

FARGO CITY COMMISSION AGENDA  
Monday, November 13, 2023 – 4:00 P.M.

Executive Session at 4:00 p.m.

Roll Call.

**PLEASE NOTE:** The City Commission will convene at 4:00 p.m. and retire into Executive Session in the Red River Room for the purpose of attorney consultation and to discuss whether or not to participate in the Class Action Settlements involving 3M and DuPont. Further to discuss these matters in open session would have an adverse fiscal effect on the bargaining or litigation position of the public entity. Therefore, an Executive Session for this matter is authorized pursuant to North Dakota Century Code 44-04- 19.1 subsections 2 and 9.

Regular Meeting at 5:00 P.M.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, October 30, 2023).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

1. 1st reading of an Ordinance Amending Section 24-0102 of Article 24-01 of Chapter 24 of the Fargo Municipal Code Relating to the Franchise Granted to the St. Paul, Minneapolis and Manitoba Railroad Company and Its Successors.
2. 2nd reading and final adoption of an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages; 1st reading, 10/30/23.
3. 2nd reading and final adoption of an Ordinance Amending Section 13-1011 of Article 13-10 of Chapter 13 of the Fargo Municipal Code Relating to Recreational Aquatic Facilities; 1st reading, 10/30/23.
4. 2nd reading and final adoption of an Ordinance Amending Article 13-14 of Chapter 13 of the Fargo Municipal Code Relating to Hotels & Motels; 1st reading, 10/30/23.
5. Findings of Fact, Conclusions and Order and Notice of Entry of Order for property located at 1208 University Drive South.
6. Findings of Fact, Conclusions and Order and Notice of Entry of Order for property located at 1710 1st Avenue South.

7. Concur with the findings of staff and the Liquor Control Board and apply the penalty matrix of a \$500.00 fine for first failure to the liquor license violations identified at the Old Broadway.
8. Applications for Games of Chance:
  - a. Fargo North High School for a raffle on 11/18/23.
  - b. Muskies Inc. F-M Chapter for a raffle on 2/8/24.
9. Contract and bond for Project No. ER-23-A1 (EM23170).
10. Contract and bond for Improvement District No. BR-24-E1.
11. Pipeline Easement and Agreement with Northern States Power Company.
12. Change Order No. 3 in the amount of \$18,830.68 for Project No. PR-23-F1.
13. Change Order No. 6 in the amount of \$18,986.00 for Project No. FM-19-C1.
14. Contract Amendment No. 5 in the amount of \$99,500.00 for Project No. FM-19-C0.
15. Change Order No. 1 for a 14-day Interim Time Extension for Project No. TR-23-A1.
16. Bid award to Dakota Underground Company Inc. in the amount of \$3,413,321.83 for Improvement District No. BR-24-A1.
17. Road Construction Agreement with BLOC Partners, LLC for Improvement District No. BR-24-G1.
18. Negative Final Balancing Change Order No. 7 in the amount of -\$63,970.71 for Improvement District No. BR-21-C1.
19. Negative Final Balancing Change Order No. 5 in the amount of -\$141,877.35 for Improvement District No. BN-22-A1.
20. Pre-qualified firms for Engineering/Architectural Services (RFP24010 and RFP24011).
21. Receive and file General Fund – Budget to Actual unaudited monthly financial statements through 10/31/23.
22. Request for budget adjustments as presented.
23. Software as a Service Agreement with Tyler Technologies, Inc. (RFP23029).
24. Lease with Option to Purchase Agreement No. 40005358 with CapFirst Equipment Finance, Inc. (RFP23131).
25. Resolution in Support of the Adjusted Fargo-Moorhead Urbanized Area Boundary.
26. Appoint Daniel Phillips and Trent Barkhus as Alternate Municipal Court Judges effective 11/15/23.
27. Bid award to Bosma Enterprises, LLC for snow removal services for the City's snow removal assistance program (RFP23185).

28. Bid award to Titan Machinery in the amount of \$266,505.00 for the purchase of one articulated wheel loader with v-plow (RFP24004).
29. Bid award to Butler Machinery in the amount of \$381,660.00 for the purchase of one motor grader and wing (RFP24005).
30. Bid award to Butler Machinery in the amount of \$381,660.00 for the purchase of one motor grader and wing (RFP24006).
31. Bills.

**REGULAR AGENDA:**

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

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

33. **PUBLIC HEARING** - Appeal of a Board of Adjustment decision regarding a Land Management Permit at 338 9th Avenue South.
34. Presentation of the Implementation Plan for the Downtown InFocus Take Action 2023.
35. Presentation of the Final Report on the Noise and Vibration Study.
36. Presentation on the recommended Federal and State Aid Transportation Project applications for years 2024 to 2028.
37. Recommendation to Adopt the Resolution Directing the Issuance of \$42 million Refunding Improvement Bonds, Series 2023D and Prescribing the Terms and Covenants Therefor.
38. 1st reading of an Ordinance Amending Sections 13-1801, 13-1802, 13-1806 of Article 13-18 of Chapter 13 of the Fargo Municipal Code Relating to Massage Therapy Establishments.
39. 1st reading of an Ordinance Amending Section 1-0305 (A)(1) of Article 1-03 of Chapter 1 of the Fargo Municipal Code Relating to Classification of Ordinance Violations.
40. Recommendation for appointments to the following Commissions:
  - a. Human Rights Commission.
  - b. Native American Commission.
41. Applications for Property Tax Exemptions made to Buildings:
  - a. Bruce Morgan, 3516 Par Street North (5 years).
  - b. Michael Joyce T/O/D, 3644 Fairway Road North (5 years).
  - c. Regan and Amanda Miller, 2201 Victoria Rose Drive South (5 years).
  - d. Mark and Elizabeth Payne, 4444 Carrie Rose Lane (5 years).
  - e. GMM Properties LLC, 1637 11th Street North (5 years).
  - f. Rodney and Jane Capistran T/O/D, 1126 Oak Street North (5 years).
  - g. John and Joann Lawrence, 732 Ironwood Court South (5 years).
  - h. Christopher and Bethany Myhre, 3614 21st Street South (5 years).
  - i. Carolyn Lieb-Jorgensen and Blaine Jorgensen, 213 30th Avenue North (5 years).

- j. Ethan Foster, 1401 4th Street North (5 years).
- k. Jeffrey and Rebecca Ledoux, 4442 Carrie Rose Lane South (5 years).
- l. Terrance Fortier T/O/D, 2610 Evergreen Road North (5 years).

42. Liaison Commissioner Assignment Updates.

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

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

①

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 24-0102 OF ARTICLE 24-01  
OF CHAPTER 24 OF THE FARGO MUNICIPAL CODE RELATING  
TO THE FRANCHISE GRANTED TO THE ST. PAUL, MINNEAPOLIS  
AND MANITOBA RAILROAD COMPANY AND ITS SUCCESSORS

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 24-0102 of Article 24-01 of Chapter 24 of the Fargo Municipal Code is hereby amended to add a paragraph to subsection 1 after the fourth unenumerated paragraph thereof as follows:

24-0102. St. Paul, Minneapolis, and Manitoba Railroad Company

1. Franchise granted July 15, 1882.

There is hereby conferred upon the St. Paul, Minneapolis, and Manitoba Railway Company, its successors and assigns, permission and authority, to maintain and operate the two railway tracks as now laid and in use by said company, upon and along Fourth Avenue from the west line of Chapin, Johnson, and Barrett's Addition to Fargo, to the east line of "F" Street in Keeney and Devitt's Addition to Fargo, and also to maintain and operate said tracks over and across the several streets of said city between the points last above named.

