3%		\$15,351.26
Total Estimated Cost			\$644,752.74
Funding			
Sales Tax Funds - Infrastructure - 420	76.67%		\$494,308.49
Utility Funds - Street Lights - 528	23.33%		\$150,444.25

Project Funding Summary

Sales Tax Funds - Infrastructure - 420	76.67%	\$494,308.49
Utility Funds - Street Lights - 528	23.33%	\$150,444.25
Total Estimated Project Cost		\$644,752.74

We believe this project to be cost effective.




Thomas Knakmuhs, PE
City Engineer

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

22

Project No. NR-23-A3 Type: Interim Time Extension (Change Order #1)
 Location: Storm Sewer Lift Stations # 47 & #48 on 38th St S at Drain 27 Date of Hearing: 5/20/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>5/28/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Christine Goldader</u>

The Committee reviewed the accompanying correspondence from Project Manager, Christine Goldader, regarding an Interim Time Extension (Change Order #1), which is a time extension to the Interim Completion Date extending the date from May 1, 2024 to May 31, 2024.

Staff is recommending approval of the Interim Time Extension (Change Order #1).

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of the Interim Time Extension (Change Order #1) to Fusion Automation.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve the Interim Time Extension (Change Order #1), bringing the date from May 1, 2024 to May 31, 2024 to Fusion Automation.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____ Sales Tax _____

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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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: Christine Goldader, Project Manager
Date: May 7, 2024
Re: Project No. NR-23-A3 – Interim Completion Date Time Extension (CO #1)

Background:

Fusion Automation Inc. is the Electrical Contractor for Project No. NR-23-A3, reconstruction of storm sewer lift stations #47 and #48 at 38th Street South and Cass County Drain 27.

This is no cost change order request. The interim completion date for LS #47 is 5/1/2024. There were delays in the production of the CT cabinet, an electrical component, which were out of the control of the Contractor. Fusion asks for a time extension from 5/1/24 to 5/31/24 to provide a temporary power solution, and believes the pumps will be fully operational with temporary power by 5/31/2024.

Key and Fusion have worked together to develop a plan to complete the work and to provide means and methods for temporary pumping to the drain until completion. This change order will not affect contract price.

Change Order #1:

- 1.) Extend the Lift Station #47 milestone completion date from 5/1/2024 to 5/31/2024.

Recommended Motion:

Approve the Interim Completion Date Time Extension (Change Order #1) to Fusion Automation.

CAG/klb
Attachment

April 30, 2024

Christine Goldader
City of Fargo Engineering
225 4th Street North
Fargo, ND 58102

Subject: Change Order 1 Recommendations
NR-23-A3 Drain 27 Lift Station #47 & #48 Replacement/Rehab
Lift Station # 47 Completion Milestone Extension

Mrs. Goldader:

Below is a summary of the proposed changes associated with this change order request.

Lift Station # 47 Completion Milestone Extension

Key and Fusion have requested a time extension to complete Lift Station #47 due to unforeseen delays in equipment procurement. Specifically, there were delays in the production of the pumps and CT cabinet for the project. Key and Fusion have worked together to develop a plan to complete the work and to provide means and methods for temporary pumping to the drain until completion. HEI finds the change proposals acceptable.

This change order will no impact contract price.

This change order will extend the Lift Station #47 milestone completion date from 5/1/2024 to 5/31/2024.

Sincerely,



Gabe Bladow, PE
Project Manager
Direct: 701.499.2091
gbladow@houstoneng.com



DATE: APRIL 30TH, 2024

**PROJECT: FARGO NR-23-A3 CONSTRUCT DRAIN 27. LIFT STATION #47 & #48
OWNER: CITY FARGO, ND
ENGINEER: HOUSTON ENGINEERING
CONTRACTOR: FUSION AUTOMATION - PROJECT NUMBER: 230015
SUMMARY: CHANGE ORDER PROPOSAL # 1 –TIME EXTENSION REQUEST**

This change order is the Time Extension Request for the aforementioned project.

The general contractor has notified us of a delay in pump installation, which led to their request for an extension of the completion deadline until 5/31/2024. Additionally, the CT cabinet for this project has experienced a delay, and the manufacturer now estimates the ESD of 5/31/2024. These issues of volatile ESDs are beyond the control of the electrical contractor. Fusion Automation will have temporary solutions ready by 5/31/2024. Henceforth, Fusion Automation Inc. respectfully requests an extension of the project milestone completion date to 5/31/2024.

Summary: Extend the project milestone completion date to 5/31/2024.

A handwritten signature in black ink, appearing to read "Dan Hanson".

Dan Hanson, President
Electrical Contractor
Fusion Automation Inc.
(701)757-0852; dan@fusionnd.com


Summary.

Source Of Funding	Infrastructure Sales Tax Fund 460
Net Amount Change Order # 1 (\$)	\$0.00
Previous Change Orders (\$)	\$0.00
Original Contract Amount (\$)	\$290,209.31
Total Contract Amount (\$)	\$290,209.31

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	9/30/2024	Current Final Completion Date	10/31/2024
Additional Days Substantial Completion	0	Additional Days Final Completion	0
New Substantial Completion Date	9/30/2024	New Final Completion Date	10/31/2024
New Interim Completion Date #1	5/31/2024	Interim Completion Dates	
		Current Interim Completion Date #1	5/1/2024


Fusion Automation Inc.
President
5/15/2024

APPROVED
For Contractor
Title

APPROVED DATE
Department Head
Mayor
Attest



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

23

Project No. NR-23-A2 Type: Interim Time Extension (Change Order #2)

Location: Storm Sewer Lift Stations # 47 & #48 on 38th St S at Drain 27 Date of Hearing: 5/20/2024

<u>Routing</u>	<u>Date</u>
City Commission	5/28/2024
PWPEC File	X
Project File	Christine Goldader

The Committee reviewed the accompanying correspondence from Project Manager, Christine Goldader, regarding an Interim Time Extension (Change Order #2), which is a time extension to the Interim Completion Date extending the date from May 1, 2024 to May 31, 2024.

Staff is recommending approval of the Interim Time Extension (Change Order #2).

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of the Interim Time Extension (Change Order #2) to Key Contracting.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve the Interim Time Extension (Change Order #2), bringing the date from May 1, 2024 to May 31, 2024 to Key Contracting.

PROJECT FINANCING INFORMATION:


Recommended source of funding for project: Sales Tax

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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<input checked="" type="checkbox"/>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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: Christine Goldader, Project Manager
Date: May 7, 2024
Re: Project No. NR-23-A2 – Interim Completion Date Time Extension (CO #2)

Background:

Key Contracting Inc. is the Prime Contractor for Project No. NR-23-A2, reconstruction of storm sewer lift stations #47 and #48 at 38th Street South and Cass County Drain 27.

This is no cost change order request. The Interim Completion Date for LS #47 is 5/1/2024. There were delays in the production of the pumps for the project; the pumps are currently in transport to Fargo, with an expected delivery between 4/29/2024 and 5/3/2024. Key asks for a time extension from 5/1/24 to 5/31/24 to install the pumps, and believes the pumps will be fully operational with temporary power by 5/31/2024.

Key and Fusion have worked together to develop a plan to complete the work and to provide means and methods for temporary pumping to the drain until completion. This change order will not affect contract price.

Change Order #2:

- 1.) Extend the Lift Station #47 Milestone Completion Date from 5/1/2024 to 5/31/2024.

Recommended Motion:

Approve the Interim Completion Date Time Extension (Change Order #2) to Key Contracting Inc.

CAG/klb
Attachments

April 30, 2024

Christine Goldader
City of Fargo Engineering
225 4th Street North
Fargo, ND 58102

Subject: Change Order 2 Recommendations
NR-23-A2 Drain 27 Lift Station #47 & #48 Replacement/Rehab
Lift Station # 47 Completion Milestone Extension

Mrs. Goldader:

Below is a summary of the proposed changes associated with this change order request.

Lift Station # 47 Completion Milestone Extension

Key and Fusion have requested a time extension to complete Lift Station #47 due to unforeseen delays in equipment procurement. Specifically, there were delays in the production of the pumps and CT cabinet for the project. Key and Fusion have worked together to develop a plan to complete the work and to provide means and methods for temporary pumping to the drain until completion. HEI finds the change proposals acceptable.

This change order will no impact contract price.

This change order will extend the Lift Station #47 milestone completion date from 5/1/2024 to 5/31/2024.

Sincerely,



Gabe Bladow, PE
Project Manager
Direct: 701.499.2091
gbladow@houstoneng.com

Key Contracting, Inc.

245 7th Avenue NE
 West Fargo, North Dakota 58078
 Phone: (701) 238-8192
 Fax: (701) 356-0166
 Internet: keycontracting.com



CHANGE ORDER REQUEST

Request: 1
 Date: 4/24/2024
 Project: NR-23-A2
 Lift Stations 47 and 48, Drain 27
 Project Location: Fargo, ND
 Request for: Time Extension

Narrative: This is no cost change order request. The interim completion date for LS47 is 5/1/2024. As of today, the pumps are loaded and enroute to Fargo. Key expects delivery of the pumps next week, 4/29/2024 to 5/3/2024. Key and the pump manufacturer have made a whole hearted attempted to have the pumps installed by 5/1/24. Key asks for a time extension from 5/1/24 to 5/31/24 to install the pumps. As of today, the CT cabinet, an electrical component, is not available. Key has coordinated with the electrical contractor, we believe the pumps will be fully operational with temporary power by 5/31/2024. Please advise if this extension is acceptable.

The contract is changed as follows:

Item Number	Description	Quantity	Rate	Total
				\$ -

Total Requested Change \$ -

The contract is hereby amended as follows:

Original Contract Price	\$ 9,673,607.50
Previous Contract Adjustments	\$ -
Current Change Order Adjustment	\$ -
Amended Contract Total	\$ 9,673,607.50

LS47 Interim Completion	5/1/2024
Requested LS47 Interim Completion	5/31/2024

Accepted on the date noted above by:

Key Contracting, Inc

Engineer:

Owner:

Summary.

Source Of Funding	Infrastructure Sales Tax Fund 460
Net Amount Change Order # 2 (\$)	\$0.00
Previous Change Orders (\$)	\$2,119.00
Original Contract Amount (\$)	\$9,673,607.50
Total Contract Amount (\$)	\$9,675,726.50

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	9/30/2024	Current Final Completion Date	10/31/2024
Additional Days Substantial Completion	0	Additional Days Final Completion	0
New Substantial Completion Date	9/30/2024	New Final Completion Date	10/31/2024
Interim Completion Dates		Current Interim Completion Date #1	
New Interim Completion Date #1	5/31/2024		5/1/2024

APPROVED
For Contractor
Title

thomas martin
President

APPROVED DATE
Department Head
Mayor
Attest



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

24

Project No. ER-23-A1

Type: Final Balancing Change Order #2

Location: Mills Ave N, 4th St – 5th St N

Date of Hearing: 5/20/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>5/28/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Jason Leonard</u>

The Committee reviewed the accompanying correspondence from Division Engineer, Jason Leonard, regarding Final Balancing Change Order #2 in the amount of \$0.00, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Final Balancing Change Order #2 in the amount of \$0.00, bringing the total contract amount to \$127,860.50.

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

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Final Balancing Change Order #2 in the amount of \$0.00, bringing the total contract amount to \$127,860.50 to Master Construction.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Water Utility Funds


	<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>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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: Jason Leonard, Division Engineer
Date: May 13, 2024
Re: Project No. ER-23-A1 – Final Balancing Change Order #2

Background:

The attached Final Balancing Change Order #2 in the amount of \$0.00 reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

The original contract bid price for this project was \$89,440.50 and the project final amount is \$127,860.50 (42.96% Increase). This Improvement District is funded by Developer Funds and Water Utility Funds.

Recommended Motion:

Approve the Final Balancing Change Order #2 in the amount of \$0.00 to Master Construction.

JTL/klb
Attachment



CHANGE ORDER REPORT
UTILITY REHAB/RECONSTRUCTION
PROJECT NO. ER-23-A1
MILLS AVENUE NORTH BETWEEN 4TH STREET N AND 5TH STREET N

Final Balancing
Change Order

Change Order No 2 Change Order Date 5/3/2024
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

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
									Sub Total	\$0.00

Summary

Source Of Funding	Water Utility Fund
Net Amount Change Order # 2 (\$)	\$0.00
Previous Change Orders (\$)	\$38,420.00
Original Contract Amount (\$)	\$89,440.50
Total Contract Amount (\$)	\$127,860.50

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

APPROVED
For Contractor
Title


Jake Antony
Controller

APPROVED DATE
Department Head
Mayor
Attest





Memorandum

To: Board of City Commissioners
From: Bekki Majerus, Director of Facilities Management
Date: May 22, 2024
Re: Newman Outdoor Field 2022 CIP Project Closeout

The Capital Improvement Plan project from 2022 at Newman Outdoor Field has been completed. The project included the replacement of HVAC units, press box windows and caulking of stadia joints. In order to close out the project, the Certificate of Substantial Completion needs to be approved and signed. Facilities Management and the Architectural Consultant, RLE Architects, have reviewed the work and found the project to be substantially complete.

Facilities is requesting the approval and sign off for the Certificate of Substantial Completion.

Requested Action:
Approve and sign the Substantial Completion.


AIA® Document G704® – 2017
Certificate of Substantial Completion

PROJECT: <i>(name and address)</i> Newman Outdoor Field 2021-2022 Capital Improvements 1515 15th Avenue North Fargo, ND 58102	CONTRACT INFORMATION: Contract For: General Construction Date: November 17, 2021	CERTIFICATE INFORMATION: Certificate Number: 001 Date: May 6, 2024
OWNER: <i>(name and address)</i> City of Fargo 225 4th St N Fargo, ND 58102	ARCHITECT: <i>(name and address)</i> R.L. Engebretson Architects Fargo LLC 901 13th Ave E, Suite B West Fargo, ND 58078	CONTRACTOR: <i>(name and address)</i> Roers Construction Joint Venture LLC 200 45th Street South Fargo, ND 58103

The Work identified below has been reviewed and found, to the Architect's best knowledge, information, and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion designated below is the date established by this Certificate.

(Identify the Work, or portion thereof, that is substantially complete.)

Replacement of Press Box window systems, countertops and minor interior finish repair. Removal, repair and replacement of exterior joint sealant systems.

R.L. Engebretson
Architects Fargo LLC
ARCHITECT *(Firm Name)*



SIGNATURE

Richard A. Wiemken,
Principal
PRINTED NAME AND TITLE

September 30, 2023

DATE OF SUBSTANTIAL COMPLETION

WARRANTIES

The date of Substantial Completion of the Project or portion designated above is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

(Identify warranties that do not commence on the date of Substantial Completion, if any, and indicate their date of commencement.)

n/a

WORK TO BE COMPLETED OR CORRECTED

A list of items to be completed or corrected is attached hereto, or transmitted as agreed upon by the parties, and identified as follows:

(Identify the list of Work to be completed or corrected.)

n/a

The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment, whichever occurs first. The Contractor will complete or correct the Work on the list of items attached hereto within n/a (n/a) days from the above date of Substantial Completion.

Cost estimate of Work to be completed or corrected: \$n/a

The responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work, insurance, and other items identified below shall be as follows:

(Note: Owner's and Contractor's legal and insurance counsel should review insurance requirements and coverage.)

The Owner and Contractor hereby accept the responsibilities assigned to them in this Certificate of Substantial Completion:

Roers Construction Joint
Venture LLC
CONTRACTOR *(Firm
Name)*



SIGNATURE

David Wood, Construction
Executive
PRINTED NAME AND TITLE

5/13/2024

DATE

City Of Fargo
OWNER *(Firm Name)*

SIGNATURE

Dr. Tim Mahoney, Mayor
PRINTED NAME AND TITLE

DATE



26 a. b.

FINANCE OFFICE
225 4th Street North
Fargo, ND 58102
Phone: (701) 241-1333
www.FargoND.gov

TO: Board of Commissioners
FROM: Susan Thompson, Director of Finance
RE: FAHR Staff meeting – Items for Commission Review/Approval
DATE: May 28, 2024

Receive & File: General Fund – YTD April 2024 Budget to Actual

Action Needed: Various Financial Approvals
FAHR endorsed the respective departments' requests for City Commissions approval. Reports of Action, along with supporting schedules, are included.

Budget Adjustments

Fire – Hometown Hero's Fund

Personnel Requests

Other Financial Considerations

Planning - Transferring of Ownership of 69 4th Street N

⇒ *Planning will address this issue as a separate item on the Regular Agenda. FAHR endorses their recommendation.*

City of Fargo, North Dakota
General Fund - Budget to Actual
 Unaudited Monthly Financial Statements - Through April 30, 2024
 Amounts shown in thousands

	YTD Budget	YTD Actual	YTD Variance
REVENUES:			
1 Taxes	\$ 42,099	\$ 41,166	\$ (934)
2 Licenses & Permits	2,018	1,500	(519)
3 Intergovernmental Revenue	4,592	3,534	(1,058)
4 Charges for Services	3,735	2,291	(1,444)
5 Fines & Traffic Tickets	480	475	(5)
6 Interest	1,317	3,694	2,377
7 Miscellaneous Revenue	349	128	(221)
8 Transfers In	4,341	4,354	13
Total Revenues	\$ 58,931	\$ 57,142	\$ (1,791)
EXPENDITURES:			
9 General Government	\$ 9,324	\$ 9,179	\$ 145
10 Public Safety	15,153	13,983	1,170
11 Public Works	5,037	4,059	978
12 Health & Welfare	5,070	4,680	389
13 Culture & Recreation	1,717	1,682	35
14 Economic Development	169	50	119
15 General Support	381	357	24
16 Capital Outlay	73	100	(27)
17 Operating Transfers	126	351	(225)
18 Contingency (Salary Savings)	(454)	3	(458)
Total Expenditures	\$ 36,596	\$ 34,444	\$ 2,152
Revenue Over (Under) Expenditures	\$ 22,335	\$ 22,698	\$ 363

- 1 Tax remittance timing issues, expect to catch-up; Mild Jan-Mar resulted in lower utility Franchise Fees.
- 2 Timing w/ License: budget over 12 months; construction-related actuals are seasonal.
- 3 Timing with State Aid remittances verses budget.
- 4 Timing w/ Fees related to construction.
- 6 Higher interest rates; Higher balances in 1Q due to property tax collections.
- 10 Timing with Fire Station 8 personnel: budget: 7.5 x12 months (Jan-Dec); actual:15 x6 months July-Dec).
- 11 Mild Jan-Mar: lower snow/street related expenses.
- 17 Timing issue - budgeted transfers are allocated over 12 months; actual transfers are in a specific month.
- 18 Est 2024 Salary Savings budgeted here; actual salary savings is reflected within specific departments.

Report of Action:
FAHR Meeting of 5/6/2024



- Purchase Policy
- Budget Adjustment/Reallocation
- Personnel Request
- Other Financial

Department: Fire
Description: Fire requests a budget adjustment to accept a \$3,804 donation from Hometown Hero's, along with approval of the related expense designated as two Ice Water Suits.
Net Financial Impact: \$0

At their meeting, FAHR endorsed this request.

Suggested Motion:
Approve a budget adjustment for Fire to recognize the Hometown Heros grant award and subsequent expense of \$3,804.



Fire Department
637 NP Avenue
Fargo, ND 58102
Phone: 701.241.1540 | Fax: 701.241.8125
www.FargoND.gov

MEMORANDUM

TO: CITY COMMISSION

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: MAY 15, 2024

SUBJECT: FIRE DEPARTMENT GRANT AWARD AND BUDGET ADJUSTMENT

Hometown Hero's, is a local group that supports area first responder agencies. They host an event annually at a Fargo Force Hockey Game. Prior to the event the group receives applications from area agencies to purchase needed equipment.

The Fire Department requested funds to purchase two Ice Water Suites. The FFD was awarded \$3,805 to purchase the suites. The check has been received and deposited in the FIR MISC account. I am asking that the 2024 Fargo Fire Department budget be amended for account 101-4010-412.61-40 in the amount of \$3,805.

RECOMMENDED MOTION: Amend the Fargo Fire Department 2024 budget for line item 101-4010-412.61-40 in the amount of \$3,805.

Per FAHR, budget adjustment needed for Donation Revenue, also.

BUDGET ADJUSTMENT REQUEST

This form must be completed for all budget adjustments. Please include this form with any requests submitted to FAHR and Commission. If the requested adjustment is a reallocation of budgeted funds within the same department, the request form can be sent directly to Finance. Please email to: Finance@fargond.gov.

*Finance should review this adjustment request form for validity before it is presented to ensure accuracy. Any budget adjustments that increase expenditures **MUST** be approved by City Commission to be entered.*

DEPARTMENT: Fire

REQUESTED BY: Chief Dirksen **PROJECT NUMBER :** FIDON

DATE PREPARED: 5/15/2024

DESCRIPTION OF REQUEST: Accept Hometown Heroes grant of \$3004 and corresponding purchase of two Ice Water Suits.

REVENUE ACCOUNT NUMBER:	CURRENT BUDGET	REQUESTED ADJUSTMENT	NEW BUDGET
101-0000-365.80-00 Fire Dept Donations	\$ -	\$ 3,804	\$ 3,804
		+	= \$ -
		+	= \$ -
TOTAL REVENUE ADJUSTMENTS:		\$ 3,804	

EXPENSE ACCOUNT NUMBER:	CURRENT BUDGET	REQUESTED ADJUSTMENT	NEW BUDGET
101-4010-412.61-40 Fire Dept General Supplies	\$ 43,000	\$ 3,804	\$ 46,804
		+	= \$ -
		+	= \$ -
		+	= \$ -
		+	= \$ -
		+	= \$ -
TOTAL EXPENSE ADJUSTMENTS:		\$ -	

MONTHLY ALLOCATION (if not evenly over the remaining months of the year)					
Jan	Feb	Mar	Apr	May	June
				3,804	
Jul	Aug	Sep	Oct	Nov	Dec

FINANCE DEPT USE ONLY:

FAHR REVIEWED ON: _____

COMMISSION APPROVED ON: _____

ENTERED BY FINANCE: Date: _____

By: _____

BA# _____



FARGO FIRE DEPARTMENT
637 NP Avenue North
Fargo, ND 58102-4916
Phone: 701.241.1540 | Fax: 701.241.8125
FargoFire.com

MEMORANDUM

Date: May 21, 2024

To: Board of City Commissioners

From: Craig Nelson, Division Chief

Re: State Homeland Security Grant (CFDA #96.067) Application for Security Cameras at Fire Stations

Situation:

The North Dakota Department of Emergency Services (NDDDES) is soliciting project applications for the 2024 State Homeland Security (SHSP) Grant. The SHSP Grant assists states, local, tribal, and territorial efforts to build, sustain, and deliver the capabilities necessary to prevent, prepare for, protect against, and respond to acts of terrorism. An applicant's project must support one of the grant priorities which includes "Enhancing the protection of soft targets/crowded places". The SHSP Grant does not require a local cost share as part of the application process which you will find in the attached copy of the SHSP Grant guidance. The Fargo Fire Department is working with Emergency Management to develop an SHSP Grant project application to improve security measures at our fire stations.

Background:

Physical security measures were not considered when building fire stations in the past. The need to secure the critical and essential service the Fargo Fire Department provides has recently been considered and physical protection measures are now a standard beginning with the design and construction of the new fire station. Although security improvements have been made to some of our fire stations, others require security improvements or additions.