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1 The city of Fargo reserves the right to enter upon all portions of said streets and  
2 avenues upon or over which said tracks shall be constructed, and to make thereon such  
3 excavations and do such other work thereon as may be necessary in the construction and  
4 repairs of sewers, gutters, water mains, gas pipes, or other works of a public character,  
5 without being liable therefor to any claim for damages, and said railway company, its  
6 successors and assigns, shall afford all reasonable aid and facilities to said city in doing  
7 such work, and shall protect such railroad during such work, and re-lay at their own  
8 expense when such works are completed from time to time.

9 Said railroad company is also hereby granted like permission and authority to  
10 construct, maintain, and operate its cars and locomotives upon and along said Fourth  
11 Avenue, such additional tracks, sidetracks, and switches connecting with said two railway  
12 tracks now laid, as may be necessary and convenient, for the purpose of doing business at  
13 its freight yard and depot grounds in said city and of reaching such warehouses, elevators,  
14 and other industries as may be created, erected, or operated along the line of said Fourth  
15 Avenue and for the transaction of public business thereat.

16 The right-of-way conferred upon the said railway company by section one hereof,  
17 is upon the express condition that said railway company will, whenever requested by the  
18 mayor of said city so to do, reasonable time being given therefor, grade and construct  
19 sufficient street crossings over the tracks of said company at Sherman and Grant Streets  
20 and Sixth Avenue in said city, and will keep the same at all times open for public travel,  
21 as other streets of said city, across which the tracks of said company run.

22 The right-of-way and franchise conferred upon the said railway company and its  
23 successors and assigns by this section 24-0102 is hereby amended to exclude therefrom  
that certain real property being approximately 0.169 acres lying adjacent to and north of  
Block 24 of Keeney and Devitts 2<sup>nd</sup> Addition to the city of Fargo, as established by  
Resolution of the board of city commissioners of the city of Fargo on May 30, 2023, and  
recorded at the Office of the Recorder for Cass County, North Dakota, on June 2, 2023,  
as document number 1690274, by which resolution the Vacation Plat, which was also  
recorded at said Office on June 2, 2023, as document number 1690275, was approved.

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

Section 2. Effective Date.

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

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

5 Attest:

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

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First Reading:  
Second Reading:  
Final Passage:

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11 (SEAL)

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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 25-1508 OF ARTICLE 25-15  
OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE RELATING  
TO ALCOHOLIC BEVERAGES

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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 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 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

\* \* \*

F. The number of licenses which may be issued by the board of city commissioners shall be limited as follows:

6. Class C – ~~40~~13

23. Class W – ~~40~~13

\* \* \* \*



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

3

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

1 AN ORDINANCE AMENDING SECTION 13-1011  
2 OF ARTICLE 13-10 OF CHAPTER 13 OF THE FARGO MUNICIPAL CODE  
3 RELATING TO RECREATIONAL AQUATIC FACILITIES

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 13-1011 of Article 13-10 of Chapter 13 of the Fargo Municipal Code is hereby  
17 amended to read as follows:

18 13-1011. Licensing and Fees.

19 A license shall be issued after a preoperational inspection has determined that the ~~when~~  
20 ~~investigation has determined that the~~ recreational aquatic facility and its method of operation will  
21 conform to the requirements of this chapter. A license, once issued, is nontransferable, and shall  
22 only be. A license shall be valid only for the location described in the application, unless revoked  
23 for cause, for the time period indicated. All licenses issued under the provisions of this article,  
unless otherwise specifically provided, shall terminate on December 31 following the date of  
issuance; provided, however that any license issued under the provisions of this article may, under

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1 certain circumstances, be revoked or not renewed by the director of public health. The initial  
2 application for a license shall extend from the date of issuance until December 31. Thereafter, the  
3 license may be renewed annually, January 1, by the director of public health. The license shall be  
4 posted in a conspicuous place in the Aquatic Venue recreational aquatic facility.

5 Fees shall be set by resolution of the board of city commissioners and shall be sufficient to cover  
6 the actual expenses of administering and enforcing this program, including the expenses of  
7 inspecting. The fee for the periodic tests required in 13-1009 shall be established by resolution of  
8 the board of city commissioners. Periodic inspection and testing fees shall be at the expense of the  
9 Aquatic Venue recreational aquatic facility. Current licensees must pay, in full, any outstanding  
10 inspection and testing fees prior to the annual licensing renewal period on January 1. The  
11 licensee's failure to pay any outstanding fees will result in the non-renewal of the license and said  
12 license shall terminate on December 31.

13 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 the  
17 suspension thereof.

18 Section 3. Effective Date.

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

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

23 Attest:

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

First Reading:  
Second Reading:  
Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

4

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

AN ORDINANCE AMENDING ARTICLE 13-14 OF  
CHAPTER 13 OF THE FARGO MUNICIPAL CODE  
RELATING TO HOTELS & MOTELS

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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 purpose; and

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

NOW, THEREFORE,

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

Section 1. Amendment.

Article 13-14 of Chapter 13 of the Fargo Municipal Code is hereby amended to read as follows:

**ARTICLE 13-14 HOTELS & MOTELS LODGING ESTABLISHMENTS**

**13-1401. Definitions.**

1. "Clean" – Shall mean ~~T~~the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly or extraneous matter.
2. "Employee" – Shall mean ~~A~~any person working in a ~~hotel or motel~~ lodging establishment including janitors, maids, porters, and other persons whose duties include the cleaning of rooms, toilets, or other parts of the building.
3. "Good repair" - ~~The term "good repair"~~ sShall mean free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

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- 1 4. "Guest" - Shall mean an occupant of any ~~hotel or motel~~ lodging establishment.
- 2 5. "Guest room" -Shall mean any room used by a guest for sleeping purposes.
- 3 6. "Health Department" - Shall mean ~~the City of Fargo Health Department~~ Fargo  
4 Cass Public Health.
- 5 7. "Health hazard" - Shall mean any chemical agent, source of filth, cause of  
6 sickness, or condition that is a health threat to employees or guests.
- 7 8. "~~Hotel or Motel Lodging Establishment~~" - Shall mean a building, structure,  
8 enclosure, or any part thereof used as, maintained as, advertised as, or held out to  
9 be a place where sleeping accommodations are furnished to the public for a  
10 charge and for periods of less than one week. The term does not include  
11 residential or personal dwelling units.
- 12 9. "Public restroom" - Shall mean any facility that provides toilet and handwashing  
13 facilities for the general public.

14 **13-1402. Application.**

15 All ~~hotels and motels~~ lodging establishments shall be subject to the requirements of this  
16 article and the rules or regulations promulgated hereunder.

17 **13-1403. Rules and Regulations.**

18 13-1403.1 Regulation by Health Department.

19 The health department, and agents and employees thereof, shall have authority to regulate  
20 the public health and safety in the city of Fargo concerning use, design, operation, and  
21 maintenance of ~~hotels and motels~~ lodging establishments and shall have such authority to  
22 adopt regulations, rules, standards and practices. Such regulations, rules, standards, and  
23 practices shall be approved by the board of city commissioners, and are hereby adopted  
by reference and fully incorporated herein, ~~included~~ including any amendments

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hereinafter adopted, and shall be controlling within the jurisdiction of the ~~health department~~ city of Fargo.

13-1403.2 Health Department Approval of Construction Plans.

Before work is commenced on the construction of a ~~hotel or motel~~ lodging establishment, or there is any alteration, addition, remodeling, or other improvement, the plans and specifications ~~shall have been~~ must be approved by the health department.

13-1403.3 Inspection by Health Department.

The health department may inspect or cause to be inspected all ~~hotels and motels~~ lodging establishments within the city at such times as it may deem necessary to carry out the intent of this ordinance. In the event of the failure of compliance after due notice with the rules and regulations and requirements of this ordinance, the health department shall have the power to abate or cause a suspension of use of such ~~hotel or motel~~ lodging establishment until such time the health department deems there to be no longer a menace or a hazard to health, safety or morals. Yearly inspection fees shall be established by resolution of the board of city commissioners.

**13-1404. Exterior maintenance and parking.**

13-1404.1 Every building, structure, or enclosure used to provide lodging accommodations for the ~~pubie~~ public shall be kept in good repair, and so maintained as to promote the health, comfort, safety, and well-being of persons accommodated.

13-1404.2 There shall be at least one parking spot provided for each lodging room in ~~the hotel or motel~~ a lodging establishment and for all staff. The parking lot and all property used in connection with the ~~hotel or motel~~ lodging establishment shall be kept free of litter and refuse. Also, the walking and driving surfaces of all exterior areas shall be surfaced with concrete or asphalt or a similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling. Only articles necessary for the operation and maintenance of the lodging establishment shall be stored on the premises.

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1 13-1404.3 Outside openings shall be protected against the entrance of insects and rodents  
2 by tight fitting, self-closing doors, closed windows, and screening or other approved  
3 means. Screen doors shall be self-closing, and screens for windows, doors, skylights,  
4 intake and exhaust air ducts and other openings to the outside shall be tight fitting and  
5 free of breaks or holes. Screening materials shall not be less than sixteen mesh to the  
6 inch.

7 **13-1405. Restrooms and handwashing facilities.**

8 13-1405.1 All public restrooms ~~should~~ shall be provided with mechanical ventilation,  
9 self-closing doors, and proper handwashing facilities. The handwashing sink shall be  
10 equipped with self-dispensing soap and self-dispensing disposable towels or a hand  
11 drying device providing heated air and a suitable waste receptacle. Handwashing sinks  
12 shall also provide hot and cold water tempered by means of a mixing valve or  
13 combination faucet. Hot water shall not exceed one hundred ~~thirty~~ twenty degrees (~~130~~  
14 120°F). Any self-closing, slow closing, or metering faucet shall be designed to provide a  
15 flow of water for at least fifteen seconds without the need to reactivate the faucet.

16 13-1405.2 Restroom facilities shall be conveniently located, and shall be accessible to  
17 employees and ~~quests~~ guests at all times.

18 13-1405.3 Handwashing facilities, soap dispensers, hand drying devices and all related  
19 fixtures shall be kept clean and in good repair.

20 13-1405.4 Walls, floors, and ceilings in restrooms shall be constructed of smooth, easily  
21 cleanable materials and shall be kept clean and in good repair.

22 **13-1406. Guest rooms.**

23 13-1406.1 Walls, floors, and ceilings in guest rooms shall be constructed of smooth easily  
cleanable materials and shall be kept clean and in good repair. This includes furniture,  
drapes, curtains, lamp shades, carpeting and all other fixtures.

13-1406.2 All beds, bunks, cots, and other sleeping places provided for guests in ~~hotels~~  
~~and motels~~ lodging establishments shall be supplied with suitable pillow slips and top

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1 sheets. All bedding including mattresses, quilts, blankets, pillows, sheets, spreads and all  
2 bath linen shall be kept clean. No bedding, including mattresses, quilts, blankets, pillows,  
3 bed and bath linen shall be used which are worn out or unfit for further use. Pillow slips,  
4 sheets, and bath linen after being used by one guest shall be washed before they are used  
5 by another guest, so a clean set ~~being~~ is furnished after each succeeding guest. For any  
6 guest occupying a guest room for an extended period of time, a fresh set of sheets and  
7 pillow slips shall be furnished at least once each week, and at least two clean towels per  
8 guest each day if they are requested.

9 13-1406.3 Each ~~hotel or motel~~ lodging establishment must provide toilet, handwashing,  
10 and bathing facilities for its guests. There must be a ratio of 1 toilet and bathing facility  
11 for every 8 guests. These facilities must be maintained in good repair and cleaned at least  
12 between stays of different guests. All toilet and bathing facilities must also be well  
13 ventilated. An area is well ventilated when excessive heat, odors, fumes, vapors, smoke,  
14 or condensation is reduced to a negligible level and barely perceptible to the normal  
15 senses.

16 13-1406.4 All guest rooms must have a heating system able to maintain a minimum  
17 temperature of 67°F.

18 13-1406.5 The doors of all guest rooms used for sleeping in any ~~hotel or motel~~ lodging  
19 establishment shall be equipped with proper bolts or locks to permit the occupants to lock  
20 or bolt such doors securely from within the rooms. Such bolts or locks shall be  
21 constructed in a manner which will render it impossible to unbolt or unlock the door from  
22 the outside.

23 **13-1407. Interior construction.**

13-1407.1\ Walls, floors, and ceilings in hallways, lobbies, and laundry rooms shall be  
constructed of smooth easily cleanable materials and shall be kept clean and in good  
repair.

13-1407.2 All laundry rooms and any other rooms used to store linen, cribs, roll away  
beds, food, or food service equipment must shield all lights or use shatterproof bulbs.



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**13-1408. Water supply.**

13-1408.1 A safe adequate supply of potable water with both hot and cold under pressure shall be provided in all bathrooms and toilets.

13-1408.2 Guest room glasses must be single service or multi use glasses that are cleaned and sanitized between each different guest.

13-1408.3 Self-service ice provided for guests must be dispensed through the use of self-dispensing ice machines or prepackaged from an approved source. Self-service ice storage bins are not acceptable for guest use and must be kept in areas not accessible to guests. All self-dispensing ice machines shall be cleaned and sanitized internally every quarter (3 months).

**13-1409. Plumbing.**

All plumbing shall be properly maintained and meet all state and local plumbing codes.

**13-1410. Garbage/Refuse disposal.**

13-1410.1 All liquid wastes shall be disposed of in an approved public sewage system.

13-1410.2 Prior to removal, all garbage and refuse stored within the premises shall be kept in watertight, nonabsorbent receptacles which are covered with close fitting lids to prevent access to birds, rodents, and other vermin. These garbage receptacles shall be kept in good repair.

13-1410.3 All garbage, trash, and refuse shall be removed from the premises frequently to prevent nuisance and unsightly conditions, and shall be disposed of in a sanitary manner.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

**13-1411. Miscellaneous.**

1 13-1411.1 All cleaning operations must be conducted in a manner that minimizes  
2 contamination of the facility. Cleaning equipment, supplies, insecticides, paints, and  
3 other toxic materials must be stored properly. They may not be stored above or next to  
4 linens, food, or food service equipment. All cleaners, sanitizers, and disinfectants must  
5 comply with 21 CFR section 178.1010. An ingredient label and "direction for use" label  
6 on each chemical being used must be readily available for reference or inspection. All  
7 containers used for dispensing these chemicals must be prominently and distinctively  
8 labeled for identification of contents.