Assessment:

Threats have evolved and outpaced the security posture of our fire stations. A baseline of physical security measures must be established at these facilities to prevent, deter, and respond to unauthorized access and potential attacks. Maintaining the security of our fire stations provides a layer of assurance for our residents that critical public safety services will be maintained while mitigating potential threats to our fire stations.

Recommended Motion:

Approve submission of a State Homeland Security Grant project application in the amount of \$45,000 to purchase security cameras and supporting network infrastructure for our fire stations.

Attachments: North_Dakota_FY_2024_SHSP_NOFO_and_Application_Guidance



Quote Information:

Quote #: 140228

Version: 1

Delivery Date: 05/22/2024

Expiration Date: 06/20/2024

Axis - Fire Station Cameras

Proposal Summary

Scope of Work:

HPN Responsibilities:

- Mount, aim, focus all new Axis camera
- Configure high, medium or low stream resolution per camera
- Test all cameras to ensure they are recording correctly

Client Responsibilities:

- Work with HPN on all resource scheduling
- Provide HPN install team with access to all required areas of building needed
- Provide POE ports & network info for IP cameras
- Site must be ready for camera installation
- Network and/or power must be installed at pole
- Addition of cameras to DVS

Exclusions:

- Anything not listed in this SOW



Quote Information:

Quote #: 140228

Version: 1

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Expiration Date: 06/20/2024

Axis - Fire Station Cameras

Prepared for:

City of Fargo

Attn: Brady Scribner
225 4th Street North
Fargo, ND 58102

Prepared by:

High Point Networks, LLC

Chris Reep
Direct: 701-282-6459
chris@highpointnetworks.com



Fire 1

Qty	Item	Description	Price	Ext. Price
1	02635-001	AXIS P3738-PLE	\$1,614.00	\$1,614.00
1	5017-641	AXIS T91A64 Corner Bracket (Requires Wall Bracket)	\$76.00	\$76.00
1	5504-821	AXIS T91D61 Wall Mount for Surveillance Camera	\$84.00	\$84.00
1	01513-001	T94N01D Pendant Kit for AXIS P3717-PLE IP Camera, 1.5-inch NPS thread	\$84.00	\$84.00
1	AIM-SYM7-P	Symphony 7 professional Edition	\$174.00	\$174.00
1	AIM-SYM7-P-MS-1Y	Symphony 7 Professional Edition 1 Year Maint	\$35.00	\$35.00

Subtotal: \$2,067.00

Fire 2

Qty	Item	Description	Price	Ext. Price
1	02332-001	Axis P3268-LVE Network Camera	\$892.00	\$892.00
1	02635-001	AXIS P3738-PLE	\$1,614.00	\$1,614.00
1	5017-641	AXIS T91A64 Corner Bracket (Requires Wall Bracket)	\$76.00	\$76.00
1	5504-821	AXIS T91D61 Wall Mount for Surveillance Camera	\$84.00	\$84.00
1	01513-001	T94N01D Pendant Kit for AXIS P3717-PLE IP Camera, 1.5-inch NPS thread	\$84.00	\$84.00
2	AIM-SYM7-P	Symphony 7 professional Edition	\$174.00	\$348.00
2	AIM-SYM7-P-MS-1Y	Symphony 7 Professional Edition 1 Year Maint	\$35.00	\$70.00

Subtotal: \$3,168.00

Axis - Fire Station Cameras

Fire 3

Qty	Item	Description	Price	Ext. Price
1	02634-001	Axis P3737-PLE Camera	\$1,444.00	\$1,444.00
1	02635-001	AXIS P3738-PLE	\$1,614.00	\$1,614.00
2	5017-641	AXIS T91A64 Corner Bracket (Requires Wall Bracket)	\$76.00	\$152.00
2	5504-821	AXIS T91D61 Wall Mount for Surveillance Camera	\$84.00	\$168.00
2	01513-001	T94N01D Pendant Kit for AXIS P3717-PLE IP Camera, 1.5-inch NPS thread	\$84.00	\$168.00
2	AIM-SYM7-P	Symphony 7 professional Edition	\$174.00	\$348.00
2	AIM-SYM7-P-MS-1Y	Symphony 7 Professional Edition 1 Year Maint	\$35.00	\$70.00
Subtotal:				\$3,964.00

Fire 4

Qty	Item	Description	Price	Ext. Price
1	02332-001	Axis P3268-LVE Network Camera	\$892.00	\$892.00
2	02635-001	AXIS P3738-PLE	\$1,614.00	\$3,228.00
2	5017-641	AXIS T91A64 Corner Bracket (Requires Wall Bracket)	\$76.00	\$152.00
2	5504-821	AXIS T91D61 Wall Mount for Surveillance Camera	\$84.00	\$168.00
2	01513-001	T94N01D Pendant Kit for AXIS P3717-PLE IP Camera, 1.5-inch NPS thread	\$84.00	\$168.00
3	AIM-SYM7-P	Symphony 7 professional Edition	\$174.00	\$522.00
3	AIM-SYM7-P-MS-1Y	Symphony 7 Professional Edition 1 Year Maint	\$35.00	\$105.00
Subtotal:				\$5,235.00

Fire 5

Qty	Item	Description	Price	Ext. Price
1	02332-001	Axis P3268-LVE Network Camera	\$892.00	\$892.00
1	02635-001	AXIS P3738-PLE	\$1,614.00	\$1,614.00
1	5017-641	AXIS T91A64 Corner Bracket (Requires Wall Bracket)	\$76.00	\$76.00



Quote Information:

Quote #: 140228

Version: 1

Delivery Date: 05/22/2024

Expiration Date: 06/20/2024

Axis - Fire Station Cameras

Fire 5

Qty	Item	Description	Price	Ext. Price
1	5504-821	AXIS T91D61 Wall Mount for Surveillance Camera	\$84.00	\$84.00
1	01513-001	T94N01D Pendant Kit for AXIS P3717-PLE IP Camera, 1.5-inch NPS thread	\$84.00	\$84.00
2	AIM-SYM7-P	Symphony 7 professional Edition	\$174.00	\$348.00
2	AIM-SYM7-P-MS-1Y	Symphony 7 Professional Edition 1 Year Maint	\$35.00	\$70.00
			Subtotal:	\$3,168.00

Fire 7

Qty	Item	Description	Price	Ext. Price
1	02060-001	AXIS P3818-PVE Panoramic Camera	\$1,648.00	\$1,648.00
1	02635-001	AXIS P3738-PLE	\$1,614.00	\$1,614.00
1	5017-641	AXIS T91A64 Corner Bracket (Requires Wall Bracket)	\$76.00	\$76.00
1	5504-821	AXIS T91D61 Wall Mount for Surveillance Camera	\$84.00	\$84.00
1	01513-001	T94N01D Pendant Kit for AXIS P3717-PLE IP Camera, 1.5-inch NPS thread	\$84.00	\$84.00
2	AIM-SYM7-P	Symphony 7 professional Edition	\$174.00	\$348.00
2	AIM-SYM7-P-MS-1Y	Symphony 7 Professional Edition 1 Year Maint	\$35.00	\$70.00
			Subtotal:	\$3,924.00

HPN Service Bundle

Qty	Item	Description	Price	Ext. Price
1	PROSERVE-PKG	High Point Networks Professional Services defined in the pdf online or above in this document	\$9,740.00	\$9,740.00
			Subtotal:	\$9,740.00

Quote Summary

Description	Amount
Fire 1	\$2,067.00
Fire 2	\$3,168.00



Axis - Fire Station Cameras

Quote Information:

Quote #: 140228

Version: 1

Delivery Date: 05/22/2024

Expiration Date: 06/20/2024

Quote Summary

Description	Amount
Fire 3	\$3,964.00
Fire 4	\$5,235.00
Fire 5	\$3,168.00
Fire 7	\$3,924.00
HPN Service Bundle	\$9,740.00
Total:	\$31,266.00

Acceptance of the quote online is considered acceptance of an offer and, together with the terms of the Master Services Agreement provided below, and any applicable Statement of Work, which are hereby incorporated by reference, forms a legally binding contract. The customer is solely responsible for verifying the accuracy of all quotes and designs.

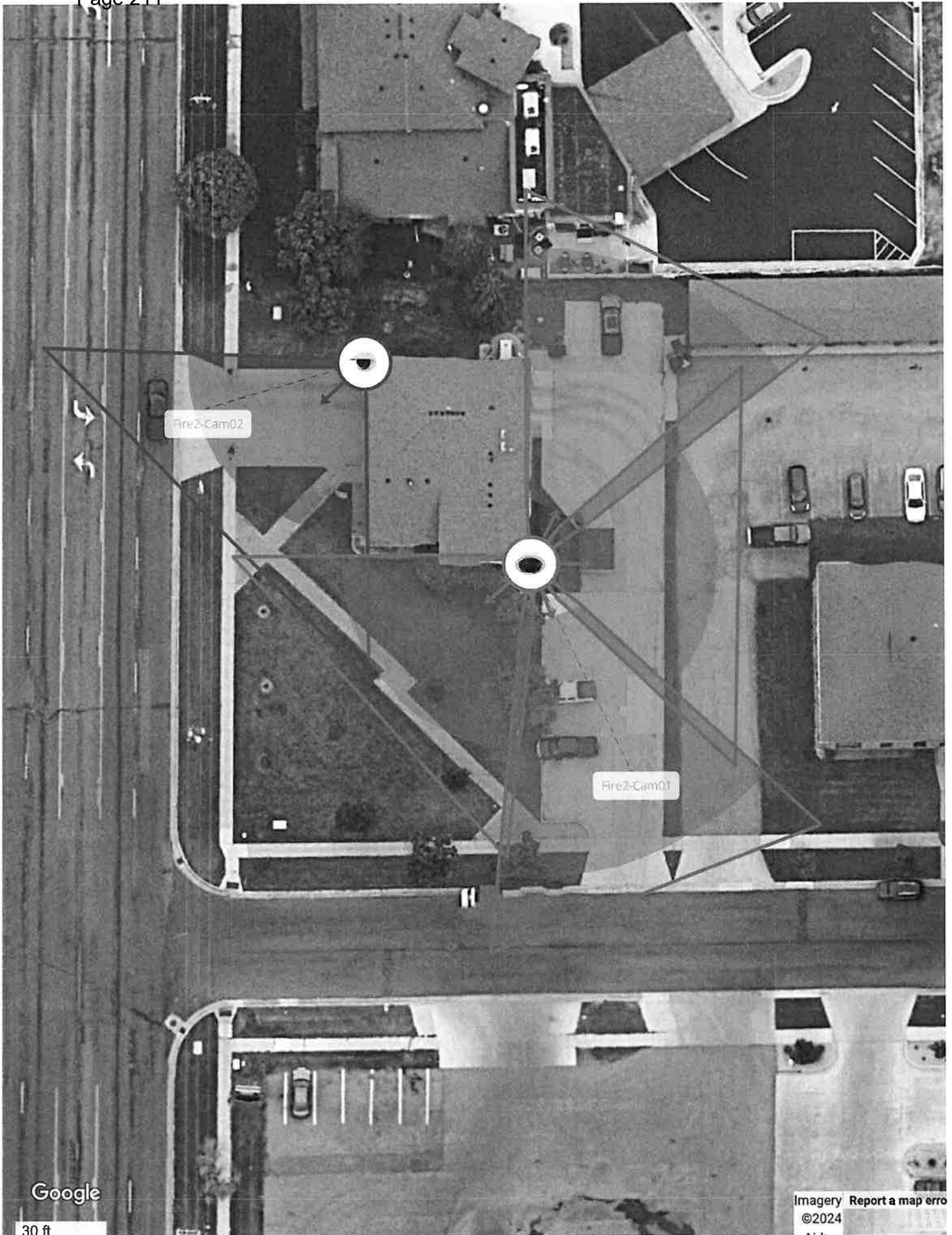
Return Policy: Product must be returned within 30 days of shipment date and will be subject to a restocking and freight fee. Product cannot be returned if opened (needs to be sealed in original packaging), written on and/or damaged; NO exceptions. HPN reserves the right to no return/refund.

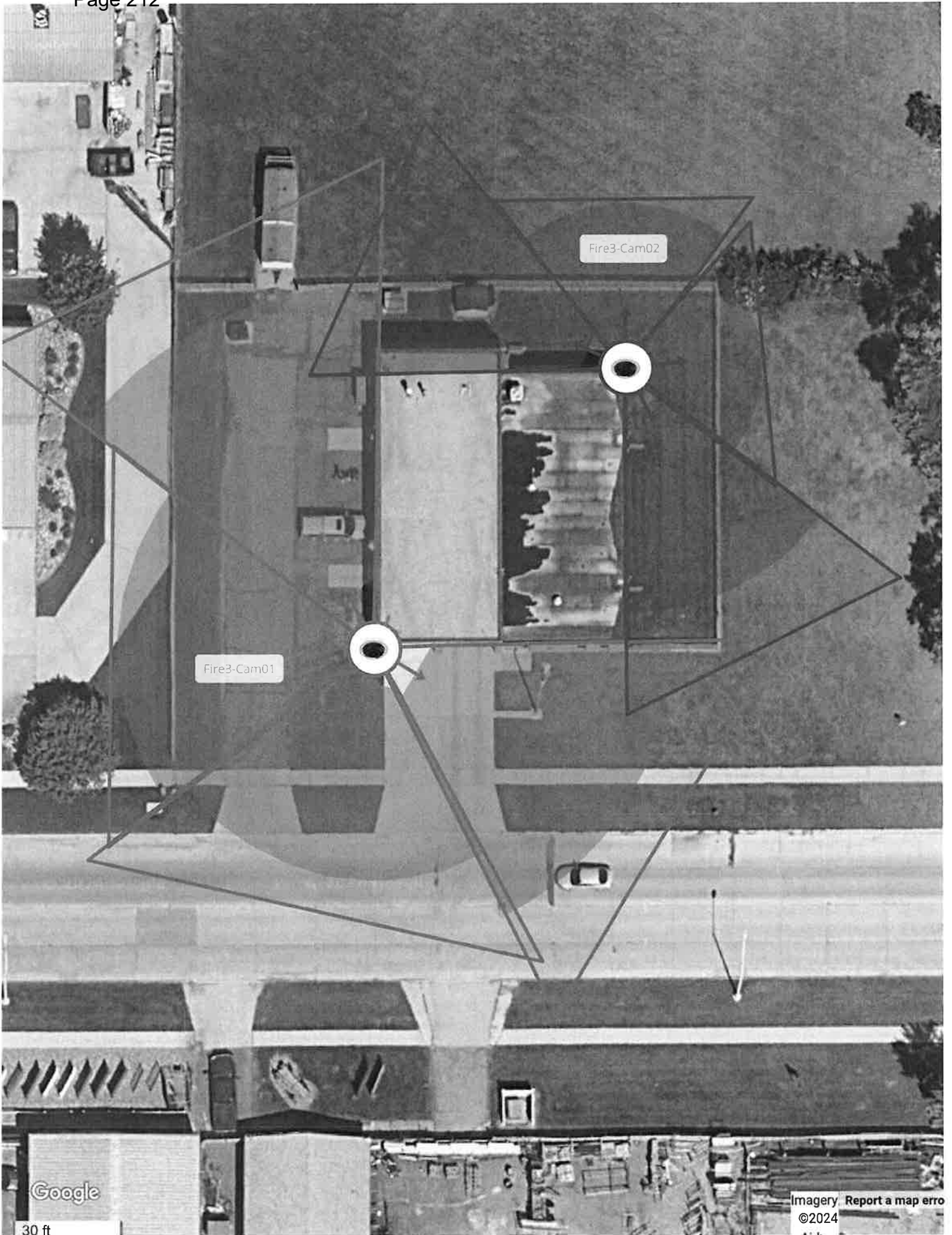
All quotes are subject to shipping costs that may not be listed on the quote. Prices quoted are valid for 30 days from quotation date. Orders will be invoiced when shipped. Orders may be partially invoiced as items ship and thus there may be multiple invoices per order. Projects will be invoiced in the same method. Professional services may be progress billed over the term of the project. All licensing and subscription orders will be invoiced immediately upon customer approval. Payment for all orders are due in 30 days from invoice date. Finance charges will be charged at the rate of 1.5% per month if not paid by the due date. If payment is not received within 60 days of the invoice date, we reserve the right to suspend or terminate your service without further notice. Credit card usage as a form of payment may be accepted on a pre-approval basis and may be subject to a convenience fee. Please consult your Account Representative prior to placing an order for timely, updated pricing. This offer to sell the listed products is subject to product availability and prices are subject to change without notice due to manufacturer price changes or any error or omission.

Signature _____

Date _____







Fire3-Cam01

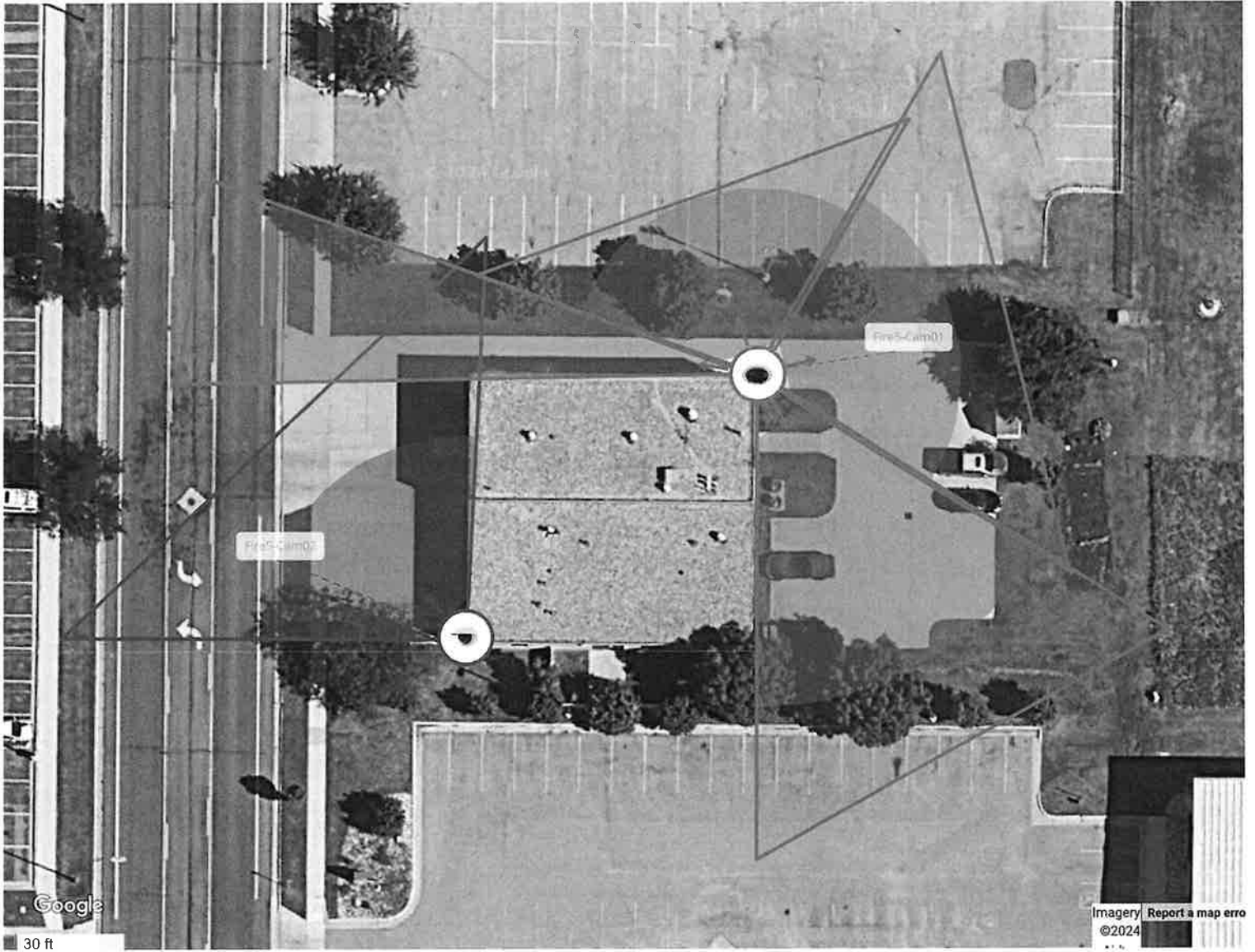
Fire3-Cam02

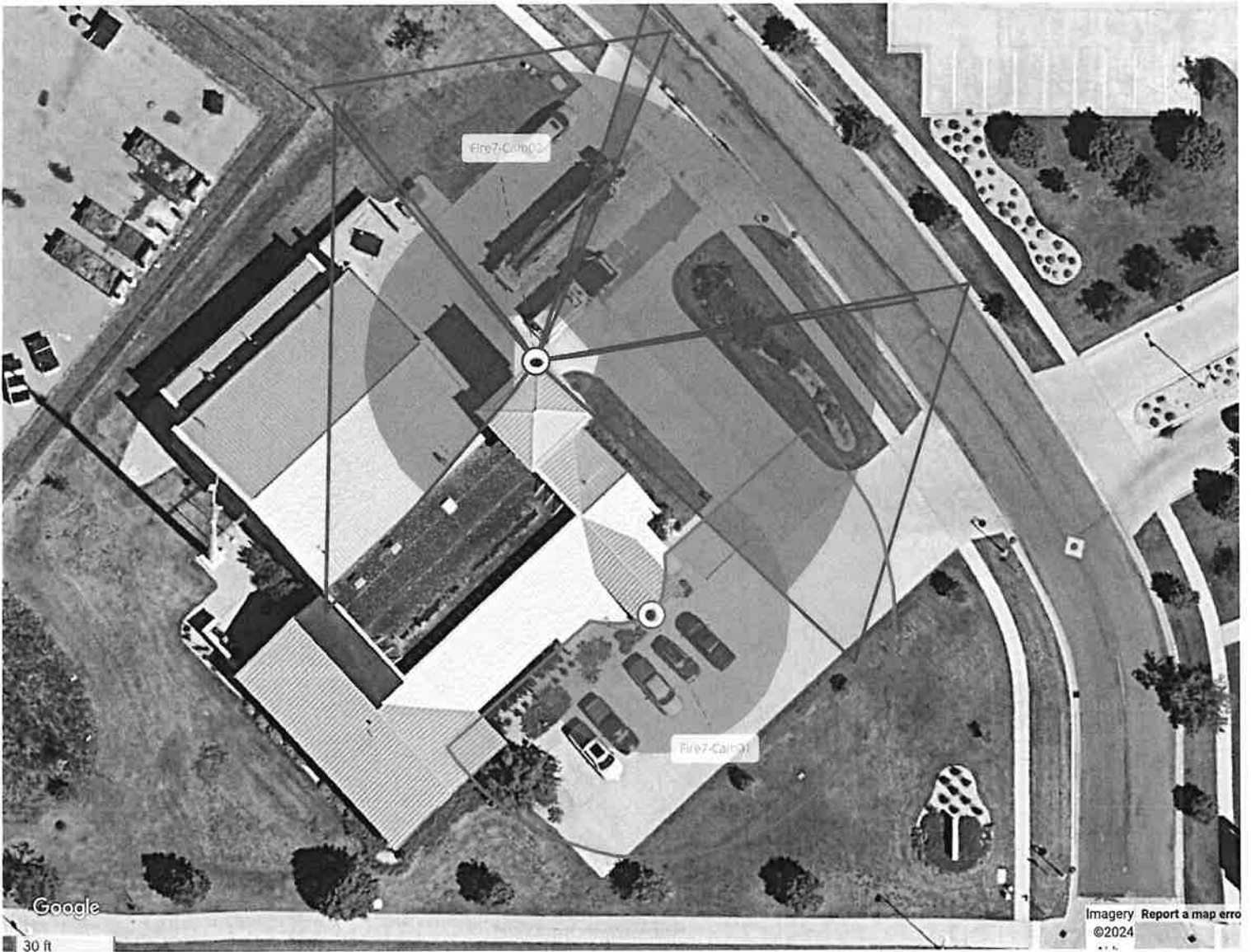
Google

30 ft

Imagery ©2024 Report a map error









Data Technologies Inc.

Fargo: 705 Main Avenue Suite D • West Fargo, North Dakota 58078
 (701) 282-7847 • FAX (701) 282-7623
Bismarck: 3355 Saratoga Avenue #4 • Bismarck, North Dakota 58503
 Phone/Fax : (701) 223-2228

COMMERCIAL INSTALLATION, SALES AND SECURITY AGREEMENT AND PROMISSORY NOTE

Purchaser
 City of Fargo

Project
 Fire Station Camera cables at assorted stations

Address

City/State/Zip

Contact
 Matt Anderson

Phone

Consultant
 Chad Mauch

Scope:

ABT Data Technologies will provide materials and labor to install cat6A cables to the designated locations. Pricing is based on the State of ND 211 contract rate schedule.

- (1) location with (1) Cat6A cable in the Fire 1 building
 - Cables will be terminated with jacks and SMB at the out end and into existing patch panel in the IT room using Panduit hardware
 - Raceway and additional cable supports will be installed as needed
- (3) locations with (1) Cat6A cable in Station 4
 - Cables will be terminated with jacks and SMB at the out end and into existing patch panel in the IT room using matching Leviton hardware
- (2) locations with (1) Cat6A cable in Southside Station 2
 - Cables will be terminated with jacks and SMB at the out end and into existing patch panel in the IT room using Panduit hardware
 - Raceway and additional cable supports will be installed as needed
- (2) locations with (1) Cat6A cable in Osgood Station 7
 - Cables will be terminated with jacks and SMB at the out end and into existing patch panel in the IT room using Panduit hardware
- (2) locations with (1) Cat6A cable in West Acres Station 5
 - Cables will be terminated with jacks and SMB at the out end and into existing patch panel in the IT room using Panduit hardware
 - Raceway and additional cable supports will be installed as needed
- (1) location with (1) Cat6A cable in Northside Station 3
 - Cables will be terminated with jacks and SMB at the out end and into existing patch panel in the IT room using Panduit hardware

A lift rental will be required for the work and is included in the pricing.

All cables will be tested and labeled per the City of Fargo's standards.

The installation will be challenging in several of these sites and the pricing is based on worst case scenario. If the quote is accepted the billing will be based on Time and Materials not to exceed and if the project goes better than expected it will be billed accordingly.

	Security Camera Cabling
Materials + Lift	\$ 7,407.00
Labor	\$ 6,191.00
Total	\$13,598.00

Purchaser agrees to pay all collection costs if account balance is not paid in a timely manner. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to a standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance. NOTE: Will not work or be responsible for any cost involving asbestos.

ABT Data Technologies, Inc.

City of Fargo

By: Chad Mauch

By: _____


Date: May 22, 2024

Date: _____

28

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: MAY 22, 2024

**RE: NOTICE OF GRANT AWARD AMENDMENT WITH ND
DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR
PUBLIC HEALTH EMERGENCY PREPAREDNESS – CITY
READINESS INITIATIVE.
NO: G23.056A CFDA: 93.069
FUNDS: NO CHANGE
EXPIRES: 12/31/2024**

The attached notice of grant award amendment is for a change to the grant end date from June 30, 2024 to December 31, 2024. There is no change in funding.

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

Suggested Motion:

Move to approve this grant award from the ND Department of Health and Human Services.

DF/lis
Attachment



Page 1 NOTICE OF GRANT AWARD

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
SFN 53771 (04-2023)

Grant Number G23.056A	CFDA Name Public Health Emergency Preparedness (PHEP)	CFDA Number 93.069
FAIN Number NU90TP922054	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 7/1/2023
Federal Award Date 6/26/2023	Federal Awarding Agency Department of Health and Human Services	

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

Title of Project/Program PHEP – City Readiness Initiative (CRI)	North Dakota Department of Health and Human Services (NDDHHS) Project Code 6611HLH5274-11		
Grantee Name Fargo – Cass Public Health	Project Director Tim Wiedrich, Director		
Address 1240 – 25 th Street South	Address 1720 Burlington Drive, Suite A		
City/State/ZIP Code Fargo, ND 58103-2367	City/State/ZIP Code Bismarck, ND 58504		
Contact Name Desi Fleming	Contact Name Juli Sickler, Unit Director, EPR		
Telephone Number 701-241-1380	Telephone Number 701-328-2293		
Email Address dfleming@fargond.com	Email Address jsickler@nd.gov		

	NDDHHS Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$0	\$0	\$0
Previous Funds Awarded	\$204,000	\$0	\$204,000
Total Funds Awarded	\$204,000	\$0	\$204,000
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %

Scope of Service
This amendment extends the end date from June 30, 2024, to December 31, 2024. All other scope of service elements of the original agreement remains the same.

Reporting Requirements
A year-end progress report, as prescribed by the NDDHHS, must be submitted by January 31, 2025. All other reporting requirements of the original agreement remain the same.

Special Conditions
All special conditions of the original agreement remain the same.

This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2023, to June 30, 2025 [Finance Use Only: Requirements Received; Questionnaire received] and (2) applicable State and Federal regulations.

Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 05/23/2024	Signature <i>Desi Fleming</i>	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Director of Public Health		Typed Name/Title of Authorized Representative Tim Wiedrich, Director Health Response and Licensure	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Sara E. Stolt, Deputy Director	

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



29

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING
DIRECTOR OF PUBLIC HEALTH

DATE: MAY 22, 2024

**RE: NOTICE OF GRANT AWARD AMENDMENT WITH ND
DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR
PUBLIC HEALTH EMERGENCY PREPAREDNESS –
STATEWIDE RESPONSE TEAM
NO: G23.003A CFDA: 93.069
FUNDS: NO CHANGE
EXPIRES: 12/31/2024**

The attached notice of grant award amendment is for a change to the grant end date from June 30, 2024 to December 31, 2024. There is no change in funding.

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

Suggested Motion:

Move to approve this grant award from the ND Department of Health and Human Services.

DF/ls
Attachment



Page 1 NOTICE OF GRANT AWARD

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
SFN 53771 (04-2023)

Grant Number G23.003A	CFDA Name Public Health Emergency Preparedness (PHEP)	CFDA Number 93.069
FAIN Number NU90TP922054	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 7/1/2023
Federal Award Date 6/26/2023	Federal Awarding Agency Department of Health and Human Services	

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

Title of Project/Program PHEP – Statewide Response Team	North Dakota Department of Health and Human Services (NDDHHS) Project Code 6611HLH5274-11
Grantee Name Fargo – Cass Public Health	Project Director Tim Wiedrich, Director
Address 1240 – 25 th Street South	Address 1720 Burlington Drive, Suite A
City/State/ZIP Code Fargo, ND 58103-2367	City/State/ZIP Code Bismarck, ND 58504
Contact Name Desi Fleming	Contact Name Juli Sickler, Unit Director, EPR
Telephone Number 701-241-1360	Telephone Number 701-328-2293
Email Address dfleming@fargond.gov	Email Address jsickler@nd.gov

	NDDHHS Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$0	\$0	\$0
Previous Funds Awarded	\$220,105	\$0	\$220,105
Total Funds Awarded	\$220,105	\$0	\$220,105
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %

Scope of Service
This amendment extends the end date from June 30, 2024, to December 31, 2024. All other scope of service elements of the original agreement remains the same.

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Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 05/22/2024	Signature <i>Desi Fleming</i>	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Director of Public Health		Typed Name/Title of Authorized Representative Tim Wiedrich, Director Health Response and Licensure	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Sara E. Stolt, HHS Deputy Commissioner	


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

30

City of Fargo Staff Report			
Title:	Harvest Church Addition	Date:	03/27/2024 05/23/2024
Location:	11 & 21 18 th Street South	Staff Contact:	Alayna Espeseth, Assistant Planner
Legal Description:	Part of Lot 1 and all of Lots 2 and 3, Block 1, Arneson's Addition		
Owner(s)/Applicant:	MEC Partners, LLP / Houston Engineering, Inc.	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Minor Subdivision (Replat of portions of Lot 1 and all of Lot 2 and 3, Block 1, Arneson's Addition, to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Consent Agenda: May 28, 2024		

Existing	Proposed
Land Use: Religious Institution	Land Use: Religious Institution
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 is requesting one entitlement:</p> <ol style="list-style-type: none"> 1. Minor Subdivision (Replat of portions of Lot 1 and all of Lot 2 and 3, Block 1, Arneson's Addition, to the City of Fargo, Cass County, North Dakota) <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: LI, Limited Industrial with Retail Sales and Service use; • East: LI, Limited Industrial with Warehouse and Office uses; • South: GC, General Commercial with Multi-Dwelling Residential and Warehouse and Office uses; • West: LI, Limited Industrial with Cass County Drain #3
(Continued to next page.)

<p>Area Plans:</p> <p>The subject property is designated as 'Industrial/Warehousing' in the Core Neighborhoods Master Plan. The current LI, Limited Industrial zoning district is consistent with the land use designation.</p> 
<p>Context:</p> <p>Neighborhood: The subject property is located within the Jefferson/ Carl Ben Neighborhood.</p> <p>Schools: The subject property is located within the Fargo Schools District, specifically within Jefferson Elementary, Ben Franklin Middle and North High schools</p> <p>Parks: The subject property is located directly to the east of Teamster park (1901 1st Avenue South). Amenities include multipurpose field and recreational trails. The subject property is also located within 0.25 miles of Jefferson West Park. Amenities in a basketball court, grill, picnic tables, playgrounds for ages 5-12, recreational trails, shelter (non-reservable), skate park and a soccer field.</p> <p>Pedestrian / Bicycle: There is a bike lane that runs along 1st Avenue South, directly south of the subject property. There is a shared use path that runs along the west side of the subject property following drain #3 and continues south through Jefferson West Park.</p> <p>MATBUS Route: MATBUS Route 18 has a stop on the south side of the intersection of 5th Avenue South and 18th Street South, approximately 0.30 miles from the subject property. MATBUS Route 20 has a stop on the east side of the intersection of 1st Avenue South and 24th Street South, approximately 0.30 miles from the subject property.</p>
<p>Staff Analysis:</p> <p>The applicant is seeking approval for a minor subdivision located at 11 & 21 18th Street South. The request is to combine two properties (11 and 21 18th Street South) into one property entitled, Harvest Church Addition. Subject property is zoned LI, Limited Industrial and no zone change is proposed. The current use of the structure is religious institutions, permitted in the LI, Limited Industrial zoning district. There are two different congregations operating on site that have different days/times that they operate. The intent of the replat is to combine the two properties into a single lot to remove the lot line currently running through the existing structure.</p> <p>SUBDIVISION WAIVER FOR DRAIN SETBACK: Cass County Drain No. 3 is an underground drain that abuts the west side of the subject property. As this is a legal drain, a 175 foot setback from the east side of the centerline of the drain would be required pursuant to Section 20-0610 of the Land Development Code (LDC). The subdivision waiver is for modification of this drain setback requirement; specifically, that the requirement for the 175 foot setback from the centerline of the drain be reduced to a setback of 37 feet on the east side of the drain centerline.</p> <p>BACKGROUND ON THE DRAIN SETBACK REQUIREMENT: Based on the applicant's request, the City Engineering department reviewed the need to be able to access the legal drain. The drain is physically two 72-inch wide pipes approximately 15 feet deep. While the drain is part of the legal storm water requirements and governed by the Southeast Cass Water Resource District (SE Cass), the pipes are within the city limits. Thus, the City of Fargo is required to maintain access and also be prepared to maintain and replace the pipe if needed. As such, the City Engineer reviewed the proposed development and contends that a reduction of the 175-foot setback is</p>

reasonable. As this drain is underground, the full 175-foot setback is generally not required. Sufficient space must be provided alongside the underground pipes to safely excavate to access them for repair and maintenance. Based on review of the actual drain location within the SE Cass right of way, no easement or dedication is required on the plat, as there is sufficient room within the SE Cass right of way to safely excavate to access the drainage pipes for repair and maintenance.

ENCROACHMENT AGREEMENT: A portion of the parking lot on the west side of the subject property is within the SE Cass Drain parcel and required setback. An encroachment agreement will be made between the applicant and SE Cass.

UPDATE: The Encroachment Agreement between Southeast Cass Water Resource District and MEC Partners, LLP was finalized on May 16, 2024. This encroachment is outside of the proposed plat boundaries.

UPDATE: A CUP, Conditional Use Permit for an Alternative Access Plan for reduced parking (No. 2024-001) was recorded on April 02, 2024 to allow the reduction of parking spaces to allow the two congregations to meet parking requirements and to operate on site. This CUP was recorded as Arneson's Addition and carries through with this plat. The CUP includes conditions that if not met terminates the CUP.

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.**

This subdivision is intended to replat two properties into one. The current zoning is LI, Limited Industrial. No zone change is proposed. The subject property is located within the Core Neighborhoods Master Plan which designates the land use as 'Industrial/Warehousing'. The current zoning is consistent with this land use designation. 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 one inquiry about the application with no noted concern. 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 principles.

(Criteria Satisfied)

Subdivision Waiver

The LDC stipulates that the following criteria are met before a subdivision waiver can be approved:

- 1. Section 20-0907.D.3.a of the LDC stipulates that a Subdivision Waiver must not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.**

The City Engineer and SE Cass Engineer have evaluated the survey provided by the Project Engineer and

have determined that the 37 foot setback on the east side of the drain centerline is sufficient to provide access for maintenance to this underground drain. This is entirely in the SE Cass right of way and no setback is needed to be depicted on the plat.

(Criteria Satisfied)

- 2. Section 20-0901.D.3.b of the LDC stipulates that a Subdivision Waiver must represent the least deviation from this Land Development Code that will mitigate the hardship or practical difficulty that exists on the subject property.**

As this is an underground drain, the City Engineer has determined that the 37 foot wide setback on the east side of the drain centerline, to provide access for maintenance, is sufficient; the full 175 foot setback on the east side of the drain centerline is not necessary in this case. This is entirely in the SE Cass right of way and no setback is needed to be depicted on the plat.

(Criteria Satisfied)

- 3. Section 20-0907.D.3.c of the LDC stipulates that a Subdivision Waiver shall not have the effect of waiving any provisions of this development code other than the Subdivision Design and Improvement Standards of Article 20-06.**

This subdivision waiver applies only to the drain setback requirements of Section 20-0610 of the LDC for this particular property.

(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, **Harvest Church Addition, including the subdivision waiver for drain setback** as outlined within the staff report, as the proposal complies with the adopted Core Neighborhood Master Plan, the standards of Article 20-06, Section 20-0907.B., C. and D.3. of the LDC and all other applicable requirements of the LDC"

Planning Commission Recommendation: April 02, 2024

At the April 02, 2024 Planning Commission hearing, by a vote of 8-0 with 1 Commissioner 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, **Harvest Church Addition, including the subdivision waiver for drain setback** as outlined within the staff report, as the proposal complies with the adopted Core neighborhoods Master Plan, standards of Article 20-06, Section 20-0907.B., C. and D.3. of the LDC and all other applicable requirements of the LDC.

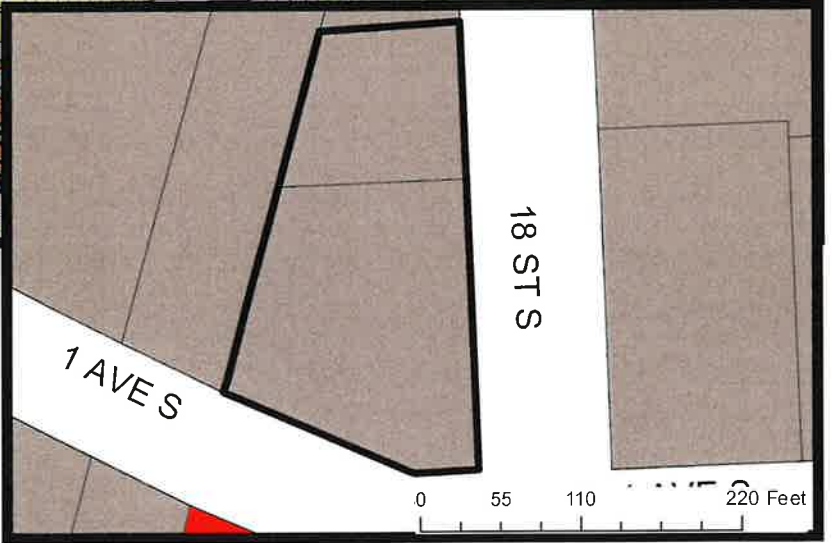
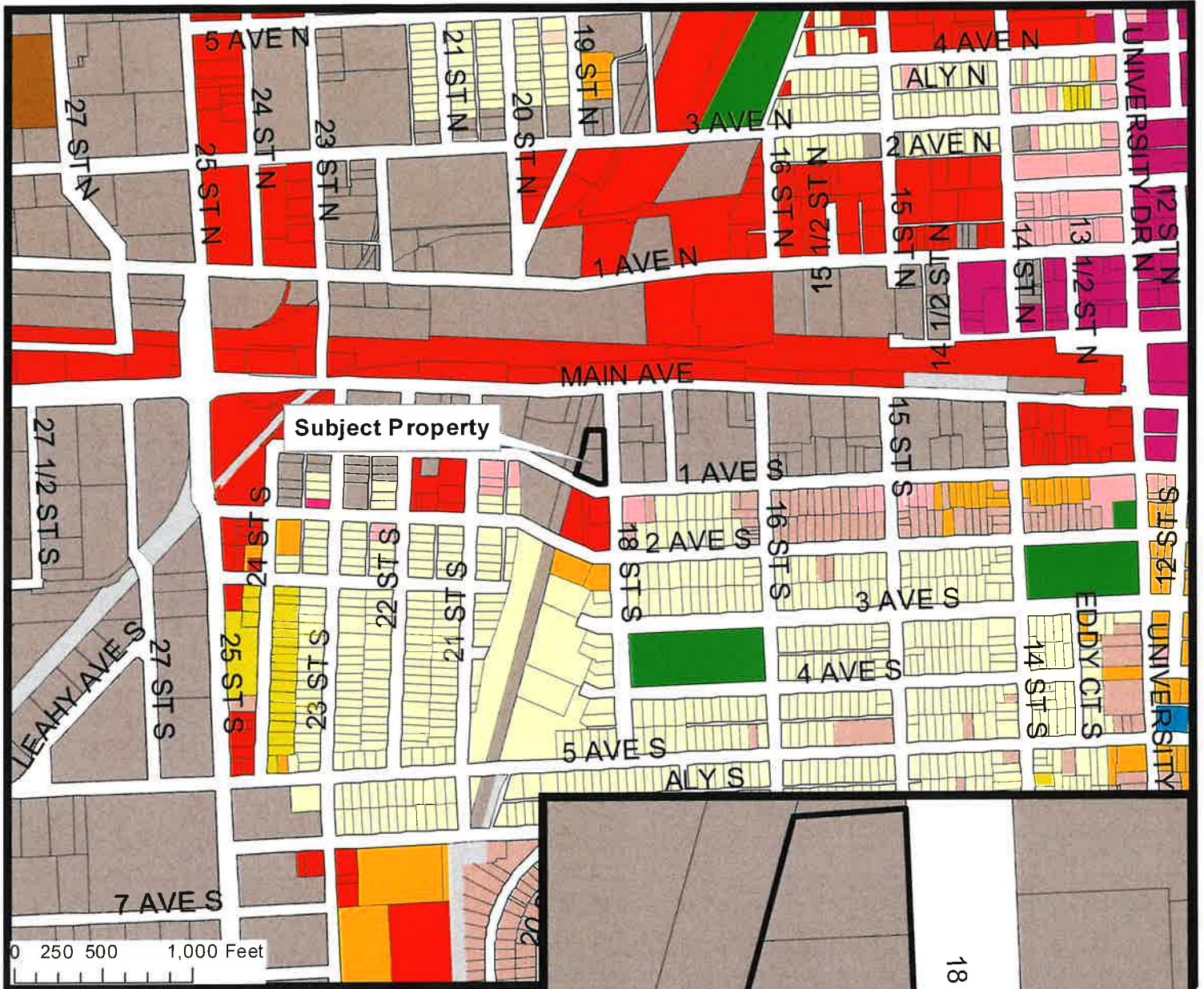
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat

Minor Subdivision

Harvest Church Addition

11 & 21 18th Street South



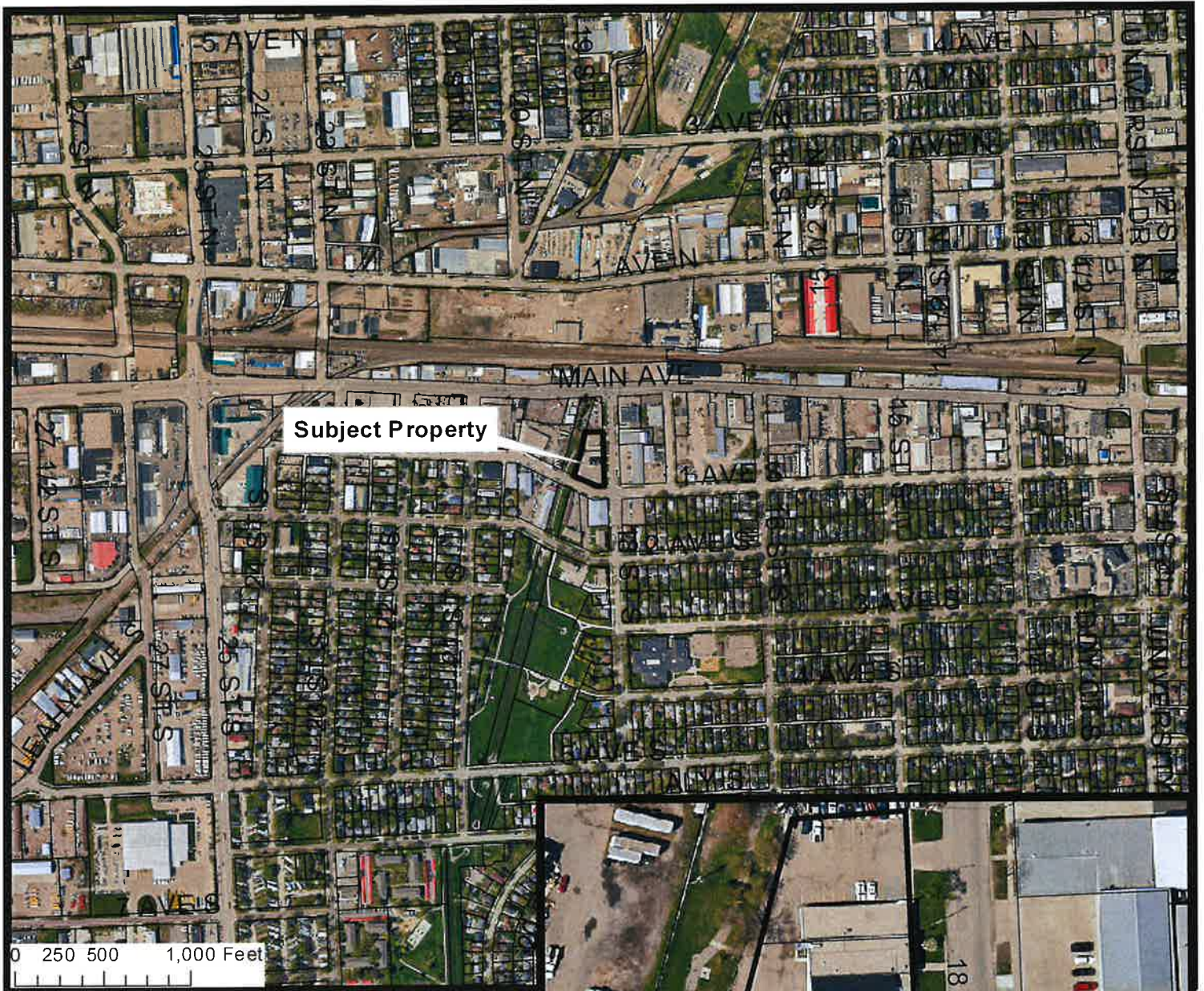
Legend

- | | | | | |
|-----|-------|-------|-------------|-------|
| AG | DMU | LC | MHP | SSR-2 |
| GGC | GO | LM | MZC | SSR-3 |
| GO | MRR-1 | MRR-2 | PA | SSR-4 |
| GO | MRR-3 | UMU | City Limits | SSR-5 |