9 13-1411.2 Every ~~hotel and motel~~ lodging establishment shall be constructed, maintained,  
10 and equipped to prevent the entrance, harborage, or breeding of flies, roaches, bedbugs,  
11 rats, mice, and all other insects and vermin. They must also have means necessary to  
12 eliminate such pests such as cleaning, renovation, or fumigation. The ~~H~~Health  
13 ~~D~~Department may order the facility to hire a licensed exterminator to exterminate pests  
14 when:

- 15 A. The infestation is so extensive that it is unlikely that a nonprofessional can  
16 eradicate the pests effectively.
- 17 B. The extermination method of choice can only be carried out by a licensed  
18 exterminator.
- 19 C. Upon reinspection it is found that the establishment has not been brought  
20 into compliance with a prior order to rid the establishment of pests.

21 Section 2. Penalty.

22 A person who willfully violates this ordinance is guilty of an infraction. Every person,  
23 firm or corporation violating an ordinance which is punishable as an infraction shall be punished  
by a fine not to exceed \$1000.00; 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:

First Reading:  
Second Reading:  
Final Passage:  
Publication:

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

**OFFICE OF THE  
CITY ATTORNEY**

**SERKLAND LAW FIRM**

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

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

5

November 9, 2023

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

**RE: Dangerous Building located at 1208 University Drive South, Fargo, North Dakota**

Dear Commissioners,

Enclosed for your review and approval are proposed Findings of Fact, Conclusions and Order, and Notice regarding the dangerous building proceeding for the property at 1208 University Drive South. At its October 30, 2023 meeting, the report presented by Shawn Ouradnik, city of Fargo Building Inspections Director, was approved by the Board. As such, the City Attorney's Office was directed to prepare the appropriate Findings of Fact, Conclusions and Order, and Notice.

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

Sincerely,



Alissa R. Farol Czapiewski  
Assistant City Attorney

Enclosure

cc: Shawn Ouradnik, Inspections Department

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

Property Address: 1208 University Drive South, Fargo, North Dakota

Property Owner: Beverly J. Woitzel

A hearing was held before the Board of City Commissioners of the City of Fargo on the 30<sup>th</sup> day of October, 2023 regarding the property located at 1208 University Drive South, Fargo, North Dakota. Shawn Ouradnik, city of Fargo Building Inspections Director, appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property.

The Board heard the testimony offered by the Inspections Director, considered the reports, evidence and other information presented, and hereby makes the following Findings of Fact:

**FINDINGS OF FACT**

1. That Beverly J. Woitzel is the owner of the following described real property located in the City of Fargo, County of Cass, and State of North Dakota:

Lot Q in Auditor's Plat of MacLaren Subdivision of the South 50 Feet of Lots 6, 7, and 8, Block 2, Monson's Subdivision of Block 1, Erskine's Addition. The remaining unplatted portion of Auditor's Block 4, SW ¼ Sec. 7, TWP. 129 N.R. 48 W. and Portions of Lots 2 and 9, and all of Lots 3,4,5,6,7 and 8, Block 2, Northrop's Addition to the city of Fargo.

Street address: 1208 University Drive South, Fargo, North Dakota, 58103

[hereinafter "Subject Property"]

2. That on July 27, 2023, Laura Langdahl, Code Enforcement Inspector for the city of Fargo, inspected the Subject Property and found the building, consisting of a single-story, wood-framed, structure to be a dangerous building within the standards set forth in Article 21-04 of the Fargo Municipal Code and Section 111.1.5 of the International Property Maintenance Code concerning dangerous structures.

3. That the building is unsafe and dangerous in the following respects: (a) weatherproofing on all sides of the structure show damage from neglect, deterioration, and abandonment; (b) weatherproofing on the entire roof is rotten and has failed on the north and south facing extensions resulting in holes through the soffit; (c) weatherproofing around the windows show signs of rot which could allow water and other elements into the structure; (d) chimney finish is cracked and crumbling; (e) gutter system is overgrown with vegetation and not functional; (f) siding on south facing wall is separating along the seam and has holes large enough to admit vermin; (g) exterior junk accumulation on the stairs leading to front and rear doors, limiting means of egress; (h) property owner has self-reported the structure is filled with hoarding items making it unsafe to occupy; (i) homeowner has self-reported trespassers, squatters, vandalism, and theft in the structure; and (j) exterior junk accumulation in multiple areas of yard with numerous junk automobiles, including two small RV's that are considered attractive nuisances for children, vagrants, and vermin.

4. That the following conditions exist with respect to the Subject Property:

- a. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation; and
- b. The building is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

5. That the information in the files of the Inspections Department stemming from the inspection of the property on or before July 27, 2023, with respect to the Subject Property, is hereby accepted as true and correct.

6. That Notice of Dangerous Building was posted on the property on or about July 31, 2023, in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informed the owner and all occupants, if any, that the “dangerous building” must be vacated and secured, and the building must be demolished, or any necessary and valid permits be obtained within thirty (30) days from the date of the notice.

7. That due to aggressive neighbors and threats of violence, the City continued to monitor the Subject Property and did not take enforcement action until October 18, 2023, when it was able to safely secure the Subject Property.

**CONCLUSIONS AND ORDER**

Based on the foregoing Findings of Fact, the Board of City Commissioners hereby makes the following Conclusions:

1. That the building located at 1208 University Drive South, Fargo, North Dakota 58103, is hereby found to be a “dangerous building.”
2. That the owner or anyone claiming to have an ownership interest in said building has not sufficiently presented cause why the “dangerous building” should not be demolished.
3. That despite being ordered that the building on the Subject Property should be demolished, or necessary and valid permits be obtained within thirty (30) days of the notice, the owner or anyone else claiming to have an ownership interest in said building has failed to do so.

**IT IS HEREBY ORDERED** that Beverly J. Woitzel or anyone else claiming an ownership interest, shall demolish the “dangerous building” and remove all building debris located at 1208 University Drive South, Fargo, North Dakota by December 29, 2023.

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

DATED this \_\_\_\_\_ day of November, 2023.

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

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

ATTEST:

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



**NOTICE OF ENTRY OF ORDER**

TO: BEVERLY J. WOITZEL AND ALL OTHER PERSONS HAVING INTEREST IN THIS  
PROPERTY

RE: PROPERTY AT 1208 UNIVERSITY DRIVE SOUTH, FARGO, NORTH DAKOTA  
58103

YOU ARE HEREBY GIVEN NOTICE that you shall have thirty (30) days from the date of service of Findings of Fact and Conclusions and Order of the Board of City Commissioners of the City of Fargo (“Order”) upon you in which to appeal the Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all-in accordance with the appeal procedure set forth in Fargo Municipal Code § 21-0412. You are further given notice that the “dangerous building” on the Subject Property may be demolished by the city of Fargo at any time on or after December 29, 2023.

DATED this \_\_\_\_ day of November, 2023.

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

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

ATTEST:

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



OFFICE OF THE CITY ATTORNEY

SERKLAND LAW FIRM

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

CITY ATTORNEY

Nancy J. Morris



ASSISTANT CITY ATTORNEYS

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

November 9, 2023

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

**RE: Dangerous Building located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota**

Dear Commissioners,

Enclosed for your review and approval are proposed Findings of Fact, Conclusions and Order, and Notice regarding the dangerous building proceeding for the property at 1710 1<sup>st</sup> Avenue South. At its October 30, 2023 meeting, the report presented by Shawn Ouradnik, city of Fargo Building Inspections Director, was approved by the Board. As such, the City Attorney's Office was directed to prepare the appropriate Findings of Fact, Conclusions and Order, and Notice.

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

Sincerely,

Alissa R. Farol Czapiewski  
Assistant City Attorney

Enclosure

cc: Shawn Ouradnik, Inspections Department

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

Property Address: 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota

Property Owner: Jamie S. Swenson

A hearing was held before the Board of City Commissioners of the City of Fargo on the 30<sup>th</sup> day of October, 2023 regarding the property located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota. Shawn Ouradnik, city of Fargo Building Inspections Director, appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property.

The Board heard the testimony offered by the Inspections Director, considered the reports, evidence and other information presented, and hereby makes the following Findings of Fact:

**FINDINGS OF FACT**

1. That Jamie S. Swenson is the owner of the following described real property located in the City of Fargo, County of Cass, and State of North Dakota:

East Thirty (30) Feet of Lot Three (3) and West Thirty (30) Feet of Lot Four (4),  
Block Four (4), of Arnesons Addition to the city of Fargo.

Street address: 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota, 58103

[hereinafter "Subject Property"]

2. That on March 29, 2023, Lynne Olson, Rental Housing Inspector for the city of Fargo, inspected the Subject Property and found the building, consisting of a two-story, wood-framed, structure to be a dangerous building within the standards set forth in Article 21-04 of the Fargo Municipal Code and Section 111.1.5 of the International Property Maintenance Code concerning dangerous structures.

3. That the building is unsafe and dangerous in the following respects: (a) horizontal cracking of foundation on the entire east side and foundation caving into basement indicating foundation failure; (b) lower level has significant water damage that would require removal and replacement of electrical wiring and fixtures; (c) main level has damage from animal and garbage hoarding; (d) roof damage has caused water damage on the ceiling and in the bathroom on upper level; (e) south wall in the upper level is pushing into the structure causing movement of the floor and bathtub; (f) water damage has caused soft flooring between the bathtub and toilet in upper level; (g) exterior door is missing trim allowing a view of the interior from the outside; (h) interior water damage from exterior siding damage; and (i) excessive junk and garbage accumulation on the property making it unsafe to be both inside the interior of the structure and also on the exterior yard of the structure.

4. That the following conditions exist with respect to the Subject Property:

- a. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation; and
- b. The building is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

5. That the information in the files of the Inspections Department stemming from the inspection of the property on or before March 29, 2023 and all subsequent inspections, with respect to the Subject Property, is hereby accepted as true and correct.

6. That Notice of Dangerous Building was posted on the property on or about June 1, 2023, and re-posted on August 16, 2023, in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informed the owner and all occupants, if any, that the “dangerous building” must be vacated and secured, and the building must be demolished, or any necessary and valid permits be obtained within thirty (30) days from the date of the notice.

7. That the City secured the Subject Property on September 8, 2023 and September 14, 2023, due to squatter activity.

8. That the City has responded to the Subject Property for a variety of complaints since 2008, including but not limited to, junk, broken windows, deterioration of the building, excessive water usage and damage due to squatters, and animal hoarding and damage within the building.

**CONCLUSIONS AND ORDER**

Based on the foregoing Findings of Fact, the Board of City Commissioners hereby makes the following Conclusions:

1. That the building located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota 58103, is hereby found to be a “dangerous building.”
2. That the owner or anyone claiming to have an ownership interest in said building has not sufficiently presented cause why the “dangerous building” should not be demolished.
3. That despite being ordered that the building on the Subject Property should be demolished, or necessary and valid permits be obtained within thirty (30) days of the notice, the owner or anyone else claiming to have an ownership interest in said building has failed to do so.

**IT IS HEREBY ORDERED** that Jamie S. Swenson or anyone else claiming an ownership interest, shall demolish the “dangerous building” and remove all building debris located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota by December 29, 2023.

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

DATED this \_\_\_\_\_ day of November, 2023.

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

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

ATTEST:

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

**NOTICE OF ENTRY OF ORDER**

TO: JAMIE S. SWENSON AND ALL OTHER PERSONS HAVING INTEREST IN THIS  
PROPERTY

RE: PROPERTY AT 1710 1<sup>ST</sup> AVENUE SOUTH, FARGO, NORTH DAKOTA 58103

YOU ARE HEREBY GIVEN NOTICE that you shall have thirty (30) days from the date of service of Findings of Fact and Conclusions and Order of the Board of City Commissioners of the City of Fargo (“Order”) upon you in which to appeal the Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all-in accordance with the appeal procedure set forth in Fargo Municipal Code § 21-0412. You are further given notice that the “dangerous building” on the Subject Property may be demolished by the city of Fargo at any time on or after December 29, 2023.

DATED this \_\_\_\_\_ day of November, 2023.

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

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

ATTEST:

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

①

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

November 3, 2023

To: Board of City Commissioners  
From: Steven Sprague, City Auditor  
Re: Old Broadway

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1511 of the Fargo Municipal Code. The Liquor Control Board meet on October 24 at 2:30 p.m. in the City Commission Chambers of City Hall, 225 4<sup>th</sup> Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Police Department and Auditor's office and recommended applying the administrative penalty. This is a first failure for not having staff server trained, the administrative penalty is \$500. The licensee agreed with the findings and has chosen not to appeal the finding.

**Recommended Motion**

**Agree with the findings of staff and the Liquor Control Board and apply the \$500 administrative penalty for first failure to the liquor license violations identified at Old Broadway.**





**APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT**  
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
 GAMING DIVISION  
 SFN 9338 (2-2023)

*(Signature)*



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 <b>Fargo North High School</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>11/18/23</b>	
Organization or Group Contact Person <b>Dan Shultis</b>	E-mail <b>shultid@fargo.k12.nd.us</b>	Telephone Number <b>701-446-2407</b>	
Business Address <b>801 17th Ave North</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58102</b>
Mailing Address (if different)	City	State	ZIP Code

**SITE INFO**

Site Name <b>Fargo North High School</b>	County <b>Cass</b>
Site Physical Address <b>801 17th Ave North</b>	City <b>Fargo</b>
	State <b>ND</b>
	ZIP Code <b>58102</b>

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.)