Minor Subdivision

Harvest Church Addition

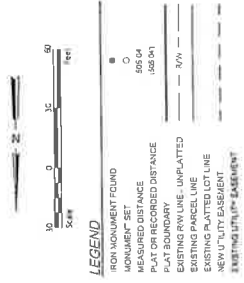
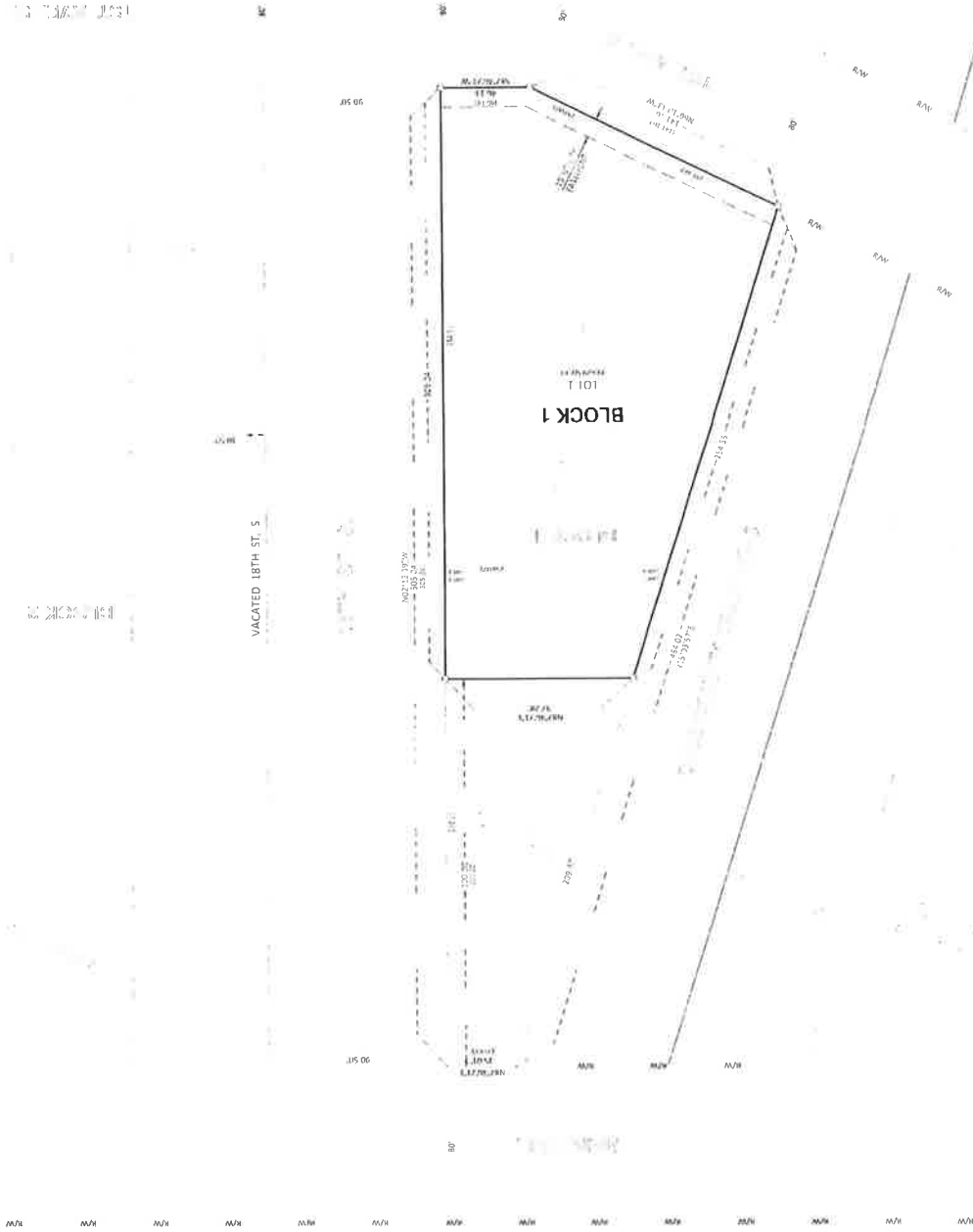
11 & 21 18th Street South



Legend

 City Limits

HARVEST CHURCH ADDITION
A MINOR SUBDIVISION
 BEING A REPLAT OF ALL OF LOTS 2 & 3 AND PART OF LOT 1,
 BLOCK 1, ARNESON'S ADDITION
 CITY OF FARGO,
 CASS COUNTY, NORTH DAKOTA



BEARINGS AND DISTANCES ARE BASED ON
 CITY OF FARGO GRID AND COORDINATE
 SYSTEM, DECEMBER 1992



Sheet 1 of 2
 Project No. 7489-0112



31

FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

OFFICE OF THE CHIEF

MEMORANDUM

To: City of Fargo Commission

From: Chief David B. Zibolski *DZ*

Date: May 23, 2024

RE: **State Homeland Security Grant (CFDA #96.067) Application for Vehicle Barriers for Special Events**

COPY

Dear Commissioners,

The North Dakota Department of Emergency Services (NDES) is soliciting project applications for the 2024 State Homeland Security (SHSP) Grant. The SHSP Grant assists states, local, tribal, and territorial efforts to build, sustain, and deliver the capabilities necessary to prevent, prepare for, protect against, and respond to acts of terrorism. An applicant's project must support one of the grant objectives which includes "Build and sustain core capabilities, including Law Enforcement and Terrorism Prevention Activities and the National Priority Areas". The SHSP Grant does not require a local cost share as part of the application process which you will find in the attached copy of the SHSP Grant guidance. The Fargo Police Department is working with Emergency Management to develop an SHSP Grant project application to better protect mass gathering special events from vehicle borne attacks.

The risk of violent attacks to attendees of public events is a known threat to communities across the nation. Vehicles used as weapons to attack mass gatherings is not a new threat and is a priority for local event planning and response coordination. Event coordinators and emergency response agencies have committed staff and resources to special event preparedness and traffic control measures to protect special event attendees. These traffic control measures are necessary to modify normal traffic flow while deterring and preventing threats from vehicles used as weapons at mass gatherings. Current traffic control measures simply inform drivers of a road closure (barricade), or are impractical to deploy due to weight and numbers (jersey barriers), or rely on The City of Fargo staff and asset availability while risking damage to expensive equipment (snow plow trucks). These barriers would be staff-deployable, effective at stopping vehicle borne threats, and dynamic to meet varying needs for each mass gathering event.

Recommended Motion:

Approve submission of a State Homeland Security Grant project application in the amount of \$360,000 to purchase modular vehicle barriers.

Attachments:

- North_Dakota_FY_2024_SHSP_NOFO_and_Application_Guidance
- Photos of Barriers-

**The North Dakota Department of Emergency Services
Division of Homeland Security (NDDHS-HLS)
Notice of Funding Opportunity (NOFO)
Fiscal Year 2024 State Homeland Security Grant Program (SHSP)**

Application Deadline: June 5, 2024, at 12:00 p.m. (noon) CT

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Additional information about these priority areas and how they relate to achieving anti-terrorism capabilities is included below.

1) Soft Targets/Crowded Places

Soft targets and crowded places are increasingly appealing to terrorists and other violent extremist actors because of their relative accessibility and the large number of potential targets. This challenge is complicated by the prevalent use of simple tactics and less sophisticated attacks. Segments of our society are inherently open to the general public, and by nature of their purpose do not incorporate strict security measures. Given the increased emphasis by terrorists and other violent extremist actors to leverage less sophisticated methods to inflict harm in public areas, it is vital that the public and private sectors collaborate to enhance security of locations such as transportation centers, parks, restaurants, shopping centers, special event venues, polling places, and similar facilities.

Additional resources and information regarding securing soft targets and crowded places are available through the [Cybersecurity and Infrastructure Security Agency](#) and the [National Institute of Standards and Technology](#).

2) Domestic Violent Extremism

As stated in the Homeland Threat Assessment October 202, domestic violent extremists, including ideologically motivated lone offenders and small groups, present the most persistent and lethal terrorist threat to the Homeland. These violent extremists capitalize on social and political tensions, which have resulted in an elevated threat environment. They utilize social media platforms and other technologies to spread violent extremist ideologies that encourage violence and influence action within the United States.

Additional resources and information regarding domestic violent extremism are available through [Center for Prevention Programs and Partnerships | Homeland Security \(dhs.gov\)](#).

3) Community Preparedness and Resilience

Community organizations are the backbones of American civic life, both during “blue skies” and in the aftermath of terrorist attacks. Community organizations, such as homeless shelters, food banks, public libraries, faith-based institutions, and nonprofit medical providers must have the capabilities to withstand acts of terrorism and provide essential services, especially to members of underserved communities, in the aftermath of an attack. In addition, individual citizens and volunteer responders, such as Community Emergency Response Teams (CERT), are often the first on the scene after a terrorist attack. The ability of these volunteers to provide assistance to their fellow citizens prior to the arrival of professional first responders is paramount to a community’s resilience. FEMA’s 2023 [National Household Survey](#) only 57% of adults have taken at least three preparedness actions to bolster individual and household resilience.

Additionally, equity in emergency management requires proactively prioritizing actions that reinforce cultural competency, accessibility, and inclusion, as well as reflect the historical context of specific groups of people. To that end, subapplicants are strongly encouraged to explore how activities can address the needs of underserved, at-risk communities to help

As a reminder, all SHSP-funded projects must have a demonstrated nexus to achieving target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism.

The table below provides a breakdown of the FY 2024 SHSP national priorities, showing the core capabilities enhanced, and lifelines supported, as well as examples of eligible project types for each area. A detailed description of allowable investments for each project type is included in the [Preparedness Grants Manual](#).

FY 2024 SHSP Funding National Priorities		
<i>All priorities in this table concern Safety and Security Lifelines</i>		
Priority Area	Core Capabilities	Example Project Types
Enhancing the Protection of Soft Targets/Crowded Places	<ul style="list-style-type: none"> • Operational coordination • Public information and warning • Intelligence and information sharing • Interdiction and disruption • Screening, search, and detection • Access control and identity verification • Physical protective measures • Risk management for protection programs and activities 	<ul style="list-style-type: none"> • Physical security enhancements <ul style="list-style-type: none"> ○ Security cameras (CCTV) ○ Security screening equipment for people and baggage ○ Security Lighting ○ Access controls ○ Fencing, gates, barriers
Combating Domestic Violent Extremism	<ul style="list-style-type: none"> • Interdiction and disruption • Intelligence and information sharing • Planning • Public information and warning • Operational coordination • Risk management for protection programs and activities 	<ul style="list-style-type: none"> • Open-source analysis of disinformation and misinformation campaigns, targeted violence, and threats to life, including tips/leads, and online/social media-based threats • Sharing and leveraging intelligence information, including open-source analysis • Development, implementation, and execution of threat assessment and management programs to identify, evaluate, and analyze indicators and behaviors indicative of terrorism and targeted violence • Training, awareness, and outreach programs to help identify and prevent radicalization, and report potential instances of terrorism and targeted violence
Enhancing Community Preparedness and Resilience	<ul style="list-style-type: none"> • Planning • Public Information and Warning • Community Resilience • Risk Management for Protection Programs and Activities • Mass Care Services • Intelligence and Information Sharing • Risk and Disaster Resilience Assessment • Long Term Vulnerability Reduction 	<ul style="list-style-type: none"> • Establish, train, and maintain Community Emergency Response teams (CERT) and Teen CERT, with a focus on historically underserved communities, including procurement of appropriate tools, equipment, and training aids • Provide continuity training, such as FEMA's Organizations Preparing for Emergency Needs training, to faith-

<p>Enhancing Election Security</p>	<ul style="list-style-type: none"> • Cybersecurity • Intelligence and information sharing • Planning • Long-term vulnerability reduction • Situational assessment • Infrastructure systems • Operational coordination • Community resilience 	<ul style="list-style-type: none"> • Physical security planning support • Physical/site security measures – e.g., locks, shatterproof glass, alarms, access controls, etc. • General election security navigator support • Cyber navigator support • Cybersecurity risk assessments, training, and planning • Projects that address vulnerabilities identified in cybersecurity risk assessments • Iterative backups, encrypted backups, network segmentation, software to monitor/scan, and endpoint protection • Distributed Denial of Service protection • Migrating online services to the “.gov” internet domain • Online harassment and targeting prevention services • Public awareness/preparedness campaigns discussing election security and integrity measures
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The table below provides examples of other eligible project types.

Other Eligible Project Examples		
Project Category	Core Capabilities	Example Project Types
<p>Planning</p>	<ul style="list-style-type: none"> • Planning • Risk management for protection programs and activities • Risk and disaster resilience assessment • Threats and hazards identification • Operational coordination • Community resilience 	<ul style="list-style-type: none"> • Development of: <ul style="list-style-type: none"> ○ Security Risk Management Plans ○ Threat Mitigation Plans ○ Continuity of Operations Plans ○ Response Plans ○ Vulnerability Assessments <ul style="list-style-type: none"> ▪ Assessments should consider the impacts of climate change on investments to close identified gaps • Efforts to strengthen governance integration between/among regional partners • Joint training and planning with DHS officials and other entities designated by DHS • Cybersecurity training and planning

Extensions to the period of performance are allowed under limited circumstances. Extensions to the initial POP must be submitted through the grants.des.nd.gov system and must contain specific compelling justifications as to why an extension is required. Extensions due to lack of activity on the subrecipients part will not be allowed.

3. Funding Instrument Type:

- Grant

Eligibility Information

1. Eligible Applicants

In FY 2024, SHSP eligible subrecipients are North Dakota local units of government at the county or city/town level of government or equivalent level of government such as a local public authority, special district (ex., fire protection district, EMS district), or school district, and North Dakota federally recognized tribal governments.

2. Other Eligibility Criteria/Restrictions

a. Universal Entity Identifier (UEI)

All entities wishing to do business with the federal government must have a unique entity identifier (UEI). The UEI number is issued by the SAM system. Requesting a UEI using SAM.gov can be found at <https://sam.gov/content/entity-registration>.

b. National Incident Management System (NIMS) Implementation

North Dakota has adopted the *National Incident Management System*. By applying for funding the subrecipient is certifying compliance with NIMS objectives. The list of objectives used for progress and achievement is on FEMA's website at [NIMS Implementation and Training | FEMA.gov](https://www.fema.gov/national-incident-management-system). Additional information about NIMS in general is available at [National Incident Management System | FEMA.gov](https://www.fema.gov/national-incident-management-system).

c. Emergency Management Assistance (EMAC) Membership

North Dakota is a member of EMAC. Therefore, all assets supported in part or entirely with FY 2024 SHSP funding must be readily deployable and NIMS-typed, when possible, to support emergency or disaster operations per existing EMAC agreements. In addition, funding may be used for the sustainment of core capabilities that, while they may not be physically deployable, support national response capabilities.

3. Cost Share or Match

There is no cost share or match requirement for the FY 2023 HSGP.

4. Allowable Direct Costs

All costs must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 2 C.F.R. Part 200.

• **Planning**

SHSP funds may be used for a range of emergency preparedness and management planning activities, such as those associated with development, review, and revision of the THIRA/SPR, continuity plans, and other planning activities that support the Goal and placing an emphasis on updating and maintaining a current Emergency Operations Plan (EOP) that conforms to the guidelines outlined in [Comprehensive Preparedness Guide \(CPG\) 101 v2](#). Planning efforts can also

addressed in the training cycle. Emergency preparedness training related to those training gaps, including related to under-represented, diverse populations that may be more impacted by disasters, is allowable.

Subrecipients are also encouraged to utilize FEMA’s National Preparedness Course Catalog. Trainings include programs or courses developed for and delivered by institutions and organizations funded by FEMA. This includes the Center for Domestic Preparedness (CDP), the Emergency Management Institute (EMI), and FEMA’s Training Partner Programs, including the Continuing Training Grants (CTG), the National Domestic Preparedness Consortium (NDPC), the Rural Domestic Preparedness Consortium (RDPC), and other partners.

The catalog features a wide range of course topics in multiple delivery modes to meet FEMA’s mission scope as well as the increasing training needs of federal, state, local, territorial, and tribal audiences. The catalog can be accessed at [NTED | National Preparedness Course Catalog Home \(firstrespondertraining.gov\)](https://www.fema.gov/national-preparedness-course-catalog).

Some training activities require Environmental and Historic Preservation (EHP) Review, including exercises, drills or trainings that require any type of land, water, or vegetation disturbance or building of temporary structures or that are not located at facilities designed to conduct training and exercises. Additional information on training requirements and EHP review can be found online at [Environmental & Historic Preservation Guidance for FEMA Grant Applications | FEMA.gov](https://www.fema.gov/environmental-historic-preservation-guidance).

Allowable Training Costs	SHSP
Overtime and backfill for emergency preparedness and response personnel attending DHS/FEMA-sponsored and approved training classes	Y
Overtime and backfill expenses for part-time and volunteer emergency response personnel participating in DHS/FEMA training	Y
Activities to achieve training inclusive of people with disabilities and others with access and functional needs and limited English proficiency	Y
Hiring of contractors/consultants to conduct training activities	Y
Coordination with Citizen Corps Councils and CERT in conducting training exercises	Y
Preparedness training for community preparedness initiatives and programs	Y
Interoperable communications training	Y
Activities to achieve planning inclusive of people with limited English proficiency	Y
Immigration enforcement training	Y

- **Exercises**

Exercises conducted with grant funding should be managed and conducted consistent with Homeland Security Exercise and Evaluation Program (HSEEP). HSEEP guidance for exercise design, development, conduct, evaluation, and improvement planning is located at [Homeland Security Exercise and Evaluation Program | FEMA.gov](https://www.fema.gov/homeland-security-exercise-and-evaluation-program).

Some exercise activities require EHP review, including exercises, drills or trainings that require any type of land, water, or vegetation disturbance or building of temporary structures or that are not located at facilities designed to conduct training and exercises. Additional information on training requirements and EHP review can be found online at [Environmental & Historic Preservation Guidance for FEMA Grant Applications | FEMA.gov](https://www.fema.gov/environmental-historic-preservation-guidance).

- 09/01/2024
- d. Anticipated Award Date:
- No later than 10/15/2024

e. Other Key Dates

Event	Suggested Deadline for Completion
Obtain UEI at SAM.gov, or update UEI registration	4 weeks before actual submission deadline
Registering in grants.des.nd.gov	4 weeks before actual submission deadline
Starting application in grants.des.gov	3 weeks before actual submission deadline
Submitting applications in grants.des.gov	1 week before actual submission deadline
Submitting the final application in grants.des.gov	By the submission deadline

2. Agreeing to Terms and Conditions of the Award

By submitting an application, subapplicants agree to comply with the requirements of this NOFO, the [federal NOFO](#), and the terms and conditions of the award, should they receive an award.

3. Requirement: Obtain a Unique Entity Identifier (UEI)

Each subapplicant must:

- a. Provide a valid UEI in its application.; and
- b. Continue to always maintain an active System for Award Management ([SAM.gov](#)) UEI registration with current information during the Federal Award process if selected for award.

Applying for, updating, or verifying an Unique Entity Identifier (UEI) through SAM.gov takes time. Therefore, registration should be done as early as possible to ensure it does not impact your ability to meet required submission deadlines.



If a subapplicant is unable to obtain a UEI by the submission deadline, the subapplicant may still apply. However, NDDDES-HLS may not make subawards unless the subrecipient has obtained and provided the UEI.

4. Electronic Delivery

For this funding opportunity, NDES-HLS requires subapplicants to submit applications through [grants.des.nd.gov](#).

5. How to Register to Apply through [grants.des.nd.gov](#)

a. New Users

- On the grants.des.nd.gov home page click on the  button.
- Complete the Register for Access form.
 - In the Request Type box, select *New User Requesting Access*
 - In the Grant Number Box, select *FY 2024 – State Homeland Security Program-Local*
- At the bottom of the Register for Access form click on the  button.

b. Existing Users

Follow the steps above, except under Request type box, select *Existing User Requesting Additional Access*

the application and come back to complete it later the draft can be accessed from your home page in your **Inbox** which can be found on the right-hand side.

a. Introduction

- Title: **Use the following naming convention** *Entity-National Priority or Core Capability Gap* (ex. Brown County-Enhancing Protection of Soft Targets-Crowded Places or Brown County-Operational Coordination). The Core Capability gap should be identified in the county THIRA.
- Primary Contact: This **must** be a legal representative of the jurisdiction that is legally responsible for the project and **authorized** to sign the grant award should the entity receive an award. (**Note:** *To choose a name click on the down arrow. If the person isn't listed, click on "create a new contact".*)
- Alternate Contact: Representative of the jurisdiction other than primary contact.
- Authorized Contact: Representative of the jurisdiction other than primary contact that has the authority to act in the Primary Contact's absence.
- Work Activity: Areas that coincide with your work activity and costs. Your selection(s) here will create the associated Work Plan(s). You must choose at least one but may choose up to four. *Hold the **Ctrl** key to select multiple areas.*
 - Planning
 - Training
 - Exercise, and/or
 - Equipment.**Note:** Do not select Organization, M&A, Other Work Activity areas.
- Mark the appropriate statement (Yes or No) at the bottom of the page.
- Click the **Save** button on the tope left of the page.

Note: Consultants and Contractors are NOT permitted to be a contact (primary, alternate, or authorized) of the subrecipient. The primary contact or the authorized contact, is responsible for submitting programmatic reports, accepting award packages, signing assurances and certifications, and submitting award amendments. The primary, alternate, or authorized contact may submit financial performance reports (i.e., reimbursement requests).

b. Costs

This represents your budget request. The costs for a project should be broken down into direct cost categories. For each cost, click the "Add Line" button and enter the specific information for that cost item.

- Cost Line Items
 - *Area:* Choose Planning, Training, Exercise, or Equipment
 - *Type:* Choose Contractor, Equipment, Materials and Supplies, Travel, Other
 - *AEL Code:* Enter the AEL Code. If you are unsure of the Code, you can click on the blue "List" link, and it will show you the available codes.
 - *Description:* When you enter the AEL Code the Description will auto-populate. **DO NOT CHANGE THE AUTO-POPULATED DESCRIPTION.** Add additional information after the auto-populated portion.
 - *Quantity:* Enter the Quantity of the item.
 - *Price:* Enter the Unit Price of the item.
 - *Total:* The Total column will auto-calculate.

Justification **must demonstrate** how proposed objective:

- Supports **terrorism** preparedness; and
- Supports building capability and/or closing capability gaps or sustaining capabilities identified in the communities THIRA.

Justification **must explain** how the proposed objective will support the subapplicant's efforts to:

- Prevent a threatened or an actual act of **terrorism**; or
- Prepared for all hazards and threats, while explaining the nexus to **terrorism** preparedness; or
- Protect citizens, residents, visitors, and assets against the greatest threats and hazards relating to acts of **terrorism**; or
- Respond quickly and equitably to save lives, protect property and the environment, and meet basic human needs in the aftermath of an act of **terrorism** or other catastrophic incidents.

Justification should also *explain*:

- **How** you will measure and evaluate success, improvement, outcomes, impacts (quantitatively and/or qualitatively).
- **How** the budget was determined.
- Action Steps: Explain the steps required for successful completion of the project. (A project schedule with clearly defined milestones.) **Note:** To add additional Action Steps, click on the "Add Action Step" button.
 - Example:
 - Q1 obtain quotes and procure equipment hardware from vendor
 - Q2 arrange installation and technical resources
 - Q3 installation begins
 - Q4 installation continues
 - Q5 Finalize install and complete testing
 - Q6 Finalize project, collect metrics, and submit final reimbursement request
- EHP Review
 - Indicate **Yes** if your project involves Training, Exercise, or Equipment:
 - Indicate **No** if your project is for Planning.
- Click the **Save** button on the top left of the page.

9. Finishing the Application and Required Forms.

Once you have completed the application be sure to hit the "**Save**" button at the top of the page. From there, the user will need to upload their backup documentation, including any additional forms required in the Notice of Funding Opportunity.

- Required form:
 - Certification Regarding Lobbying
- Uploading documents:
 - Click on the Summary tab above the Form tab in the application.
 - Click the "Add Document" button at the bottom of the page. This will bring up a window to add

Notice of Award

Before accepting the award, the AOR and subrecipient should carefully read the award package. The award package includes instructions on administering the grant award and the terms and conditions associated with responsibilities under federal awards. **Subrecipients must accept all conditions of the federal NOFO, this NOFO and the [Preparedness Grants Manual](#) as well as any specific terms and conditions in the Notice of Award to receive an award under this program.**

Subrecipients must accept their awards no later than 45 days from the award date. Funds will remain on hold until the subrecipient accepts the award through the grant.des.nd.gov system and all other conditions of the award have been satisfied or until the award is otherwise rescinded.

Failure to accept a grant award within the 45-day timeframe may result in a loss of funds. The grant subrecipient shall notify NDDDES-HLS of intent to decline the award.

Post Award Information

1. Funding Restrictions

All costs charged to awards covered by this NOFO must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 2 C.F.R. Part 200. This includes among other requirements, that costs must be incurred, and products must be delivered, within the period of performance of the award. See 2 C.F.R § 200.403(h) (referring to budget periods, which for FEMA awards under this program is the same as the period of performance).

Federal funds made available through this award may be used for the purpose set forth in this NOFO, the [Preparedness Grants Manual](#), and the terms and conditions of the award and must be consistent with the statutory authority for the award. Award funds may not be used for matching funds for any other federal awards, lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, federal funds may not be used to sue the Federal Government or any other government entity. See the [Preparedness Grants Manual](#) for more information on funding restrictions and allowable costs.

a. Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment and Services

Subrecipients of FEMA federal financial assistance are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute – as it applies to FEMA subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

Unless otherwise stated, all equipment must meet all mandatory regulatory and/or FEMA-adopted standards to be eligible for purchase using these funds. In addition, grant subrecipients will be responsible for obtaining and maintaining all necessary certifications and licenses for the requested equipment.

Investments in emergency communications systems and equipment must meet applicable *SAFECOM Guidance on Emergency Communications Grants* recommendations. Such investments must be coordinated with the SWIC and the SIEC to ensure interoperability and longer-term compatibility.

c. Travel

Domestic travel costs associated with planning, training, and exercises is allowed under this program, as provided for in the federal NOFO and in the [Preparedness Grants Manual](#). International travel is **not** an allowable cost under this program.

d. Unallowable Costs

- Weapons and weapons accessories, including ammunition
- Firearms
- Ammunition
- Grenade launchers
- Bayonets
- Weaponized aircraft, vessels, or vehicles of any kind with weapons installed
- Exercise costs related to maintenance or wear and tear costs of general use vehicles, medical supplies, and emergency response apparatus
- Exercise costs related to equipment that is for permanent installation and/or use, beyond the scope of the conclusion of the exercise
- Pre-Award costs are **not** allowable.
- Indirect costs are **not** allowable.
- Construction and Renovation costs are **not** allowable.

2. Administrative and National Policy Requirements

In addition to the requirements in this NOFO and the federal NOFO, FEMA and/or NDDIS-HLS may place specific terms and conditions on individual awards in accordance with 2 C.F.R. Part 200.

In addition to the information regarding DHS Standard Terms and Conditions and Ensuring the Protection of Civil Rights, see the [Preparedness Grants Manual](#) for additional information on administrative and national policy requirements, including:

- EHP Compliance;
- FirstNet;
- NIMS Implementation; and
- SAFECOM Guidance.

3. DHS and NDDIS-HLS Standard Terms and Conditions

All successful subapplicants for DHS grants are required to comply with DHS Standard Terms and Conditions, which are available online at: [DHS Standard Terms and Conditions](#).

DHS and FEMA EHP policy is found in directives and instructions available on the [FEMA.gov EHP page](#), the FEMA website page that includes documents regarding EHP responsibilities and program requirements, including implementation of the National Environmental Policy Act and other EHP regulations and Executive Orders.

The EHP screening forms are located at [HSGP - grants.des.nd.gov](#). Additionally, all subrecipients under this funding opportunity are required to comply with the [FEMA GPD EHP Policy Guidance, FEMA Policy #108-023-1](#).

6. Mandatory Disclosures

The non-Federal entity or subapplicant for a Federal award must disclose, in a timely manner, in writing to the NDDes-HLS all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. (2 CFR 200.113)

7. Reporting

Subrecipients are required to submit various financial and programmatic reports as a condition of award acceptance. Future awards and reimbursements may be withheld if these reports are delinquent.

NDDes-HLS recommends submitting financial reports (reimbursement requests) at least quarterly. The final reimbursement request is due within 15 days after the end of the period of performance (POP). Reimbursement requests may be withheld if they are insufficient in detail and documentation or demonstrate lack of program compliance.

In each SHSP subrecipient’s project quarterly report, as part of programmatic monitoring, the subrecipient must report the following:

- A brief narrative of overall project(s) status;
- Status of the Action Steps;
- A summary of project expenditures; and
- A description of any potential issues that may affect project completion.

Reports are due on the 15th of the month following the end of each quarter:

Quarter	Report Due Date
October – December	January 15 th
January – March	April 15 th
April – June	July 15 th
July – September	October 15 th

Additional reports may be required due to subapplicant’s risk rating.

8. Monitoring and Oversight

Per 2 C.F.R. § 200.337, FEMA and NDDes-HLS, through its authorized representatives, has the right, at all reasonable times, to make site visits or conduct desk reviews to review project accomplishments and management control systems to review award progress and to provide any required technical assistance. During site visits or desk reviews, FEMA will review subrecipients’ files related to the award. As part of any monitoring and program evaluation activities, subrecipients must permit FEMA and

from their non-federal funds; additionally, states must now follow 2 C.F.R. § 200.321 regarding socioeconomic steps, § 200.322 regarding domestic preferences for procurements, § 200.323 regarding procurement of recovered materials, and § 200.327 regarding required contract provisions.

All other non-federal entities, such as tribes (collectively, non-state entities), must have and use their own documented procurement procedures that reflect applicable SLTT laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in 2 C.F.R. Part 200. These standards include, but are not limited to, providing for **full and open competition** consistent with the standards of 2 C.F.R. § 200.319 and § 200.320.

Important Changes to Procurement Standards in 2 C.F.R Part 200

OMB recently updated various parts of Title 2 of the Code of Federal Regulations, among them, the procurement standards. States are now required to follow the socioeconomic steps in soliciting small and minority businesses, women's business enterprises, and labor surplus area firms per 2 C.F.R. § 200.321. All non-federal entities should also, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States per 2 C.F.R. § 200.322. More information on OMB's revisions to the federal procurement standards can be found in Purchasing Under a FEMA Award: OMB Revisions Fact Sheet.

The recognized procurement methods in 2 C.F.R. § 200.320 have been reorganized into informal procurement methods, which include micro-purchases and small purchases; formal procurement methods, which include sealed bidding and competitive proposals; and noncompetitive procurements. The federal micro-purchase threshold is currently \$10,000, and non-state entities may use a lower threshold when using micro-purchase procedures under a FEMA award. The federal simplified acquisition threshold is currently \$250,000, and a non-state entity may use a lower threshold but may not exceed the federal threshold when using small purchase procedures under a FEMA award. See 2 C.F.R. § 200.1 (citing the definition of simplified acquisition threshold from 48 C.F.R. Part 2, Subpart 2.1).

See 2 C.F.R. §§ 200.216, 200.471, and Appendix II as well as FEMA Policy #405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services, the relevant program NOFO, and this Manual regarding prohibitions on covered telecommunications equipment or services.

Competition and Conflicts of Interest

Among the requirements of 2 C.F.R. § 200.319(b) applicable to all non-federal entities other than states, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be **excluded** from competing for such procurements in order to ensure objective contractor performance and eliminate unfair competitive advantages. FEMA considers these actions to be an organizational conflict of interest and interprets this restriction as applying to contractors that help a non-federal entity develop its grant application, project plans, or project budget. This prohibition also applies to the use of former employees to manage the grant or carry out a contract when those former employees worked on such activities while they were employees of the non-federal entity.

non-federal entity must disclose in writing any potential conflicts of interest to FEMA or the pass-through entity in accordance with applicable FEMA policy.

General Services Administration Schedules

States, tribes, and local governments, and any instrumentality thereof (such as local education agencies or institutions of higher education), may procure goods and services from a General Services Administration (GSA) schedule. GSA offers multiple efficient and effective procurement programs for state, tribal, and local governments, and instrumentalities thereof, to purchase products and services directly from pre-vetted contractors. The GSA Schedules (also referred to as the Multiple Award Schedules and the Federal Supply Schedules) are long-term government-wide contracts with commercial firms that provide access to millions of commercial products and services at volume discount pricing.

Information about GSA programs for states, tribes, and local governments, and instrumentalities thereof, can be found at [Programs for State and Local Governments | GSA](#) and [State and Local Governments | GSA](#).

For tribes, local governments, and their instrumentalities that purchase off of a GSA schedule, this will satisfy the federal requirements for full and open competition provided that the subrecipient follows the GSA ordering procedures; however, tribes, local governments, and their instrumentalities will still need to follow the other rules under 2 C.F.R. §§ 200.317 – 200.327, such as solicitation of minority businesses, women’s business enterprises, small businesses, or labor surplus area firms (§ 200.321), domestic preferences (§ 200.322), contract cost and price (§ 200.324), and required contract provisions (§ 200.327 and Appendix II).

State Supply Schedules and Programs

For non-federal entities such as tribes, local governments, and nonprofits, that want to procure goods or services from a state supply schedule or state cooperative purchasing program in order for such procurements to be permissible under federal requirements, the following must be true:

- The procurement of the original contract or purchasing schedule and its use by the non-federal entity complies with state and local law, regulations, and written procurement procedures;
- The state or other entity that originally procured the original contract or purchasing schedule entered into the contract or schedule with the express purpose of making it available to the non-federal entity and other similar types of entities;
- The contract or purchasing schedule specifically allows for such use, and the work to be performed for the non-federal entity falls within the scope of work under the contract as to type, amount, and geography;
- The procurement of the original contract or purchasing schedule complied with all the procurement standards applicable to a non-federal entity other than states under at 2 C.F.R. §§ 200.317 – 200.327; and
- With respect to the use of a purchasing schedule, the non-federal entity must follow ordering procedures that adhere to applicable state, tribal, and local laws and regulations and the minimum requirements of full and open competition under 2 C.F.R. Part 200.

Procurement Documentation

Per 2 C.F.R. § 200.318(i), non-federal entities other than states and territories are required to maintain and retain records sufficient to detail the history of procurement covering at least the rationale for the procurement method, contract type, contractor selection or rejection, and the

Small Projects Waiver

Waives the BABAA requirements for infrastructure projects under FEMA awards or subawards where the total project cost does not exceed the federal simplified acquisition threshold (currently set at \$250,000).

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TESTED & CERTIFIED



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FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

OFFICE OF THE CHIEF

MEMORANDUM

To: City of Fargo Commission

From: Chief David B. Zibolski *DZ*

Date: May 23, 2024

RE: State Homeland Security Grant Application (CFDA #97.067) to Fund FLOCK Technology

COPY

Dear Commissioners,

The North Dakota Department of Emergency Services (NDDDES) is soliciting project applications for the 2024 State Homeland Security (SHSP) Grant. The SHSP Grant assists states, local, tribal, and territorial efforts to build, sustain, and deliver the capabilities necessary to prevent, prepare for, protect against, and respond to acts of terrorism. An applicant's project must support one of the grant objectives which includes "Build and sustain core capabilities, including Law Enforcement and Terrorism Prevention Activities and the National Priority Areas". The SHSP Grant does not require a local cost share as part of the application process which you will find in the attached copy of the SHSP Grant guidance. The Fargo Police Department is working with Emergency Management to develop an SHSP Grant project application to fund additional FLOCK technology within the City.

Currently the Fargo Police Department is in the process of installing 20 stationary license plate readers and replacing our 5 downtown cameras with updated cameras provided by FLOCK Safety as part of a commission approved pilot program. After working with FLOCK Safety it is apparent that their technology will be beneficial to our city in the prevention of crime and the apprehension of known criminal actors. Our ability to interdict and disrupt threats to our neighborhoods, schools, and businesses across Fargo relies upon our ability to collect and process intelligence in a timely and efficient manner. Challenges to this capability increase as Fargo grows in size and population, and the threats to our community evolve. Leveraging technological advancements allows law enforcement agencies to receive targeted intelligence in real time which produces efficient and effective response options.

Additional implementation of FLOCK technology will allow the Department to not only deploy more stationary license plate readers monitoring and collecting data on criminal activity and

community threat, but it will also allow for an additional 5 downtown cameras to monitor activity during higher call for service time periods and major downtown events. The second implementation will also bring with it real-time crime center technology which will allow the department to integrate all 65 of our current traffic cameras to be monitored by crime analysts and detectives. Those monitoring can direct patrol activities in real time using the new technology.

Suggested Motion

Approve submission of a State Homeland Security Grant project application in the amount of (\$118,660.00) to purchase equipment and technology that provides real-time intelligence to law enforcement.



**PUBLIC
WORKS**

33

**FLEET MANAGEMENT, FORESTRY
STREETS & SEWERS
WATERMAINS & HYDRANTS**
402 23rd Street North
Fargo, ND 58102
Phone: 701.241.1453 | Fax: 701.241.8100
FargoND.gov

May 21, 2024

The Honorable Board of City Commissioners
225 4th Street N.
Fargo, ND 58102

RE: 2024 Fargo/Cass County Mosquito Control Agreement (EX24219)

Commissioners:

Enclosed please find the Fargo/Cass Mosquito Control Agreement for the 2024 mosquito season. At this time, the enclosed contract has been fully reviewed and approved by city staff. The Fargo contract costs have remained consistent with the 2023 contract and no changes have been made.

All funding associated with the enclosed agreement has been fully accounted for within the 2024 vector control budget.

RECOMMENDED MOTION: I/we hereby move to approve and authorize the execution of the enclosed Mosquito Control Agreement with Cass County for 2024. (EX24219)

Respectfully submitted,

Ben Dow
Public Works Director

2024 MOSQUITO CONTROL AGREEMENT
CITY OF FARGO AND CASS COUNTY GOVERNMENT

This is an agreement to formalize the partnership for mosquito control between the City of Fargo and Cass County Government during the 2024 mosquito control season. The agreement is made between the City of Fargo, whose office is located at 200 North 3rd Street, Fargo, North Dakota 58102, hereinafter CITY, and Cass County Government whose office is 211 Ninth Street, Fargo, ND 58018 hereinafter COUNTY.

THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. COUNTY agrees to provide mosquito control activities throughout the Vector Control District commensurate with the funding available. For the 2024 season, approximately 1.02 million dollars in Vector Control Mill funds has been designated for the Countywide Vector Program. COUNTY funds will be used within the CITY and in surrounding areas with the objective being to distribute products and services commensurate with the source of revenue.
2. In addition to service provided in paragraph 1, COUNTY will provide services within the CITY for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, spraying mosquitoes in and surrounding Fargo including parks and schools, inspection of public and private property, collection of mosquito traps for population monitoring. The COUNTY Vector Director will provide technical direction and coordination of these activities. The Vector Director will also work in cooperation with CITY officials to provide other technical and administrative assistance as necessary.
3. CITY agrees to provide funding to support the activities referred to in paragraph 2. The total cost for these activities is \$290,000. Estimated start date and end dates for activities is April 15th to October 1st respectively.
4. COUNTY will provide services within the predetermined "Extra-territorial" area for various mosquito control activities such as but not limited to: making applications of pesticides using off-highway vehicles, inspection of public and private property, and collection of mosquito traps for population monitoring.
5. CITY agrees to fund fifty percent (50%) of the activities described in paragraph 4. COUNTY agrees to fund fifty percent (50%) of the activities described in paragraph 4. Anticipated total cost of services defined in paragraph 4 are estimated to not exceed \$40,000.
6. COUNTY will provide monthly statements to CITY of time and materials, and invoice CITY monthly.
7. CITY agrees to fund the cost of city-wide adult mosquito spraying at \$3,000 per full application. Estimate between 5 and 10 applications per season dependent upon conditions. Adult mosquito spraying will be invoiced monthly.
8. If funding needed to maintain activities in paragraph 2 and paragraph 5 is forecasted to exceed \$302,000 COUNTY must provide CITY with written notice requesting contract adjustment 14 days prior to contract funding shortfall. All COUNTY contract adjustments will receive acceptance or rejection through written notice by CITY within 10 days of request. Failure by CITY to respond to COUNTY within 10 days of request will constitute CITY acceptance of contract adjustments.

All requests for contract adjustments shall be submitted to:

Fargo Public Works
402 23rd Street N.
Fargo, ND 58102

9. If COUNTY fails to comply with paragraph 6, all costs associated with activities outlined in paragraph 2 exceeding contracted dollar amounts will be the sole responsibility of COUNTY to fund.
10. COUNTY will fund up to \$145,000 for aerial spray application or comparable partial applications within the metro area including within CITY limits and surrounding area when determined necessary.
11. CITY agrees to fund any additional costs for aerial spraying above or beyond paragraph 8 when CITY requests the contracted services of an aerial applicator. COUNTY will coordinate the aerial spray operation upon the CITY's approval or after expressed written permission is given by the CITY authorizing the Vector Control Director as its agent to make the determination. Additional funds for an aerial application are available for use in COUNTY at the discretion and authorization of COUNTY.
12. COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the COUNTY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of COUNTY, its employees or contractors and any party from which COUNTY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by COUNTY in furtherance of this agreement.
13. CITY agrees to assume all liability and agrees to indemnify and defend the COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the CITY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any part from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement.

Chair, Cass County Commission



Date

04-15-24

Mayor, City of Fargo

Date

34

May 28, 2024

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

RE: Tree Injection Services (RFQ24223)

Commissioners:

Quotes were received April 12, 2024, for ash tree injection services. These services are utilized on certain ash street trees due to the current Emerald Ash Borer threat.

<u>Contractor</u>	<u>Low rate (\$ per inch)</u>	<u>med rate</u>	<u>med/high rate</u>	<u>high</u>
Carr's Tree Service	4.50	5.00	7.50	10.00
True North Tree Health	4.30	5.85	9.10	12.30
Hawk Tree Injection Service	4.13	5.32	NA	7.70

Considerations included completeness of proposal, overall cost, experience, prior work history, references, capacity to perform including staffing levels and equipment, and the preferred usage of a medium dosage rate per the specifications, with up to four (4) additional years of negotiated extension.

With 325 estimated trees to be treated, the anticipated total cost will be approximately \$47,500. \$48,000 is included in the 2024 forestry budget to support this.

Recommended motion:

Move to approve Tree Injection Services (RFQ24223) agreement with Carr's Tree Service.

Your approval of this request is appreciated.

Sincerely,



Scott Liudahl, City Forester

Cc: Ben Dow

Commission 2024 RFQ24223.doc

Tree Injection Services - 2024

I. Agreement

This agreement is between the City of Fargo (City) and Carr's Tree Service (Contractor) to provide tree injection services for the City. This agreement shall commence upon signing by both parties and expire on December 31, 2024. The terms of this agreement may be extended, if accepted and signed by the Contractor and City, for four (4) additional year's extension, provided the negotiated extension is signed by parties on or around February 15th of the contract year.

II. Scope of Services Summary

Work shall include all labor, materials, equipment, supplies and services required for tree injection in accordance with forestry department specifications. Contractor must comply with all State, Federal and Local laws, regulations and ordinances applicable to the operation of Contractor's equipment.

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

Partial billing is acceptable at any time. City will compensate Contractor per proposal price.

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. Contractor's employees must be covered by North Dakota's Workers Compensation. Contractor shall carry appropriate liability insurance coverage, including but not limited to Public Liability Insurance in the amount of \$1,000,000 per person, \$500,000 per accident, and property damage in the amount of \$300,000 per accident. Contractor shall provide City a Certificate of Insurance naming the City of Fargo as an additional insured, and such insurance must be maintained during the term of this Agreement and any extension agreed to thereafter.

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 its 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

This agreement constitutes the entire agreement between the parties.

XIII. Law

This Agreement shall be construed under and in accordance with the laws of the State of North Dakota.

XIV. Time of the Essence

Time is of the essence of all provisions of this Agreement except as may be otherwise specifically stated herein.

XV. Third Parties

There are no third-party beneficiaries of this Agreement and except by way of assignment, no third party may acquire any rights or incur any liabilities hereunder.

XVI. Headings

The subject headings of the paragraphs of this agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

IN WITNESS WHEREOF, the undersigned enter into this agreement.