**11/18/23**

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

Game Type	Description of Prize	Exact Retail Value of Prize
Dance Invite	50/50 raffle	500.00
Total (limit \$40,000 per year)		\$ 500.00

**Intended Uses of Gaming Proceeds**

**Proceeds will go back to the Spartacas program equipment/supplies etc...**

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

Yes     No

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

Yes     No

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

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

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

Yes     No

Name <b>Dan Shultis</b>	Title <b>Assistant Principal/Activities</b>	Telephone Number <b>701-446-2407</b>	E-mail Address <b>shultid@fargo.k12.nd.us</b>
Signature of Organization or Group's Top Official <b>Dan Shultis</b>		Title <b>Assistant Principal/Activities Coordinator</b>	Date <b>10/23/2023</b>



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

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

(86)

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 <b>Muskies Inc Fish chapter</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>2-08-2024</b>	
Organization or Group Contact Person <b>Richard A. Engleson</b>	E-mail <b>REagle2481@Aol.com</b>	Telephone Number <b>701-237-4801</b>	
Business Address <b>909 PAGE DR.</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58103</b>
Mailing Address (if different) <b>SAME</b>	City	State	ZIP Code

**SITE INFO**

Site Name <b>RAMADA Fargo</b>	County <b>CASS</b>
Site Physical Address <b>3333 13<sup>th</sup> Ave So.</b>	City <b>Fargo</b>
	State <b>ND</b>
	ZIP Code <b>58103</b>

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 2-08-2024**

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

Game Type	Description of Prize	Exact Retail Value of Prize
<b>RAFFLE</b>	<b>CASH PRIZE</b>	<b>500.<sup>00</sup></b>
<b>RAFFLE</b>	<b>5 CASH PRIZES 100.<sup>00</sup> each</b>	<b>500.<sup>00</sup></b>
Total (limit \$40,000 per year)		<b>\$ 1000.<sup>00</sup></b>

Intended Uses of Gaming Proceeds  
**to promote muskie research, fish stocking, youth fishing, donations**

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 a city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)

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

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

Yes     No

Name <b>Rick Engleson</b>	Title <b>Club Treasurer</b>	Telephone Number <b>701-237-4801</b>	E-mail Address <b>REagle2481@Aol.com</b>
Signature of Organization or Group's Top Official <i>[Signature]</i>		Title <b>Club Treasurer</b>	Date <b>11-08-2023</b>

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

11

Type: Nonexclusive Easement

Location: 64<sup>th</sup> Avenue South

Date of Hearing: 8/14/2023

<u>Routing</u>	<u>Date</u>
City Commission	11/13/2023
PWPEC File	X
Project File	Kevin Gorder

The Committee reviewed a communication from Division Engineer, Kevin Gorder, regarding a Nonexclusive Easement for Xcel to install a gas main along 64<sup>th</sup> Avenue South.

Xcel Gas is planning to install a gas main along 64<sup>th</sup> Avenue South between 45<sup>th</sup> Street and Sheyenne Street. The portion that will be in the City limits of Fargo should be between 100' and 110' north of the section line. This alignment will match the future public utility easement when the areas is platted. Xcel is obtaining private easements since this area is outside the current City limits. The gas main will cross the parcel the City purchased for a regional detention pond.

Xcel would like to start installation on August 21, 2023 so it is operational by winter.

On a motion by Brenda Derrig, seconded by Steve Sprague, the Committee voted to recommend to approve the Nonexclusive Easement with Xcel to install a gas main along 64<sup>th</sup> Avenue South.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Nonexclusive Easement with Xcel to install a gas main along 64<sup>th</sup> Avenue South.

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  
 Michael Redlinger, City Administrator  
 Ben Dow, Director of Operations  
 Steve Sprague, City Auditor  
 Tom Knakmuhs, City Engineer  
 Susan Thompson, Interim Finance Director

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
<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:

C: Kristi Olson

  
 Tom Knakmuhs, P.E.  
 City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Kevin Gorder, Division Engineer  
**Date:** August 10, 2023  
**Re:** Nonexclusive Easement for Xcel Gas along 64<sup>th</sup> Avenue South

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**Background:**

Xcel gas is planning to install a gas main along 64<sup>th</sup> Avenue South between 45<sup>th</sup> Street and Sheyenne Street. We have shared that in the portion that will be in the City limits of Fargo, the gas main should be between 100' and 110' north of the section line. This alignment will match the future public utility easement when the area is platted. Xcel is obtaining private easements since this area is outside the current City limits. The gas main will cross the parcel the City purchased for a regional detention pond.

The attached easement is still a draft and is pending review by city legal staff. Xcel would like to start installation on August 21 so it is operational by winter. Engineering will also coordinate with Xcel so future drainage channels and box culvert construction do not conflict with this gas main.

**Recommended Motion:**

Recommend approval of the Nonexclusive Easement for Xcel to install a gas main along 64<sup>th</sup> Avenue South.

KOG/klb  
Attachment

**PIPELINE EASEMENT**

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

**RECITALS**

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

The Southwest Quarter (SW1/4) of section Four (4), Township One Hundred Thirty-eight (138) North, Range Forty-nine (49) West of the Fifth Principal Meridian, Cass County, North Dakota. (the "**Property**").

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

An easement over, under and across the north 10 feet of the south 110 feet of the herein before described Property, except that portion lying within road right of way (the "**Easement Area**").

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

Gas pipelines with valves, above ground piping and other appurtenances and devices used or useful in the operation, maintenance, and use of said gas pipelines (collectively, the “**Facilities**”). The Grantor does not grant a right to install a regulator station in this Easement Area. Any regulator stations needed in the area must be in an area outside of this Easement Area.

## AGREEMENT

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

Grantor hereby grants to Grantee, a non-exclusive easement to excavate, install, construct, operate, maintain, use, inspect, rebuild, modify, replace, remove, repair, reconstruct, alter, relocate, patrol, improve, and enlarge the Facilities described above over, under, and across the Easement Area. Prior to modifying, enlarging, or relocating the Facilities, NSP shall obtain the approval of the Grantor, which shall not be unreasonably withheld. The easement granted hereunder shall be perpetual or for such maximum period of time as is permitted by applicable law. Grantor also grants to Grantee the full right and authority to reasonably access the Easement Area and the Facilities over and across the Property for the purpose of excavating, installing, constructing, operating, maintaining, using, inspecting, rebuilding, modifying, replacing, removing, repairing, reconstructing, altering, relocating, patrolling, improving, or enlarging the Facilities. Grantee is responsible for any restoration required by Grantor caused by its activities on the Property and shall have the ability to engage in vegetation management in the Easement Area as provided by its Franchise grant.

Grantor will not perform any act on the Easement Area which will interfere with or endanger the Facilities. Grantee understands and agrees that this easement will be a Public Utility Easement when developed in the future. Future items that will be allowed in this Easement will be limited to items allowed in a Public Utility Easement..

Grantee understands and agrees that Grantor may sell a portion of this property for private development and a small portion of this area will be used for storm water conveyance. Grantee agrees that its Facilities are designed in such a manner that Grantor can drive over, cross, or traverse the underground Facilities with heavy equipment typical of storm sewer construction/maintenance without damaging said underground Facilities. Grantee further understand and agrees that it will be responsible for damages caused to its underground Facilities by Grantor in the normal course of operations requiring Grantor to traverse over, on and across the Property. Pipeline elevation and location is based on preliminary design information and some adjustments to the pipeline may be required by Grantor after detailed design drawings of the area are finished. Grantee agrees to complete any relocation by and at their sole expense.

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

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

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

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

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

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

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

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

Grantor hereby grants to Grantee the right to erect, at any time prior to or after the construction of the Facilities, reasonable signs for the purpose of monumenting the location of the Facilities. Location of these signs shall be as required by statute and in the case of conflicts with sidewalks, trails, drives, or roads the signs shall be flush with the surface of the sidewalk, trail, drive or roads or as approved by the Grantor.

(The remainder of this page Intentionally left blank)

Dated this <sup>th</sup> 26 day of Oct., 2023.

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

By: 

Timothy G. Rogers  
Its: Manager of Siting & Land Rights  
Xcel Energy Services Inc., an Authorized Agent  
for Northern States Power Company, a Minnesota corporation d/b/a Xcel Energy

STATE OF MINNESOTA \_\_\_\_\_ )  
 ) ss  
COUNTY OF HENNEPIN \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this 26 day of Oct., 2023, by Timothy G. Rogers, the Manager of Siting & Land Rights, Xcel Energy Services Inc. an Authorized Agent for Northern States Power Company, a Minnesota corporation d/b/a Xcel Energy, on behalf of the corporation.

Notary Public

(SEAL)





IN TESTIMONY WHEREOF, the Grantor has executed this Agreement as of this \_\_\_\_ day of \_\_\_\_\_, 2023.

**THE CITY OF FARGO, NORTH DAKOTA,**  
a municipal corporation

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

ATTEST:

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

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

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said county and state, personally appeared Dr. Timothy J. Mahoney, M.D. and Steven Sprague, to me known to be the Mayor and Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the North Dakota municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

\_\_\_\_\_  
Notary Public  
Cass County, North Dakota  
My commission expires: \_\_\_\_\_

This instrument was drafted by:  
Northern States Power Company  
414 Nicollet Mall, 414 6<sup>th</sup>  
Minneapolis, MN 55401  
612-216-8083

12

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. PR-23-F1

Type: Change Order #3

Location: 19th Ave N b/w 18th St & Dakota Dr N

Date of Hearing: 11/6/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/13/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Jason Hoogland</u>

The Committee reviewed the accompanying correspondence from Project Manager, Jason Hoogland, related to Change Order #3, in the amount of \$18,830.68, which is needed for additional work.

Staff is recommending approval of Change Order #3 in the amount of \$18,830.68, which brings the total contract amount to \$491,048.73.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #3 to Border States Paving.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #3 in the amount of \$18,830.68, bringing the total contract amount to \$491,048.73 to Border States Paving.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Prairie Dog Funds

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>

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>
			<u><input checked="" type="checkbox"/></u>
<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"/>	<u>Ryan Erickson</u>
<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:

C: Kristi Olson

  
 Tom Knakmuhs, P.E.  
 City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Jason Hoogland, Project Manager  
**Date:** November 2, 2023  
**Re:** Project No. PR-23-F1 – Change Order #3

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## Background:

Project No. PR-23-F1 will remove and replace some of the existing patches and place an overlay on 19<sup>th</sup> Avenue North between 18<sup>th</sup> Street and Dakota Drive.

Border States is the Prime Contractor.

Change Order #3 is for the cost to repair an inlet in the turn lane to 18<sup>th</sup> Street North. While working on 19<sup>th</sup> Avenue North, we noticed that there was a washout happening around this inlet. The Contractor has given us a price of \$18,830.68 to do this work. This will increase the price of the project to \$491,048.73.

This project is 100% funded through Prairie Dog Funds.

## Recommended Motion:

Staff recommends approval of Change Order #3 in the amount of \$18,830.68 for Project No. PR-23-F1.

JMH/kib  
Attachments

19TH AVE N BETWEEN 18TH ST. N TO DAKOTA DR. N.

**Change Order No** 3      **Change Order Date** 11/1/2023  
**Contractor** Border States Paving Inc

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

**EXPLANATION OF CHANGE**      Change Order # 3  
 Repair Inlet on 19th ave N in turn lane to 18th St N.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Change Order 3	11	Repair Inlet	EA	0	0	0	1	1	\$18,830.68	\$18,830.68
									<b>Change Order 3 Sub Total</b>	<b>\$18,830.68</b>

Summary

Source Of Funding	Prairie Dog Funds
Net Amount Change Order # 3 (\$)	\$18,830.68
Previous Change Orders (\$)	\$7,700.00
Original Contract Amount (\$)	\$464,518.05
Total Contract Amount (\$)	\$491,048.73

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

APPROVED  
 For Contractor  
 Title

*Joel Pavn*  
 Border States Paving Inc  
 Fargo Area Manager

APPROVED DATE  
 Department Head  
 Mayor  
 Attest

*T. Cole*

# INVOICE

**BORDER STATES PAVING, INC.**

PO Box 2586  
 Fargo, ND 58108

Phone: 701-237-4860  
 Fax: 701-237-0233

INVOICE NO. 5867-23  
 INVOICE DATE 11/01/23  
 BSPI JOB NO. 33-23

**SOLD TO:**  
 City of Fargo  
 PR-23-F1  
 Change Order Billing for Inlet Repair on 19th Ave

**SHIPPED TO:**  
 19th Ave & 18th St Inlet Repair

QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	LS	Mobilization	\$5,000.00	\$5,000.00
64.00	SF	Saw Cut & Remove Asphalt	\$22.80	\$1,459.20
10.00	LF	Repair Drain Tile - Fabric, rock	\$100.00	\$1,000.00
15.00	CY	Class 5 Back Fill/Crushed Concrete	\$170.00	\$2,550.00
1.00	LS	Concrete Grout Interior/Exterior of Inlet	\$1,500.00	\$1,500.00
1.00	LS	Traffic Control	\$2,000.00	\$2,000.00
1.00	LS	Clean Out Botom of Pipe with Vac	\$1,000.00	\$1,000.00
64.00	SF	Patch back HBP 10"	\$40.00	\$2,560.00
1.00	LS	Extra Hancock Invoice + 25%	\$851.48	\$851.48
1.00	LS	Extra Cut/Modify Pipe for inlet	\$250.00	\$250.00
1.00	LS	Mud Pumpers Fill Void under Concrete Pavement	\$660.00	\$660.00
			<b>SUBTOTAL</b>	<b>\$18,830.68</b>
			ND S/T 5%	
			FARGO S/T 2%	
			CASS CTY S/T .5%	
			<b>TOTAL</b>	<b>\$18,830.68</b>

Interest charge of 1 1/2% per month will be charged on all past due invoices.

Questions concerning this invoice?  
 Contact: Joel Paur  
 Fargo Office  
 Phone: 701-551-7236  
 Fax: 701-237-0233

**MAKE ALL CHECKS PAYABLE TO:**  
 Border States Paving, Inc.  
 PO Box 2586  
 Fargo, ND 58108



**Hancock Concrete Moorhead Yard**  
 7063 28th Ave So  
 Glyndon MN 56547  
 Phone: (320) 392-5207  
 Fax: (320) 392-5155

**INVOICE: 1814174**

Invoice Date: 8/30/2023

Page: 1

**BILL TO:**  
 21444  
 Border States Paving  
 PO Box 2586  
 Fargo ND 58108

www.HancockConcrete.com

**SHIP TO:**  
 456307  
 PO#33-29  
 PICKED UP GLYNDON  
 YARD BY CLINT  
 GLYNDON MN

Load Num.	Terms	Ship Date	Entered By	Truck Driver
193426	Net 30 Days	8/30/2023		PICK-UP

Project Structure	Order # Line #	Item Description	Quantity Units	Alt. Qty. Units	Alt. Unit Price	Ext. Price
HW-082923-1 27" RCP	666419 2.00	R027E-CL3B8NT RCP,27",MN-R4,CL3,B,8FT	1.00 EA	8.00 FT	\$79.3000 FT	\$634.40