Date: 5/21/24

CONTRACTOR

Carr's Tree Service



By: JACOB CARR

Its: CEO

Date: _____

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

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor



May 22, 2024

Honorable Board of City Commissioners
City of Fargo
200 3rd Street North
Fargo, ND 58102

RE: Solid Waste Management Agreement with J-1 Excavation & Roll Off

Dear Commissioners:

Attached for your approval is a Solid Waste Management Agreement between the City of Fargo and J-1 Excavation & Roll Off. The Agreement outlines the provisions of being a Private Hauler within the City of Fargo and governs the collection and delivery of waste generated within the City. The agreement also outlines the approved billing procedures, and provides a detailed list of and waste that is prohibited at the Fargo Landfill Facility.

Prior to the Agreement application process, the applicant did meet the Waste Hauler provisions of the North Dakota Department of Health and the Commercial Hauler permit provision by the City of Fargo Auditor's Office. The Agreement shall have an initial term of ten years, renewable for an additional period of ten years by mutual agreement.

Your consideration in this matter is greatly appreciated.

SUGGESTED MOTION

Approve The Solid Waste Management Agreement between the City of Fargo and J-1 Excavation & Roll Off, effective May 28, 2024.

Respectfully Submitted,

Scott Olson, PE
Solid Waste Utility Director

cc: Scott Anderson, Landfill Supervisor
Sharon Johnson, Solid Waste Office Manager
Michelle Vanyo, Auditors

**SOLID WASTE MANAGEMENT AGREEMENT
FOR PRIVATE HAULERS IN THE CITY OF FARGO**

PARTIES

THIS AGREEMENT is entered into this 28th day of May, 2024, by and between the CITY OF FARGO (A City), a political subdivision of the State of North Dakota and J-1 Excavating & Roll-off, (A Private Hauler), collectively referred to as the parties.

RECITALS:

WHEREAS, the Solid Waste Management Rules of North Dakota, NDCC Chapter 23-29 and NDAC Article 33-20, as amended require the City to establish a solid waste management program; and

WHEREAS, the City wishes to assure the protection of the environment and protect against environmental liability by insuring the proper operation of the program and solid waste facilities for its citizens; and

WHEREAS, the North Dakota legislature has established reduction goals in an effort to reduce the waste stream volumes entering municipal solid waste (MSW) landfills; and

WHEREAS, it is the desire of the City to reduce the volume of solid waste generated in the City by ensuring that the fees charged for solid waste disposal better reflect the true long term costs of waste disposal, and to reuse or recycle certain components of such solid waste to the maximum extent appropriate; and

WHEREAS, the City is operating a MSW landfill and related recycling programs for the purpose of (1) disposal of residential, commercial and industrial solid waste, and (2) diverting certain wastes for recycling purposes; and

WHEREAS, the City finds that the most effective means to protect residents and businesses of the City of Fargo from liability under state and federal environmental statutes is to ensure that solid waste generated in the City comes under the control of the City, and is disposed of in an appropriate location, including, without limitation, in the City-supervised and operated MSW landfill; and

WHEREAS, the Private Hauler is in the business of collecting solid waste in the City and desires to voluntarily enter into this Solid Waste Management Agreement governing its collection of solid waste generated within the City; and

WHEREAS, entering into this Agreement will be mutually beneficial to both the Private Hauler and the City; and

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, and in order to permit the City to accomplish the goals and objectives set out in the Rules, it is agreed to by the parties hereto as follows:

**ARTICLE I
DEFINITIONS AND OTHER PROVISIONS
OF GENERAL APPLICATION**

Section 1.1. Definitions. The terms defined in this Section 1.1 shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise;

Acceptable Waste means materials generally referred to as residential, commercial, or industrial waste as defined in Article 13-0501 of the Fargo Municipal Code, which have traditionally been disposed of in a solid waste landfill, consistent with City solid waste ordinances and which are not prohibited wastes.

Agreement means this Solid Waste Management Agreement, as it may hereafter be amended or supplemented.

Generators means the residential, commercial and industrial generators within the City of Fargo.

Landfill means the City of Fargo Municipal Solid Waste Landfill.

Private Hauler means any person or entity, including the Private Hauler, licensed to collect or transport waste from residential, commercial, or industrial property.

Prohibited Waste means Prohibited Waste as defined in Exhibit A hereto.

Self-Hauler means a person or entity who transports municipal waste generated by that person or entity or another person or entity without compensation.

Solid Waste Ordinances means the ordinances found in Article 13-05 of the Fargo Municipal Code adopted by the City and amended from time to time.

Tipping Fee is the charge for the use of the Landfill for the disposal of Acceptable Waste as set by City of Fargo Solid Waste Ordinances.

Unforeseen Circumstance means any act, event or condition that has had, or will have a material adverse effect on the rights or obligations of the Private Hauler or the City under this Agreement, if such act, event or condition is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement. Such acts or events may include, but shall not be limited to, and are qualified by the following:

- (a) An act of God (but not including reasonably anticipated weather conditions for the geographic area of the Facility) such as a landslide, lightning, tornado, flood, fire, explosion, sabotage or similar occurrence; acts of public enemy, extortion, war, blockade or insurrection, riot or civil disturbance;

- (b) The non-issuance, suspension, termination, interruption, denial or failure of renewal of any permit license, consent, authorization or approval essential to the operation of the Landfill; provided that such act or event shall not be the result of the willful or negligent action or inaction of the party relying thereon and that neither the contesting in good faith or any such order nor the reasonable failure to so contest shall be construed as a willful or negligent action of inaction of such party; and
- (c) The failure of any appropriate federal, state, county, or city public agency or private utility, having operational jurisdiction in the area in which the Landfill is located, to provide and maintain utilities, services, water and sewer lines, and power transmission lines to the Landfill site which are required for and essential to the operation of the Landfill.

Waste means all waste as defined in Article 13-1501 of the Fargo Municipal Code delivered or caused to be delivered to the Landfill.

Section 1.2. References. All references in this Agreement to designated Articles, Sections and other subdivisions are to the designated Articles, Sections and other subdivisions of this Agreement as executed. The words herein, hereof, hereunder and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision unless the context clearly indicates otherwise.

Section 1.3. Other References. The terms defined in Section 1.1 include the plural as well the singular, and the use of any gender refers to all genders. All accounting terms are in accordance with generally accepted accounting principles. All computations provided for herein shall be made in accordance with generally accepted accounting principles.

Section 1.4. Representations by the Private Hauler. The Private Hauler makes the following representations as the basis of its covenants herein:

- (1) The Private Hauler, if a corporation, is duly incorporated, and is in good standing under the laws of the State of North Dakota, has power to enter into this Agreement and by proper corporate action has authorized the execution and delivery of this Agreement.
- (2) The Private Hauler, if a partnership, is a validly formed and existing partnership, has power to enter into this Agreement and by proper action of the partnership has authorized the execution and delivery of this Agreement.
- (3) The execution and delivery of this Agreement, the consummation of the transaction contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of the articles of incorporation or bylaws of the Private Hauler, if it is a corporation, or of the partnership agreement, if the Private Hauler is a partnership, or of any restriction or of any agreement or instrument to which the Private Hauler is now a party, and do not and will not constitute a default under any of the foregoing, or result in the creation or imposition of any liens, charges or encumbrances of any nature upon any of the property or assets of the Private Hauler contrary to the terms of any instrument or agreement.

- (4) The Private Hauler is duly licensed to collect Waste within the City; the Private Hauler has obtained all requisite approvals of the State of North Dakota and other federal, state, regional and local government bodies for the collection of the Waste it collects.
- (5) The Private Hauler has or will obtain all equipment and personnel necessary to fulfill its obligation under this Agreement and will maintain all accounting and billing systems necessary to fulfill its obligations under this agreement and applicable ordinances, and will, further, fully comply with all applicable licenses, permits, laws or ordinances.
- (6) The Private Hauler is able to deliver to the Landfill all Acceptable Waste collected by it from all of its present and future customers in the City in accordance with the terms of this Agreement.
- (7) To the extent that the Private Hauler with regard to Section 3.6 is the legal successor to prior commercial Haulers, the Private Hauler has obtained the irrevocable right to fully and unconditionally release claims against the City on their behalf.
- (8) The Private Hauler understands that this Agreement does not include, and does not apply to, the collection of Waste generated outside the geographic boundaries of the City of Fargo, except as expressly provided herein.

Section 1.5 Exhibits. The following Exhibits are attached to and by reference made a part of this Agreement:

Exhibit A: Prohibited Waste

Exhibit B: City of Fargo Waste Management Credit Policy

The City may from time to time during the term of this Agreement amend or modify the provisions of these exhibits, subject to advance notice to and input from the Private Haulers.

ARTICLE II DELIVERY OF WASTE

Section 2.1. Private Hauler Status, Collection and Billing Procedures. Execution of this Agreement by the City constitutes the substitute contract waiver of the limitation on private haulers as set forth in Article 13 of the City's ordinance providing for organized collection. As such, the agreement entitles the Private Hauler to continue to provide collection and hauling services, and bill directly, to all customers currently being serviced by the Private Hauler at the time of the execution of this agreement, and compete for new or additional accounts and customers so long as the Private Hauler is in compliance with the provisions of this Agreement.

Notwithstanding any other provision of this Agreement, the City retains the absolute right to provide waste collection and disposal services exclusively to all residential accounts. In addition, the City may provide service directly to those commercial accounts it obtains as part of its own proprietary commercial hauling operations provided directly by the City, or by contracting with a private hauler.

Section 2.2. Collection and Delivery of Acceptable Waste. The Private Hauler hereby agrees to collect and promptly deliver to the City at the Landfill, in accordance with the terms of this Agreement and with such collection and delivery procedures as the City may from time to time prescribe, commencing on the effective date of this Agreement and continuing thereafter during the term of this Agreement, the total quantity of Acceptable Waste generated in the City of Fargo collected by the Private Hauler, subject to the terms and conditions of this Agreement.

Section 2.3. Delivery of Prohibited Waste. The Private Hauler agrees to use its best efforts to deliver only Acceptable Waste to the Landfill. The City shall not be required to accept any Waste which does not constitute Acceptable Waste. The City shall have the right, but not obligation, to inspect all vehicles delivering Waste to the Landfill. No inspection by the City shall limit the obligation of the Private Hauler to deliver only Acceptable Waste to the Landfill. If the City in the exercise of its reasonable judgement determines that a vehicle contains any Prohibited Waste, as defined in Exhibit A, the City may reject the entire delivery and the Private Hauler shall forthwith remove such entire delivery from the Landfill for disposal at a specified Facility. All costs of such removal and disposal shall be borne by the Contact Hauler. In addition, a sum equal to the disposal fee provided in Section 2.6 and as adjusted, together with all costs including special handling fees if applicable, incurred by the City, shall be charged to the Contact Hauler for each ton of Waste delivered by the Private Hauler and rejected by the City.

The Private Hauler shall have the sole responsibility to remove from the Landfill, Prohibited Waste it has delivered and pay the resulting cost, notwithstanding any prior acceptance of such Waste as Acceptable Waste by the City. Such removal shall be accomplished promptly after notice, verbal or written, is received by the Private Hauler from the City that any Waste previously delivered by the Private Hauler is Prohibited Waste. In the event the Private Hauler refuses to or unreasonable delays its removal of Prohibited Waste, (i.e. delays by more than 24 hours), the City may remove and dispose of the Prohibited Waste and charge the costs of such removal and disposal to the Private Hauler on the next monthly invoice to the Private Hauler.

Section 2.4. Delivery Conditions. The Private Hauler agrees that all Acceptable Waste shall be delivered in accordance with the following terms and conditions:

- (a) Hours and Days of Delivery. The City, unless it notifies the Private Hauler otherwise, shall accept deliveries from the Private Hauler during the operating hours as posted at the Landfill.
- (b) Final Disposal Location. Once annually, during the term of this agreement, the Private Hauler shall inform each customer in writing of the final disposal location(s) of the Solid Waste collected from the customer. The Private Hauler shall make the same report in writing to The City of Fargo.

- (c) Origin of Waste. The Private Hauler, acting through its drivers, shall state the origin by municipality of collected Waste on the Landfill scale ticket at time of delivery to the Landfill.
- (d) Commingling of Waste: The Private Hauler, acting through its drivers, shall not commingle Waste generated inside the geographic boundaries of the City of Fargo with waste generated outside the geographic boundaries of the City of Fargo, unless and until a separate contract agreement for the outside waste has been entered into between the Private Hauler and the City of Fargo.
- (e) Differential Tipping Fees: The Private Hauler understands that the City reserves all rights to charge a different tipping fee at the Landfill for the disposal of Waste generated outside the geographic boundaries of the City of Fargo than for Waste generated inside the geographic boundaries of the City of Fargo.
- (f) Transportation to Landfill. The Private Hauler shall be solely responsible for the provision, at its expense, of all personnel and equipment necessary to transport all Waste to be delivered under this Agreement and to deliver the same to the Landfill in accordance with such regulations relating to the manner of delivery as the City may from time to time establish.
- (g) Equipment. All equipment used by the Private Hauler for collection and transportation of Waste for delivery pursuant to this Agreement shall be licensed pursuant to and comply with all ordinances and regulations which may from time to time be enacted with respect thereto, and shall comply with such equipment specifications as may be established by the City or other regulatory agencies. The City may reject any delivery of Waste delivered by equipment in violation of this paragraph. In the event of such a rejection, a sum equal to the special handling fee, if applicable, as adjusted shall be charged to the Private Hauler for each ton of Waste, or part thereof, delivered by the Private Hauler and rejected. The Private Hauler shall maintain with the City such information concerning equipment of the Private Hauler as may be requested from time to time by the City.
- (h) Landfill Rules. The Private Hauler will comply with all reasonable rules and regulations posted at the Landfill.

Section 2.5. Tipping Fee Remittance. The tonnage of Waste hereunder shall be determined as provided in section 2.7. The Tipping Fees remitted by the Private Hauler to the City for each ton of Waste delivered to the Landfill shall comply with Section 4.5.

Section 2.6. Monthly Statements; Payments. The City shall, within ten (10) days following the last day of each month subsequent to the effective date of this Agreement and within ten (10) days following the expiration of the term or termination of this Agreement, submit to the Private Hauler a statement of the total tonnage of Acceptable Waste delivered to the Landfill during the preceding month or other applicable period and the amount which the Private Hauler is required to remit to the City pursuant to this Agreement. The charge for each month during the term of the Agreement shall be computed on the basis of the tipping fees as noted in Section 4.5. The City of Fargo reserves the right to audit the

accounts receivable and other records of the Private Hauler as necessary to verify the accuracy of the accounts receivable and other records of the Private Hauler. City staff or appointed representatives will perform the audit at no cost to the Private Hauler except in the event where material discrepancies and/or violations are noted or the Private Hauler's records are incomplete or incorrect, the City may calculate the correct remittances due the City and charge the cost of necessary work to the Private Hauler. Remittances for each month's deliveries shall be paid according to the City of Fargo's Waste Management Credit Policy as set out in Exhibit B. Such audit shall be subject to the applicable laws of the State of North Dakota.

Section 2.7. Weighing at Facility. The City shall maintain at the landfill certified truck-weighing scales operated by a scale operator. The tonnage of Acceptable Waste delivered at the Landfill shall be determined by the deduction of the tare weight of the vehicle from the total loaded weight of the vehicle. The tare weight of the vehicle is determined after the contents of each vehicle load is disposed of at the Landfill. The City or Private Hauler shall have the right at any time to reweigh any vehicle. The City shall provide to the driver of each vehicle making a delivery to the Landfill a receipt signed by the scale operator, which shall also be signed by the driver of the vehicle, setting forth the gross weight, tare weight, date, time, truck identification, total tonnage and origin of Acceptable Waste determined to have been delivered to the Landfill by such Vehicle. Whenever any Waste is not accepted, the outgoing vehicle shall be weighed and receipted in a like manner. All such receipts shall be prepared in triplicate, with the City retaining one copy or a suitable machine record. Such receipts shall be used by the City, as the basis for determining the remittances required by Section 2.6 and Section 2.7. The Private Hauler through its authorized representatives, shall have the right from time to time to audit, at the Private Hauler's sole cost, the weight records of the Landfill, provided such audits are made at reasonable times and upon prior written notice and in accordance with applicable laws of the State of North Dakota and do not in any way interfere with the orderly operation of the Landfill.

ARTICLE III COVENANTS OF THE PRIVATE HAULER

Section 3.1. Indemnification. The Private Hauler shall take all precautions necessary to protect the public against injury and shall defend, indemnify and save the City harmless from all damages and claims of damages that may arise by reason of any negligence on the part of the Private Hauler, its agents, employees, or independent contractors, while engaged in the performance of this Agreement including, but not limited to damages and claims of damages caused by hot loads delivered by the Private Hauler, fires caused by hot loads after delivery, driver-caused damage to any part of the Landfill and the cost of clean up of Waste contaminated by the Private Hauler, and against any and all claims, liens and claims of liens for labor performed or material or services furnished or subcontracted for by the Private Hauler with or without authorization of the City. The Contact Hauler shall also defend, indemnify and save the City harmless from and against all liabilities, losses, damages, costs and expenses (including attorney's fees and expenses of the City), causes of action, suits, claims, demands and judgements of any nature arising from violation of any representation, agreement, warranty, covenant or condition of this Agreement. The City shall indemnify the Private Hauler for any damages, including costs of defense, for the negligence of itself, its employees or agents arising from the violation of any representation, agreement, warranty,

covenant or condition of this Agreement.

Section 3.2. Insurance. The Private Hauler shall obtain and furnish to the City evidence of all insurance required under City of Fargo Solid Waste Ordinances, covering all vehicles to be used and all operations to be performed by the Private Hauler, its subcontractors and independent contractors in performing this Agreement. Such insurance may be provided by the Private Hauler and separately by the individual subcontractors and independent contractors; or, in the alternative, the Private Hauler may furnish evidence of such insurance covering itself as well as all of its subcontractors and independent contractors as additional insureds. The Private Hauler shall ensure that the City of Fargo is included as an additional insured in all policies required under this Section.

Section 3.3. Nondiscrimination. The Private Hauler agrees that it shall not, within the State of North Dakota, discriminate against any employee or applicant for employment because of race, color, creed, national origin or sex, and will include a provision prohibiting such discrimination in all subcontracts entered into for the performance hereof.

Section 3.4. Notice of Default. The parties will give to the other prompt notice of any condition or event that constitutes an Event of Default.

Section 3.6. Continuing Existence and Qualification. The Private Hauler will remain duly qualified to do business in the State of North Dakota and licensed to operate as a Private Hauler in the City of Fargo.

Section 3.6. Waiver of Liability and Covenant Not to Sue. The Private Hauler hereby waives any liability claims or causes of action arising from the existence of or enforcement of City ordinances, resolutions, policies, contracts, or other actions controlling or attempting to control, the collection, disposal or other handling of Waste. The waiver specifically extends to any predecessor individuals, partnerships, corporations or other entities, of the Private Hauler. The Private Hauler further agrees that it will not assert any claim that the provisions of this Agreement or any City ordinance related thereto is unconstitutional or illegal and should any other individual establish such in any court of law that the Private Hauler will not claim any damages.

Section 3.7. Charge for Collection. The Private Hauler agrees to charge for collection of Waste based upon the usual industry standards.

Section 3.8. Independent Contractor. The Private Hauler shall select the means, method, and manner of performing the services herein. Nothing is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting the Private Hauler as the agent, representative, or employee of the City of Fargo for any purpose or in any manner whatsoever. The Private Hauler is to be and shall remain an independent contractor with respect to all the services performed under this Agreement. The Private Hauler represents that it has or will secure at its own expense all personnel required in performing services under this Agreement. Any and all personnel of the Private Hauler or other persons while engaged in the performance of any work or services required by the Private Hauler under this Agreement shall have no contractual relationship with the City of Fargo, and shall not be considered employees of the City of

Fargo. Any and all claims that may or might arise under Chapter 52-01, et seq., N.D.C.C. of the State of North Dakota on behalf of said personnel, arising out of employment or alleged employment, including without limitation, claims of discrimination against the Private Hauler, its officers, agents, contractors, or employees, shall in no way be the responsibility of the City of Fargo. The Private Hauler shall defend, indemnify, and hold the City of Fargo, its officers, agents, and employees, harmless from any and all such claims irrespective of any determination of any pertinent tribunal, agency, board, commission, or court. Such personnel or other persons shall neither require nor be entitled to any compensation, rights, or benefits of any kind whatsoever, from the City of Fargo, including, without limitation, tenure rights, hospital and medical care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability, severance pay, and PERA.

ARTICLE IV COVENANTS OF CITY

Section 4.1. City's Duty to Accept Waste. For the term of this Agreement, the City shall accept from the Private Hauler all Acceptable Waste delivered by the Private Hauler to the Landfill or to such other location as the City shall specify, in accordance with the terms of this Agreement.

Section 4.2. Failure to Accept Waste at Landfill. If at any time the City is unable to receive all or any part of the Private Hauler's Acceptable Waste at the Landfill for any reason, then the City shall verbally notify the Private Hauler's truck operator or dispatcher and any other responsible party designated by the Private Hauler for notification, such notification to be followed by written confirmation to the Private Hauler. The City shall also station an individual or post a sign during normal waste receiving hours to notify truck operators of the suspension of operations. The Private Hauler shall be authorized to haul the waste to any State approved waste processing or disposal facility, as determined by the City of Fargo Solid Waste Operations Manager. All costs of such transportation and disposal shall be borne by the Private Hauler. The City shall give at least 48 hours verbal notice to the Private Hauler when operations at the Landfill will resume. If such 48-hour notice is given, then the Private Hauler shall deliver waste to the Landfill in accordance with this Agreement when operations resume. If such advance notice is not given, then the Private Hauler shall begin delivery of Waste to the Landfill within 48 hours of having received notice from the City.

Section 4.3. Proper Disposal of Waste. The City shall dispose of all Acceptable Waste delivered to it in accordance with the terms of this Agreement and all applicable laws and regulations.

Section 4.4. Enforcement of Similar Agreements and Solid Waste Ordinances. The City shall exercise its best efforts to enforce all similar agreements and related Solid Waste Ordinances. The City agrees that it will not extend preferential rates or privileges to any individual Private Hauler, unless such rates or privileges are offered to all Private Haulers. However, the City may continue preferential rates to single-family residential accounts. The City reserves the right to enter into similar contracts with other Private Haulers, waste generators or governmental bodies with the same rates and privileges.

Section 4.5. Establishment of Tipping Fees. The City agrees to establish the following Tipping Fees effective January 1, 2023:

\$ 50 per ton - Fargo Waste (MSW) \$46/ton Inert

The City reserves the right to adjust the Tipping Fees subject to the following:

- (1) Public notice of the intent to adjust the Tipping Fee will be given and a public hearing of the City Commission will be held on the adjustment;
- (2) Any increase in the Tipping Fee will be based on and directly related to increased capital or operational costs of the Solid Waste Division, including any increase in maintenance costs in addition to the anticipated costs, or decreased revenue from the operation of the Landfill; and
- (3) No such adjustment will be made during the first 3 years after the effective date of this Agreement. Thereafter, adjustments shall be made not more than once annually and shall also be reflected in the City's commercial fee matrix.

In addition to the Tipping Fees, the Private Hauler will pay all applicable taxes and other fees established by the State of North Dakota or other governmental body other than the City.

Section 4.6. No Waiver of Immunity: Nothing in this Agreement shall constitute a waiver or diminution by the City of Fargo of any immunities or statutory limitations on liability.

ARTICLE V EVENTS OF DEFAULT REMEDIES

Section 5.1. Events of Default. Any of the following events shall constitute an Event of Default:

- (a) The failure to delivery any Acceptable Waste as required by Section 2.1; or
- (b) If the Private Hauler enters voluntary bankruptcy or insolvency, or seeks reorganization, arrangement, adjustment or composition under the federal Bankruptcy Code or any other applicable federal or state law, [or makes any general assignment for the benefit of its creditors without complying with the provisions in Section 6.4 regarding transfers and assignments] or suffers any order for relief under the federal Bankruptcy Code or any order adjudicating it to be bankrupt or insolvent, or appointing a receiver, liquidator, assignee for the benefit of creditors, trustee, sequestrator or other similar official for the Private Hauler which prevents or impairs the Private Hauler's ability to perform all terms and conditions of this Agreement; or
- (c) The failure to perform or observe any other of the covenants, agreements or

conditions on the part of the Private Hauler or the City in this Agreement, including the failure to make punctual payment of any amounts due pursuant to Section 2.5, and such default shall have continued for a period of fifteen (15) days after written notice thereof given by the other party to defaulting party, unless the non-defaulting party shall agree in writing to an extension of such time prior to its expiration for such longer period as reasonable diligence may require to remedy the same, with such an extension to be reasonably granted by the non-defaulting party.

Section 5.2. Other Remedies. Upon the occurrence of an Event of Default, the non-defaulting party may pursue any available remedy by suit at law or equity to enforce the covenants of the defaulting party herein, including such appropriate judicial proceedings as the non-defaulting party shall deem most effective to protect and enforce or aid in the protection and enforcement of the covenants and agreements in this Agreement. In addition, upon the occurrence of an Event of Default, the non-defaulting party may immediately terminate this Agreement by written notice to the defaulting party. The City retains the right to enforce against the Private Hauler all applicable ordinances, regulations, statutes or permits.

Section 5.3. Manner of Exercise. Unless otherwise stated, no remedy by the terms of this Agreement conferred upon or reserved to the parties is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy of the parties given now or hereafter existing at law or in equity or by statute.

ARTICLE VI GENERAL TERMS

Section 6.1. Terms and Termination. This Agreement shall become effective on May 28, 2024, if and only if on or before that date the City has given the Private Hauler notice that contracts identical to this Agreement (except with regard to the name of the Private Hauler) have been executed by a sufficient number of Private Haulers to justify the waiver from the organized collection provisions, such justification to be in the sole and complete discretion of the City. If such notice is not given on or before May 28, 2024, this Agreement shall be null and void. The Agreement shall have an initial term of ten years from May 28, 2024, renewable for an additional period of 10 years by mutual agreement of the parties provided that the Private Hauler shall provide final, binding notice of intent to renew no later than November 28, 2033, provided City has given notice of the same 30 days prior thereto.

This Agreement shall also terminate:

- (a) If the City permanently ceases the operation of its Landfill; or
- (b) If this Agreement is terminated by the non-defaulting party after an Event of Default, as provided in Section 5.1; or
- (c) If the City lawfully terminates its solid waste management program; or
- (d) By mutual agreement of the parties.

Section 6.2. Private Hauler's Obligations Unconditional. Without limiting any of the other provisions of this Agreement, all obligations of the Private Hauler to make Tipping Fee remittances and other payments due to the City under this Agreement shall be absolute and unconditional, and the Private Hauler shall not be entitled to any abatement, diminution, set off, abrogation, waiver or modification thereof, nor to any termination of this Agreement by any reason whatsoever, except as expressly provided herein, regardless of any rights of set off recoupment or counterclaim that the Private Hauler might otherwise claim against the City or any other party or parties and regardless of any contingency, event or cause whatsoever and notwithstanding any circumstances or occurrence that may arise or take place before, during or after the effective date of this Agreement, except during the pendency of an Unforeseen Circumstance.

Section 6.3. Disposal of Waste other than for Private Hauler. The Private Hauler recognizes that the Landfill will be operated for the purpose of receiving Waste from a number of sources. The Private Hauler agrees that the City shall have the right to accept Waste at the Landfill delivered by joint powers, authorities or public agencies, municipal or other private corporations, individuals or partnerships, and other Private Haulers. The City may accept Waste on a first come first served basis, and set tipping fees for waste received from non-Private Haulers in any manner it deems appropriate. The Private Hauler agrees that the City shall not be liable to the Private Hauler for any costs or expenses incurred by the Private Hauler in connection with delivery of Waste to the Landfill whether such costs or expenses are attributed to waiting time, temporary shutdown of the Landfill or any other cause whatsoever.

Section 6.4. Successors and Assignment. This Agreement shall be binding upon any successor or assignee of the Private Hauler and the Private Hauler agrees that any transfer of assignment by any means or in any manner of any right, title or interest in the business of Private Hauler will provide that the transferee or assignee agrees to be bound by this Agreement. The transfer or assignment of the rights and/or obligations of the Private Hauler under this Agreement shall be effective upon (i) written acknowledgment to the City by the transferee or assignee that the transferee or assignee is bound by all the terms and conditions of this Agreement, and (ii) the issuance of a Private Hauler license by the City to the transferee or assignee. A Private Hauler license is not transferable. Transferees or assignees must apply for a Private Hauler license to do business in the City of Fargo.

Section 6.5. Voluntary Agreement. The parties hereto have voluntarily entered into this Agreement because of the mutual benefits to be derived by each.

Section 6.6. Relationship of the Parties. Except as provided herein, no party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other party to third parties. This Agreement does not create any fiduciary relationship between the parties or any relationship of employer-employee.

Section 6.7. Representatives. The authorized representative of the City for purposes of this Agreement shall be the City of Fargo Solid Waste Operations Manager.

The authorized representative of the Private Hauler for purposes of this Agreement shall be: Joel Oneil. Either party may change its representative upon five (5) days written notice to the other party.

Section 6.8. Notices. All notices, consents and other communications required or permitted by this Agreement unless otherwise specified, are required to be in writing and shall be deemed delivered when tendered to the other party by hand to such party's designated representative, or, if mailed shall be deemed to have been given when dispatched by certified mail, return receipt requested, postage paid, and addressed as follows:

If to the City: Operations Manager
 City of Fargo
 Solid Waste Division
 2301 8th Avenue North
 Fargo ND 58102

If to a Private Hauler: Joel Oneil
 J-1 Excavating & Roll Off
 3725 N Sedona Ct
 West Fargo, ND 58078

or to such other addresses as either party hereto may, from time to time, designate in writing by notice to the other party.

Section 6.9. Entire and Complete Agreement. This Agreement constitutes the entire and complete Agreement of the parties, exclusive of all prior or contemporaneous understandings, arrangements and commitments, all of such, whether oral or written, having been merged herein.

Section 6.10. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or enforceable, in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Section 6.11. Applicable Law. The laws of the State of North Dakota shall govern the validity, interpretation construction and performance of this Agreement. Nothing in this Agreement shall be deemed to relieve the Private Hauler of any obligation under the Rules, the Solid Waste Ordinances or any other law.

Section 6.12. Unforeseen Circumstance. The inability of either party to perform any obligation under this Agreement due to an Unforeseen Circumstance shall not constitute a breach of any such obligation during the pendency of the Unforeseen Circumstance.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

CITY OF FARGO, NORTH DAKOTA
A municipal corporation

By _____
Its Mayor

Attest:

City Auditor

Approved as to form and execution.

City Attorney

05.23.24
Date:

PRIVATE HAULER:

J-1 Excavating & Roll-off

By Juan Ornel
_____, Site Manager

EXHIBIT A
Fargo Landfill Facility
Prohibited Waste

1. **Hazardous Waste**
(other than normal household quantities)
Including:
 - a. Ignitables (solvents, fuels, paints, etc.)
 - b. Corrosives (acids and alkalis)
 - c. Reactives (hypochlorites - swimming pool chemicals, cyanides, etc.)
 - d. Toxicity Characteristic wastes
 - e. Other listed hazardous wastes

2. **Industrial Waste**
(Nonhazardous waste generated by industrial or manufacturing processes)
MSW Landfills may accept an amount of up to ten percent of the total weight of MSW received per month if the industrial waste is identified in the industrial waste management procedures contained in the approved operating plan.

3. **Lead Acid Batteries**

4. **Liquids**
(other than normal household quantities)

5. **Animal Manure**

6. **Septic Tank Pumpings**

7. **Tires**

8. **Major Appliances**
(refrigerators, washers, etc.)

9. **Municipal Waste Incinerator Ash**

10. **Pesticide Containers**
(other than normal household quantities or triple rinsed and punctured)

11. **PCB Waste and PCB Oils**
(transformers and capacitors)

12. **Sludges**
(raw or digested sewage sludges, lime sludges, grit chamber cleanings bar screenings, oil sludges and other sludges unless approved by the NDDH)

13. **Regulated Infectious**
(other than normal household quantities)
MSW landfills may accept regulated infectious waste from hospitals, nursing homes, etc. If incinerated or autoclaved and sharps rendered "non-sharp" with NDDH approval.

14. Waste Oil

15. Special Waste

(nonhazardous solid wastes generated by energy conversion facilities; crude oil and natural gas exploration and production; mineral and ore mining; beneficiation and extraction; and surface coal mine operations)

16. Other Waste

(Debris that is mixed with any kind of recyclables (metal, cardboard, trees/pallets) may be rejected until the recyclables have been removed. The City of Fargo Landfill does not accept concrete, tree stumps or roots. Materials with toxic or adverse characteristics potentially impacting public health or environmental resources will not be accepted)

EXHIBIT B
City of Fargo
Waste Management Credit Policy

PURPOSE:

It is a financial policy of the City to selectively use available capital in a way that will best serve our taxpayer=s interest. We feel we do this best by using our money to provide efficient services to the taxpayers, rather than using it to finance customer accounts receivable beyond regular terms or accounts that are uncollectible.

To protect the taxpayer=s best interest, the Board of Commissioners has adopted a general credit policy; and individual division policies where necessary. The following guidelines apply to all services provided by the Division of Solid Waste:

Interest:

Interest will be charged to all accounts over 30 days at the annual rate equal to 1.5% per month or 18% per annum. Periodically the interest rate will be reviewed to ensure that is not too high or too low.

Past due accounts:

Past due accounts will be pursued by the Division or designated individual as approved by the Commission. If a receivable is determined to be uncollectible, it may be written off as follows:

- a. A/R Supervisor has authority to write off accounts that have been through the collections policy for amounts up to \$1,000 per account.
- b. Director of Finance approves write offs from \$1,000 to \$5,000.
- c. Amounts greater than \$5,000 to be approved by the Finance Committee

Effective date of Commission Action: May 1, 2004 Changes effective: Same

REPORT OF ACTION

36

UTILITY COMMITTEE

Project No: WA1910

Type: Downtown Water Tower – Task Order Amendment

Location: New Downtown Water Tower (7th Avenue North)

Date of Hearing: 5/15/2024

Routing _____	Date _____
City Commission _____	5/28/2024 _____
Project File _____	_____

Troy Hall, Water Utility Director, presented the attached memo regarding Amendment No. 1 for Apex Engineering Group (Apex) Task Order No. WA04 for Project WA1910. The task order amendment is in the amount of \$216,272. The contractor is late in project delivery for the water tower. The original substantial completion date was October 15, 2023 and final completion on June 14, 2024. The water tower will not be in service until this summer with much site work remaining after that. The water tower project is funded with Infrastructure Sales Tax (Fund 450) and a \$2.81 million dollar grant from the North Dakota State Water Commission (SWC).

For the original task order approval in 2021, Water Utility staff did not recommend approval of the full task order amount requested due to the multi-year project and uncertainty. At that time, it was communicated to the Utility Committee that Water Utility staff would recommend an amendment to the construction services task order, if necessary. That is what is being done at this time and approval consistent with original cost request.

MOTION:

On a motion by Tom Knakmuhs, seconded by Jim Hausauer, the Utility Committee voted to approve Amendment No. 1 to Apex Task Order #WA04 for a cost increase of \$216,272 and extended service time to November 29, 2024.

COMMITTEE:	Present	Yes	No	Unanimous
				X
				Proxy
Denise Kolpack, City Commissioner				
Susan Thompson, Finance Director		X		
Brian Ward, Water Plant Supt.		X		
Mark Miller, Wastewater Plant Supt.		X		
Bruce Grubb, Temp. Asst. City Administrator		X		
Scott Liudahl, City Forester		X		
James Hausauer, Water Recl. Utility Director		X		
Troy Hall, Water Utility Director		X		
Ben Dow, Public Works Operations Director		X		
Tom Knakmuhs, City Engineer		X		
Dan Portlock, Water Utility Engineer		X		
Scott Olson, Solid Waste Utility Director		X		

ATTEST:



 Troy B. Hall
 Water Utility Director

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



Water Treatment Plant
 435 14th Avenue South
 Fargo, ND 58103
 Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

MEMORANDUM
 May 10, 2024

To: Utility Committee

From: Troy B. Hall, Water Utility Director *TBH*

Re: Apex Task Order No. WA04 Amendment – Downtown Water Tower Construction

Attached, please find a proposed task order amendment with Apex for engineering services related to the new Downtown Water Tower construction. This is Project WA2055 and Apex Task Order No. WA04. The additional cost of the amendment is \$216,272. The contracted substantial completion date was October 31, 2023 for the new tower. So, the project substantial completion is late and not expected until June at the earliest. Once the water tower project is substantial complete, there will still be several contractor items remaining such as old tower removal and site work. The engineering tasks remain pertaining to this task order amendment and finishing project are as follows:

- Interior and Exterior Coatings
- Interior Room Work and Finishes
- Work on Change Order No. 1 and Future Change Order No. 2
- Electrical Interior, Site, and Lighting Work
- Fill, Disinfect, and put Tower online.
- Site Work at New Tower
- Existing Tower Demolition and Final Site Work
- Punch List, Closeout, Record Drawings
- 1-Year Warranty Inspection (Apex & KLM)

Project WA1910 is replacing the three (3) oldest water towers in the Fargo water distribution system with a new single water tower. The project will improve emergency water storage in the downtown/NDSU area, improve hydraulics of all Fargo water towers, and be more efficient for future maintenance costs. The following summarizes the construction services task order costs:

- Original agreement amount: \$681,160
- Net change for prior amendments: \$0
- This amendment amount: \$216,272
- Adjusted Agreement amount: \$897,432

Plan of Financing

Project WA1910 is funded with Infrastructure Sales Tax (Fund 450). A \$2.81 million dollar cost-share (grant) for the Department of Water Resource has also been applied to this project.

SUGGESTED MOTION:

Approve Task Order No. WA04 Amendment with Apex Engineering Group in the amount of \$216,272 for additional construction services on Project WA1910, Downtown Water Tower.

Your consideration in this matter is greatly appreciated.

This is **EXHIBIT K**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 1, 2021.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Task Order No. WA04 – Amendment No. 1

The Effective Date of this Amendment is: May 1, 2024.

Background Data

Effective Date of Owner-Engineer Agreement: April 1, 2021

Owner: City of Fargo, ND – Water Division

Engineer: Apex Engineering Group, Inc.

Project: Downtown Water Tower Construction Phase Services

Nature of Amendment:

- Additional Services performed by Engineer
- Modifications of payment to Engineer
- Modifications to time(s) for rendering services

Description of Modifications:

The Contract Documents called for Substantial Completion to be achieved on October 15, 2023, and Final Completion to be achieved on June 14, 2024. As of the date of this Amendment, neither has been achieved.

As of the date of this Amendment, the following major work tasks remain:

- Interior and Exterior Coatings
- Interior Room Work and Finishes
- Work on Change Order No. 01 and Future Change Order No. 02
- Electrical Interior, Site, and Lighting Work
- Fill, Disinfect, and put Tower online.
- Site Work at New Tower
- Existing Tower Demolition and Final Site Work
- Punch List, Closeout, Record Drawings
- 1-Year Warranty Inspection (Apex & KLM)

This Amendment accounts for additional effort and reimbursable expenses for additional construction observation and administration that has already occurred and that is reasonably anticipated to be necessary to close out the project. It also includes effort and reimbursable expenses for our Coating Subconsultant, KLM. The Contract Documents allow for Liquidated Damages of \$2,500 per day for both Substantial Completion and Final Completion. An accounting of the hours for each activity is attached.

Agreement Summary:

Original agreement amount:	\$ <u>681,160.00</u>
Net change for prior amendments:	\$ <u>0.00</u>
This amendment amount:	\$ <u>216,272.00</u>
Adjusted Agreement amount:	\$ <u>897,432.00</u>

Change in time for services: *Extended to November 29, 2024*

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

City of Fargo

Apex Engineering Group, Inc.

By: _____

By:  _____

Print

Print

name: Troy Hall

name: Timothy J. Paustian, PE

Title: Water Utility Director

Title: Vice President

Date Signed: _____

Date Signed: May 6, 2024



Water Treatment Plant
435 14th Avenue South
Fargo, ND 58103
Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

MEMORANDUM
May 10, 2024

To: Utility Committee
From: Troy B. Hall, Water Utility Director *TBH*
Re: Change Order No. 2 - Project WA1910 – Downtown Water Tower

Attached, please find a proposed change order in the amount of \$47,820 for Project WA1910 – Downtown Water Tower. This is Change Order No. 2 and has two (2) change items:

- Removal of Tree: \$2,820
- Anti-Graffiti Coating: \$45,000



Concrete column of new water tower on which an anti-graffiti coating would be added with change order approval. The anti-graffiti coating would allow better clean-up if graffiti occurred. Graffiti has been an issue at this and other water tower sites.

Approval of this change order would result in a total contract cost increase of 1.4 percent over Bid Price for the project, which includes one other change order. The following summarizes the construction services task order costs:

- Original Contract Price: \$7,822,930.00
- Net Increase from previous Change Order: \$61,877.55
- This Contract Price prior to this Change Order: \$7,884,807.55
- Adjusted Increase of this Change Order: \$47,820.00
- Contract Price, if Change Order approved: \$7,932,627.55

Plan of Financing

Project WA1910 is funded with Infrastructure Sales Tax (Fund 450). A \$2.81 million dollar cost-share (grant) for the Department of Water Resource has also been applied to this project.

SUGGESTED MOTION:

Approve Change Order No. 2 with Phoenix Fabricators and Erectors, LLC in the amount of \$47,820 for Project WA1910.

Your consideration in this matter is greatly appreciated.

Date of Issuance: May 8, 2024 Effective Date: May 8, 2024

Project: <i>Downtown Water Tower</i>	Owner: <i>City of Fargo, ND</i>	Owner's Contract No.: <i>WA1910</i>
Contract: <i>Downtown Water Tower</i>		Date of Contract: <i>March 09, 2021</i>
Contractor: <i>Phoenix Fabricators and Erectors, LLC</i>		Engineer's Project No.: <i>21.351.0057</i>

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

Tree removal and the procurement and application of anti-graffiti coating on entire shaft.

Attachments (list documents supporting change):

Supporting documentation and information.

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price:
\$ 7,822,930.00

Original Contract Times: Working days Calendar days
Substantial completion (date): October 15, 2023
Ready for final payment (date): June 14, 2024

(Increase) [Decrease] from previously approved Change Orders No. 1:
\$ 61,877.55

[Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0:
Substantial completion (days): 0
Ready for final payment (days): 0

Contract Price prior to this Change Order:
\$ 7,884,807.55


Contract Times prior to this Change Order:
Substantial completion (date): October 15, 2023
Ready for final payment (date): June 14, 2024

Increase of this Change Order:
\$ 47,820.00

Increase of this Change Order:
Substantial completion (days): 0
Ready for final payment (days): 0

Contract Price incorporating this Change Order:
\$ 7,932,627.55

Contract Times with all approved Change Orders:
Substantial completion (date): October 15, 2023
Ready for final payment (date): June 14, 2024

RECOMMENDED:
By: 
Engineer (Authorized Signature)
Date: May 8, 2024

ACCEPTED:
By: _____
Owner (Authorized Signature)
Date: _____

ACCEPTED:
By: _____
Contractor (Authorized Signature)
Date: _____



Water | Transportation | Municipal | Facilities

Letter of Explanation Change Order No. 2

Downtown Water Tower

Apex No. 21.351.0057

Item No. 1 – Removal of Tree: ADD 1 LS @ \$2,820.00 A tree was removed in order to accommodate utility installation. This change reflects the increase in cost to remove the tree. *Total Increase in Cost due to this Change: \$2,820.00*

Item No. 2 – Anti-Graffiti Coating: ADD 1 LS @ \$45,000.00. This item includes the addition of anti-graffiti coating applied to the entire exterior of the tower shaft as requested by City Staff. This change reflects the increase in cost to furnish and install anti-graffiti coating on entire shaft exterior. *Total Increase in Cost due to this Change: \$45,000.00*

REPORT OF ACTION

38

UTILITY COMMITTEE

Project: WW1707

Type: AE2S Task Order #11 (Construction Administration)

Location: Water Reclamation Facility Flood Protection Project

Date of Hearing: 5-15-2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>5-28-2024</u>
Project File	_____

Jim Hausauer, Water Reclamation Utility Director, presented the attached memo and Task Order #11 from AE2S for Construction Administration Services associated with the Water Reclamation Facility Flood Protection Project. The Fargo/Regional Water Reclamation Facility (WRF) currently does not have permanent flood control measures in place to protect the facility during flooding events. The WRF has previously relied on temporary measures (such as earthen levees) to protect the facility from river flooding. As a regional provider of wastewater services, the City has a rather large investment in the current WRF and its operations.

The FEMA Pre-Disaster Mitigation (PDM) program makes Federal funds available to State, Local and Tribal Governments to implement and sustain cost effective measures to reduce risk to individuals and property from natural hazards, while reducing reliance on Federal funding from future disasters. The PDM program will provide 75% funding for construction of a 500-year levee to protect WRF infrastructure & eliminate the need for temporary levees for future floods. The cost share provides 75% Federal funding of the eligible costs, with the remaining 25% of eligible costs from local sources. The revised estimate for the WRF Levee is \$4.4 million resulting with the Federal share of \$3.3M. Once completed the project will provide WRF flood protection to a 500 year flood elevation and tie into the emergency measure line of protection for the City of Fargo.

On Wednesday April 17th, 2024 bids were opened for work associated with the WRF Flood Protection Project. The low responsible bid was from Park Construction Company in the amount of \$3,720,432.80 which was approved by the Fargo City Commission on April 29, 2024. The attached AE2S Task Order #11 will cover additional final design services, value engineering & rebidding services, construction administration, field services, post construction warranty and record drawing services for this project.

The majority of this Task Order will be funded with the aforementioned FEMA PDM funding formula (75% federal/25% local). But due to additional final design (due to a change in the FEMA flood protection level) and value engineering (resulting in \$1M reduction in rejected bid prices from the previous Feb 28th bid opening) will make the final project breakdown of ~74% federal, 26% local. Note: The local share has a sufficient budget placeholder in the WRF Infrastructure Sales Tax Fund 455 and is found the WRF 20 year CIP.

On a motion by Scott Olson, seconded by Tom Knakmuhs, the Utility Committee voted to approve AE2S Task Order # 11 in the amount of \$261,500 for Project WW1707-Water Reclamation Facility Flood Protection Project.

Recommended Motion

Concur with the recommendation of the Utility Committee and approve Task Order #11 from AE2S in the amount of \$261,500 for Project WW1707-Water Reclamation Facility Flood Protection Project.

COMMITTEE: _____ Present Yes No Unanimous X
X
Proxy

Denise Kolpack, City Commissioner				
Susan Thompson, Interim Finance Director	X	X	Virtual	
Brian Ward, Water Plant Superintendent	X	X		
Mark Miller, Water Reclamation Plant Supt.	X	X		
Bruce Grubb, Temp. PT City Administrator	X	X		
Scott Liudahl, City Forester	X	X		
Scott Olson, Solid Waste Utility Director	X	X		
Jim Hausauer, Water Reclamation Utility Dir.	X	X		
Troy Hall, Water Utility Director	X	X		
Ben Dow, Public Works Operations Director	X	X		
Tom Knakmuhs, City Engineer	X	X		
Dan Portlock, Water Utility Engineer	X	X		
Brenda Derrig, Asst. City Administrator	X	X	Virtual	

ATTEST:



 Jim Hausauer
 Water Reclamation Utility Director

- C: Mayor Mahoney
 Commissioner Strand
 Commissioner Piepkorn
 Commissioner Preston



MEMORANDUM

May 15, 2024

To: Utility Committee
From: Jim Hausauer, Water Reclamation Utility Director *JA*
**Re: AE2S Task Order #11 - Additional Design, Bidding, & Construction Administration Services
Project WW 1707 (FEMA Pre-Disaster Mitigation Project #: PDMC-PL-08-ND-2018-023)
Water Reclamation Facility Flood Protection Project**

Background Pre-Disaster Mitigation

The Fargo/Regional Water Reclamation Facility (WRF) currently does not have permanent flood control measures in place to protect the facility during flooding events. The WRF has previously relied on temporary measures (such as earthen levees) to protect the facility from river flooding. As a regional provider of wastewater services, the City has a rather large investment in the current WRF and its operations.

The FEMA Pre-Disaster Mitigation (PDM) program makes Federal funds available to State, Local and Tribal Governments to implement and sustain cost effective measures to reduce risk to individuals and property from natural hazards, while reducing reliance on Federal funding from future disasters. The PDM program will provide 75% funding for construction of a 500-year levee to protect WRF infrastructure & eliminate the need for temporary levees for future floods. The cost share provides 75% Federal funding of the eligible costs, with the remaining 25% of eligible costs from local sources. The revised estimate for the WRF Levee is \$4.4 million resulting with the Federal share of \$3.3M. Once completed the project will provide WRF flood protection to a 500 year flood elevation and tie into the emergency measure line of protection for the City of Fargo.

Additional Design, Bidding and Construction Administration Task Order #11

On Wednesday April 17th, 2024 bids were opened for work associated with the WRF Flood Protection Project. The low responsible bid was from Park Construction Company in the amount of \$3,720,432.80 which was approved by the Fargo City Commission on April 29, 2024. The attached AE2S Task Order #11 will cover additional final design services, value engineering & rebidding services, construction administration, field services, post construction warranty and record drawing services.

The majority of this Task Order will be funded with the aforementioned FEMA PDM funding formula (75% federal/25% local). But due to additional final design (due to a change in the FEMA flood protection level) and value engineering (resulting in \$1M reduction in rejected bid prices from the previous Feb 28th bid opening) will make the final project breakdown of ~74% federal, 26% local.

Note: The local share has a sufficient budget placeholder in the WRF Infrastructure Sales Tax Fund 455 and is found the WRF 20 year CIP.

Recommended Motion

Approve the attached Task Order #11 from AE2S in the amount of \$261,500 for Project WW1707 Water Reclamation Facility Flood Protection Project.



May 15, 2024

Jim Hausauer
Fargo Water Reclamation Utility Director
3400 North Broadway
Fargo, ND 58102

**RE: Fargo WWTP Flood Protection Improvements
Additional Design and Bidding Phase Services and Construction Phase Services
Water Reclamation Consulting Task Order No. 11**

Dear Jim:

Thank you for the opportunity to submit this letter proposal for professional engineering services for the Fargo WWTP Flood Protection Improvements Project. This letter and the attached Water Reclamation Consulting Task Order No. 11 provide the proposed scope of services for additional final design and bidding phase services, and construction phase services. The proposed fee for these services, expenses, and reimbursables is \$261,500.

The Fargo Regional Water Reclamation Facility (RWRF) (previously referred to as the Wastewater Treatment Plant (WWTP)) currently does not have permanent flood control measures in place to protect the facility during flooding events, in which the City relies upon temporary measures such as earthen levees. Permanent flood protection mitigation will consist of earthen levees and flood walls to protect up to the 500-year flood level based upon the FM Diversion project CLOMR. The City previously was successful in securing a FEMA Pre-Disaster Mitigation (PDM) grant to construct the necessary improvements to provide a permanent flood protection solution at the RWRF. The PDM grant will provide federal funding for approximately 75 percent (\$3.3 million) of the project costs with the remaining costs to be City of Fargo local share.

If you agree with the proposed scope of services and associated professional fees presented in the attached Water Reclamation Consulting Task Order No. 11, please sign both copies in the spaces provided, retain one fully-executed copy for your records, and return the other fully-executed copy to AE2S. We are excited to assist the City of Fargo in completing a successful project to provide permanent flood protection for the Fargo RWRF.

Submitted in Service,

A handwritten signature in blue ink, appearing to read "Ryan Grubb".

Ryan Grubb, PE
Operations Manager

Enclosures

This is Water Reclamation Consulting Task Order No. 11, consisting of 4 pages.

Water Reclamation Consulting Task Order No. 11

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

1. Background Data

- A. Effective Task Order Date: May 27, 2024
- B. Owner: City of Fargo (Water Reclamation Utility)
- C. Engineer: Advanced Engineering and Environmental Services, LLC (AE2S)
- D. Engineer Project No.: P00803-2024-004
- E. Specific Project (title): Fargo WWTP Flood Protection – Construction Services
- F. Specific Project (description):

This Task Order provides for additional Design and Bidding phase services, Construction, and Post-Construction phase services to support the construction of permanent flood protection at the Fargo Regional Water Reclamation Facility (previously referred to as the Fargo Wastewater Treatment Plant) consisting of earthen levees and flood walls to a 500-year flood level of protection. The Project includes grant funding through FEMA’s Pre-Disaster Mitigation (PDM) program, which is anticipated to cover approximately 75 percent of the project costs.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are detailed in Attachment 1 and include the services (and related terms and conditions) set forth in the following sections of Exhibit A, as attached to the Agreement referred to above, such sections being hereby incorporated by reference:
 - Additional Final Design Phase Services (Exhibit A, Paragraph A1.03)
 - Additional Bidding or Negotiating Services (Exhibit A, Paragraph A1.04)
 - Construction Phase Services (Exhibit A, Paragraph A1.05)
 - including Resident Project Representative (RPR) services (A1.05.A.2)
 - Post-Construction Phase Services (Exhibit A, Paragraph A1.06)
- B. Resident Project Representative (RPR) Services:

The scope of services for this Task Order includes RPR services and Exhibit D of the Agreement is expressly incorporated in this Task Order by reference.
- C. All of the services included above comprise Basic Services for purposes of Engineer’s compensation under this Task Order.

3. Owner's Responsibilities

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

4. Task Order Schedule

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

- Task Order approval – *May 27, 2024*
- Additional Final Design Phase Services– *August – December 2023*
- Additional Bidding Phase Services – *March – April 2024*
- Start Construction – *June 2024*
- Project Completion – *November 2024*

5. Payments to Engineer

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

<i>Phase</i>	<i>Task Number and Task Name</i>	<i>Payment Method</i>	<i>Estimated Hours</i>	<i>Amount</i>
040	<i>Additional Final Design Phase Services</i>	<i>Method A</i>		
01	<i>As-built Data Collection and Plan Incorporation</i>		50	\$9,250
02	<i>Watermain Design</i>		55	\$10,000
03	<i>Gate Well Design and Storm Manhole Adjustments</i>		30	\$6,000
04	<i>Soil Sampling and Analysis</i>		35	\$6,500
050	<i>Additional Bidding Phase Services</i>	<i>Method A</i>		
01	<i>Value Engineering</i>		38	\$8,000
02	<i>Pre-Bidding Administration</i>		44	\$8,000
03	<i>Post-Bidding Administration</i>		24	\$3,750
060	<i>Construction Administration Services</i>	<i>Method A</i>		
01	<i>Project Management</i>		50	\$12,000
02	<i>Construction Administration</i>		300	\$58,000
061	<i>Construction Field Services</i>	<i>Method B</i>		
01	<i>Construction Field Services</i>		700	\$122,500
02	<i>Construction Surveying</i>		36	\$7,500
070	<i>Post-Construction Phase Services</i>	<i>Method B</i>		
01	<i>As-built Survey and Data Collection</i>		16	\$3,200

<i>Phase</i>	<i>Task Number and Task Name</i>	<i>Payment Method</i>	<i>Estimated Hours</i>	<i>Amount</i>
02	Record Drawings		24	\$5,000
03	Warranty Walkthrough		10	\$1,800
Total			1,412	\$261,500

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

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

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

7. Other Modifications to Agreement and Exhibits: None.

8. Attachments:

Attachment 1 to Water Reclamation Consulting Task Order No. 11 – Scope of Services

9. Other Documents Incorporated by Reference: None.

10. Terms and Conditions

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

The Effective Date of this Task Order is May 27, 2024.

OWNER: City of Fargo (Water Reclamation Utility)

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

By:  _____

By: _____

Name: Jim Hausauer, REHS

Name: Brian R. Bergantine PE

Title: Utility Director (Water Reclamation)

Title: Project Quality Director

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Jim Hausauer, REHS

Name: Ryan Grubb, PE

Title: Utility Director (Water Reclamation)

Title: Operations Manager

Address: 3400 N. Broadway
Fargo, ND 58102

Address: 4170 28th Ave S
Fargo, ND 58104

E-Mail Address: JHausauer@FargoND.gov

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

Phone: (701) 241 - 8565

Phone: (701) 364 - 9111

This is Attachment 1 to Water Reclamation Consulting Task Order No. 11 consisting of 5 page(s).

Attachment 1 to Water Reclamation Consulting Task Order No. 11

Fargo WWTP Flood Protection – Construction Services

May 27, 2024

Scope of Services

The Project entails the construction of permanent flood protection at the Fargo Regional Water Reclamation Facility (previously referred to as the Fargo Wastewater Treatment Plant) consisting of earthen levees and flood walls to a 500-year flood level of protection. This Scope of Services provides for additional Design and Bidding, Construction, and Post-Construction phase services to support construction of the Project. The following is a detailed breakdown of this Scope of Services to Water Reclamation Consulting Task Order No. 11.

Phase 042 – Additional Final Design Phase Services

In accordance with Paragraphs A1.03 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Final Design Phase services under Water Reclamation Consulting Task Order No. 11:

Task 01 – As-built Data Collection and Plan Incorporation

ENGINEER shall collect as-built information on materials and utilities installed as part of the Regional Water Reclamation Facility Expansion project completed by others. As-built information collected shall be incorporated into an existing conditions model that will serve as the basis for the Fargo WWTP Flood Protection Project. Key items under this task include the following:

- Conduct three (3) site visits to perform topographic surveys to collect as-built information on materials and utilities.
- Attend and facilitate four (4) review meetings with key representatives from the Regional Water Reclamation Facility Expansion Project design team to coordinate anticipated improvements and/or construction activities that could impact either project. Comments received at the review meetings shall be taken into consideration when developing the plans and specifications for the Fargo WWTP Flood Protection Project.
- Incorporate the above items into plan sheets for design use.

Task 02 – Watermain Design

ENGINEER shall evaluate two (2) re-route options for an existing 6-inch water that was determined to be in conflict with the proposed line of flood protection. ENGINEER shall review each re-route option with the OWNER, provide recommendation for the optimal re-route alignment, and develop required plan / profile sheet(s) and detail drawings for the improvements under the Fargo WWTP Flood Protection Project.

Task 03 – Gate Well Design and Storm Manhole Adjustments

ENGINEER shall design sluice gate well SD-202 and adjust three existing storm drain manholes within the plant yard identified to be of concern for flood water backup/inundation from existing drainage low area located in the southwest area of the plant yard. ENGINEER shall review existing site drawings and develop plan and profile drawings for the improvements under the Fargo WWTP Flood Protection Project.

Task 04 – Soil Sampling and Analysis

ENGINEER shall obtain the services of a geotechnical subconsultant to provide the following specialized geotechnical services:

- Conduct one (1) site visit to meet with the Regional Water Reclamation Facility Expansion contractor to observe available excavation stockpiles and collect samples.
- Perform classification and suitability tests on each sample consisting of the following:
 - Proctor
 - Atterberg limits
 - Moisture content
 - 200 sieve wash
 - Organic content test
- Prepare and provide a letter detailing the material for each stockpile.

ENGINEER shall review all information provided by the geotechnical subconsultant and incorporate into the plans and specifications for the Fargo WWTP Flood Protection Project.

Phase 052 – Additional Bidding or Negotiating Phase Services

In accordance with Paragraphs A1.04 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Bidding or Negotiating Phase services under Water Reclamation Consulting Task Order No. 11:

Task 01 – Value Engineering

The Fargo WWTP Flood Protection Project was initially bid and rejected in February 2024 due to the construction cost exceeding both the Engineer’s Estimate and the available grant funding for the Project. At the direction of the OWNER, ENGINEER conducted value engineering to reduce the construction cost of the Project which consisted of the following key items:

- Analyze the received bid against the Engineer’s Estimate to determine significant unit price difference.
- Attend and facilitate a workshop with the bidder to review unit price differences and identify areas of cost savings.
- Modify plans and specifications for the following items:
 - Remove two (2) gate well structures and replace with plug valves, including changes to the detail drawings and specifications.
 - Evaluate floodwall depth and pile thickness with geotechnical subconsultant to determine if floodwall material could be reduced.
 - Reduce depth of existing watermain relocation and modify detail drawings to include pipe insulation.

- Modify drawings and specifications to remove ornamental fence and replace it with chain-link fence.

Task 02 – Pre-Bidding Administration

Pre-bidding administration services will be provided to assist the OWNER in soliciting bids for construction, responding to plan holder questions, preparing, and certifying addenda for distribution, and attending the bid opening for the Fargo WWTP Flood Protection.

Task 03 – Post-Bidding Administration

Post-bidding administration services will include reviewing the bids for errors and discrepancies, preparing a recommendation letter to the Utility Committee and City Commission, preparing the Notice of Award(s) to the successful contractor(s), and preparing the contract documents for the Fargo WWTP Flood Protection.

Phase 060 – Construction Administration Services

In accordance with Paragraphs A1.05 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Construction Phase services under Water Reclamation Consulting Task Order No. 11:

Task 01 – Project Management

ENGINEER shall perform general Project administration activities including progress monitoring, scheduling, general correspondence, office administration, and invoicing. These activities include maintaining contact and liaison with the OWNER and Project staff; providing OWNER with monthly Project financial status updates; ensuring that the needs of the OWNER are met in a timely manner, and monitoring Project budgets and schedules.

Task 02 – Construction Administration

ENGINEER shall perform general project administration activities for two (2) prime Contractors in accordance with Paragraph A1.05 of Exhibit A of the Original Task Order Agreement including:

- Develop a conformed to bid set of plans and specifications to incorporate addendum items;
- General project coordination and correspondence with Owner and Contractors;
- Facilitation of project meetings, which are anticipated to consist of
 - Preconstruction meeting
 - Construction progress meetings
 - Specialty construction coordination meetings
- Review and approval of shop drawings;
- Review of applications for payment submitted by each Contractor;
- Review and response to requests for information (RFIs);
- Prepare and issue work change directives;
- Change order review and subsequent acceptance or rejection; and
- Solicit and coordinate with Construction Material Testing providers.

Phase 061 – Construction Field Services

In accordance with Paragraphs A1.05 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Construction Phase services under Water Reclamation Consulting Task Order No. 11:

Task 01 – Construction Field Services

In accordance with Exhibit D of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Resident Project Representative (RPR) services under Water Reclamation Consulting Task Order No. 11:

ENGINEER shall provide on-site observation services of a Resident Project Representative (RPR) to observe and document construction activities in accordance with Exhibit D of the Original Task Order Agreement. The significant construction work is anticipated to occur from June 1, 2024 through October 31, 2024 resulting in approximately 20 weeks of construction activity based on the construction schedule provided by the CONTRACTOR. ENGINEER shall provide RPR services when the contractor is onsite performing the work based on the following approach:

- Provide full-time RPR services to observe and document the contractor's work, averaging 40 hours per week (duration noted above) for the initial 16 weeks of construction;
- Provide part-time RPR services to observe and document the contractor's work, averaging 20 hours per week (duration noted above) for the last four (4) weeks of construction;
- Provide part-time RPR services to observe and document key structural construction activities and concrete pours; and
- Facilitate onsite bi-weekly construction progress meetings to be attended by key representatives of the Owner and Contractors.

Task 02 – Construction Surveying

ENGINEER shall provide initial construction survey including the following:

- Provide one time staking of reference points that will guide the construction of new structures with re-staking of reference points to be paid for as additional services not covered under this scope of service;
- Verify the location of structures during construction; and
- Provide surveying of earthwork quantities including import stockpiles and installed materials where necessary to verify material quantities for select unit price bid items.

Phase 070 – Post-Construction Phase Services

In accordance with Paragraphs A1.06, A1.07, and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Post-Construction and Commissioning Phase services under Water Reclamation Consulting Task Order No. 11:

Task 01 – As-built Survey and Data Collection

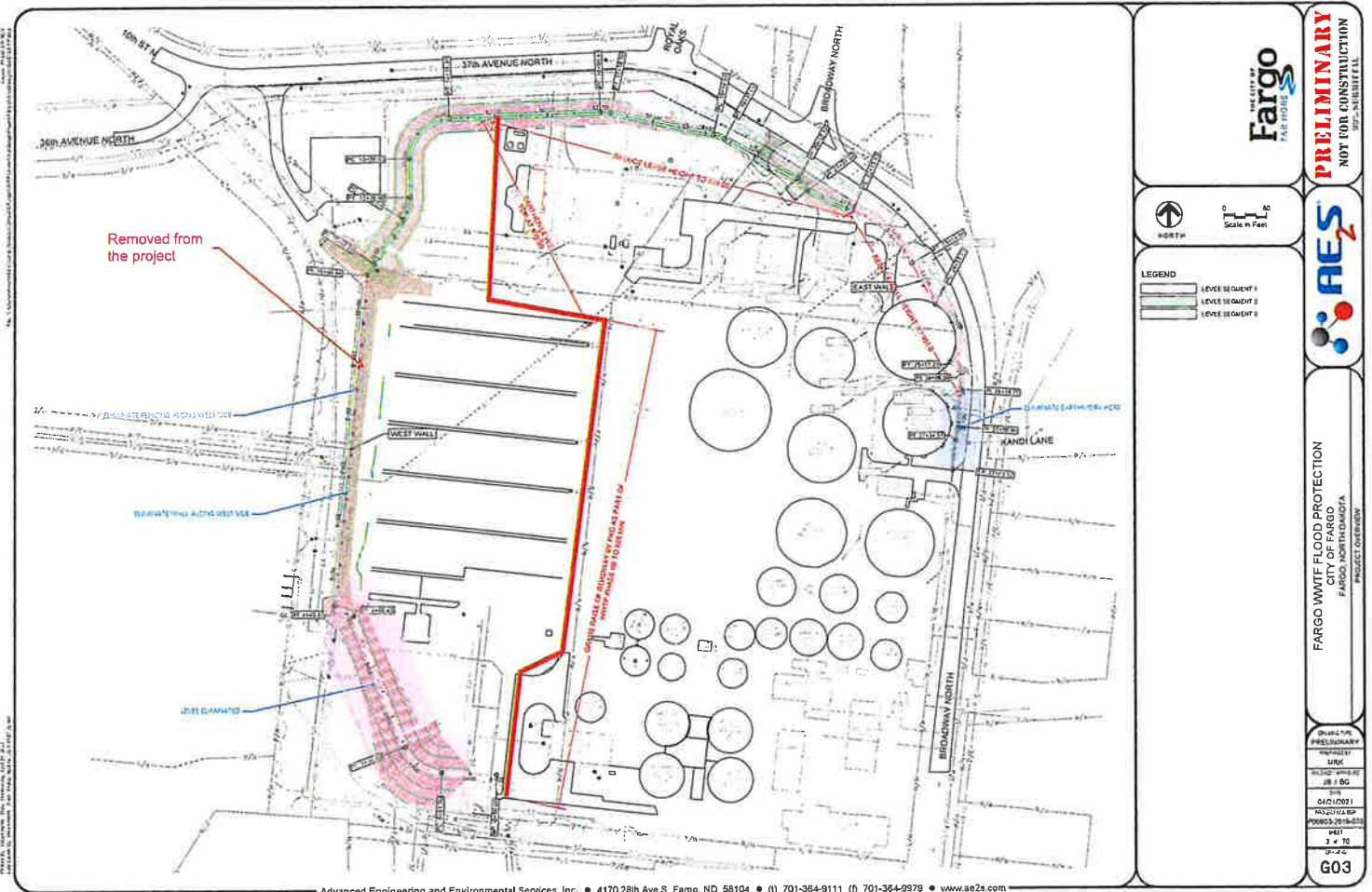
ENGINEER shall perform one (1) site visit to complete a topographic survey of the installed levee and site improvements.

Task 02 – Record Drawings

ENGINEER shall update the Civil 3D site model to incorporate as-built data collected and compile record drawings for the Project. One (1) hard copy and one (1) electronic PDF copy of the record drawings shall be provided to the OWNER.

Task 03 – Warranty Walkthrough

ENGINEER shall perform warranty walkthrough of the Project with OWNER and CONTRACTOR representatives to review conformance with the plans and specifications, compile a punch list, and provide recommendations for corrective action, where necessary.



Fargo
FAIR HOPE

PRELIMINARY
NOT FOR CONSTRUCTION

Scale in Feet
0 10 20 30 40

LEGEND
LEVEL SEGMENT 1
LEVEL SEGMENT 2
LEVEL SEGMENT 3



FARGO WWTF FLOOD PROTECTION
CITY OF FARGO
FARGO NORTH DAKOTA
PROJECT OVERVIEW

Drawn by: [Name]
Preliminary
Date: 04/17/2021
Project: [Name]
Sheet: 603 of 603

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	Original FEMA OPCC	Revised FEMA OPCC	Bid OPCC	Actual
Construction Subtotal	\$ 3,865,390.00	\$ 3,504,770.45	\$ 3,720,432.80	\$ 3,720,432.80
Engineering (Design and Construction)	\$ 500,000.00	\$ 452,000.00	\$ 750,000.00	\$ 647,400.00
Contingency	\$ 218,200.00	\$ 175,238.52	\$ 223,521.64	
Project Management Fees (5%)	\$ 229,100.00	\$ 175,238.52	\$ -	
Preliminary Engineering (Pre Award)	\$ 93,700.00	\$ 93,700.00	\$ 93,700.00	\$ 93,700.00
Total Project Cost	\$ 4,906,390.00	\$ 4,400,947.49	\$ 4,787,654.44	\$ 4,461,532.80
			FEMA PDM Grant Amount	\$ 3,300,710.61 74.0%
			Local Share	\$ 1,160,822.19 26.0%
			Amount above grant local share	\$ 60,585.31