*Job 33-29  
 31-23  
 Bob*

Please provide your Invoice Number or Account Number on your payment. Thank you.  Please note there will be a 2.09% surcharge for credit card processing.  BY ACCEPTANCE OF THE GOODS TO WHICH THIS INVOICE RELATES, PURCHASER ACKNOWLEDGES AND AGREES THAT IT HAS HAD THE OPPORTUNITY TO REVIEW THOSE TERMS AND CONDITIONS OF HANCOCK CONCRETE PRODUCTS, LLC AVAILABLE ONLINE AT <a href="http://HANCOCKCONCRETE.COM/TERMS">HANCOCKCONCRETE.COM/TERMS</a> , AND THE PARTIES INTEND TO BE BOUND BY SUCH TERMS AND CONDITIONS, WHICH ARE HEREBY INCORPORATED BY REFERENCE. A HARD COPY OF SUCH TERMS AND CONDITIONS WILL BE PROVIDED BY HANCOCK CONCRETE PRODUCTS, LLC TO PURCHASER UPON REQUEST.	Remit To: Hancock Concrete Products PO Box 744737 Los Angeles, CA 90074-4737	Sales Amount	USD \$634.40
		Sales Tax	\$46.79
		<b>Total</b>	<b>USD \$681.19</b>



*Going Strong For 3 Generations!*

### Invoice

Date	Invoice #
9-1-23	17009

Bill To
Border States Paving

Terms

Description	Amount
Mudjacking to fill void on 19th Ave. N in Fargo	\$600.00
<b>Total Due \$600.00</b>	

Thank You for your business!  
 Please make checks payable to Mudpumpers Mudjacking  
 Mailing Address: PO Box 611 Moorhead, MN 56561



REPORT OF ACTION

13

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. FM-19-C1

Type: Change Order #6

Location: Woodcrest Neighborhood

Date of Hearing: 11/6/2023

<u>Routing</u>	<u>Date</u>
City Commission	11/13/2023
PWPEC File	X
Project File	Rob Hasey

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, related to Change Order #6, in the amount of \$18,986.00, which is needed for additional work.

Staff is recommending approval of Change Order #6 in the amount of \$18,986.00, which brings the total contract amount to \$4,314,565.51.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #6 to Industrial Builders.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #6 in the amount of \$18,986.00, bringing the total contract amount to \$4,314,545.51 to Industrial Builders.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax


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

COMMITTEE

	Present	Yes	No	Unanimous
				<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"/>	Ryan Erickson
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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:** Rob Hasey, Project Manager  
**Date:** November 6, 2023  
**Re:** Project No. FM-19-C1 – Change Order #6

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### **Background:**

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

The property at 137 South Woodcrest Drive has a walk out basement and the grading plan called for draining water away from the house to an inlet adjacent to the new levee. Upon completion of the planned grading the homeowner contacted us with concerns regarding the grading and wished to have their rear yard level with the neighboring properties, eliminating the dip. This revision required the inlet barrel & casting to be raised, the drain tile behind the levee retaining wall needed to be extended and connected to the inlet structure, a 12" culvert pipe was connected to the inlet to direct drainage away from the low area & additional fill needed to be imported and placed. This work resulted in an additional \$12,540 to level the rear property.

Prior to construction, the property at 143 South Woodcrest Drive had a clothesline that needed to be relocated due to the new levee location. The replacement location for the clothesline was located in an existing landscaped area near the house that required portions of the landscaping to be removed to accommodate the clothesline. This work resulted in an additional \$6,446 to relocate the clothesline.

### **Recommended Motion:**

Approve Change Order #6 in the amount of \$18,986 for modifications to the rear yard at 137 & 143 South Woodcrest Drive.

Attachments



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

**Change Order No** 6 **Change Order Date** 10/31/2023  
**Contractor** Industrial Builders 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 # 6

Adjust rear yard grading for #137 South Woodcrest Drive by modifying the rear yard inlet, adding a drainage pipe and adding fill to level the rear yard at the homeowners request. Total cost \$12,540. Adjusted the rear yard landscaping at #143 South Woodcrest Drive to accommodate the relocation of a clothesline that needed to be moved due to the levee alignment. Total cost \$6,446.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Change Order 6	18	Rem & Repl Landscaping	LS	0	0	0	1	1	\$6,446.00	\$6,446.00
	19	Site Grading	LS	0	0	0	1	1	\$12,540.00	\$12,540.00
<b>Change Order 6 Sub Total</b>									<b>\$18,986.00</b>	<b>\$18,986.00</b>

**Summary.**

<b>Source Of Funding</b>	<b>Infrastructure Sales Tax Fund 460</b>
<b>Net Amount Change Order # 6 (\$)</b>	<b>\$18,986.00</b>
<b>Previous Change Orders (\$)</b>	<b>\$158,640.81</b>
<b>Original Contract Amount (\$)</b>	<b>\$4,136,938.70</b>
<b>Total Contract Amount (\$)</b>	<b>\$4,314,565.51</b>

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

APPROVED  
 For Contractor  
 Title



Vice President Estimating

APPROVED DATE  
 Department Head  
 Mayor  
 Attest



October 24, 2023

Robert Hasey  
City of Fargo Engineering  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

**Subject: FM-19-C1 Woodcrest Flood Risk Management Project  
Change Order No. 6 Memorandum**

Mr. Hasey:

Below is a summary of the two items included in this change order, along with our recommendations.

**137 S Woodcrest Dr N Rear Yard Grading Revisions**

After spreading the topsoil at 137 S Woodcrest Dr N, we were contacted by the homeowner to come review the grading. This property has a walk out basement and had an existing backyard levee. The existing levee had a culvert through the levee to drain the patio area adjacent to the walk out basement. The original bid set called for removing the levee and sloping the ground adjacent to the patio to drain to a new catch basin that was installed by the project. This resulted in a dip in rear yard grading. Although this was shown on the original plans and explained to the homeowner during the pre-project backyard walk through, the homeowner had concerns with the final results. This change order is to revise the rear yard grading and install a 12" culvert to drain the patio area adjacent to the walk out basement. The proposed modifications are shown on the attached revised plan sheets and include the following:

- Raise storm inlet ST-13
- Install 22 LF 12" PP pipe with flared end section
- Import 30 CY topsoil
- Connect retaining wall drainage to inlet ST-13
- Seed and mulch

The contractor is requesting an additional \$12,540 to complete this work.

**143 S Woodcrest Dr N Clothesline Relocation & Landscape Modification**

This property had an existing clothesline in the rear yard that was in conflict with the proposed levee. When the project was bid the easement acquisition process with the homeowner was ongoing. The relocation of the clothesline was planned to be completed by the homeowner as part of the easement acquisition for the levee. It was determined that this could be accomplished during construction as part of a change order to relocate the clothesline. There was limited room to install the clothesline adjacent to the house. The homeowner requested

that it be installed off the SW corner of their house. In order to install the clothesline in that location, their existing landscaping had to be removed and their edging reconfigured.

The proposed modifications include the following:

- Remove landscaping, rock, and plantings
- Import shredded topsoil, grade, seed, and mulch
- Install clothesline
- Install bullet paver landscape edging
- Load, haul, and dispose of removals

The contractor is requesting \$6,446 to complete this work.

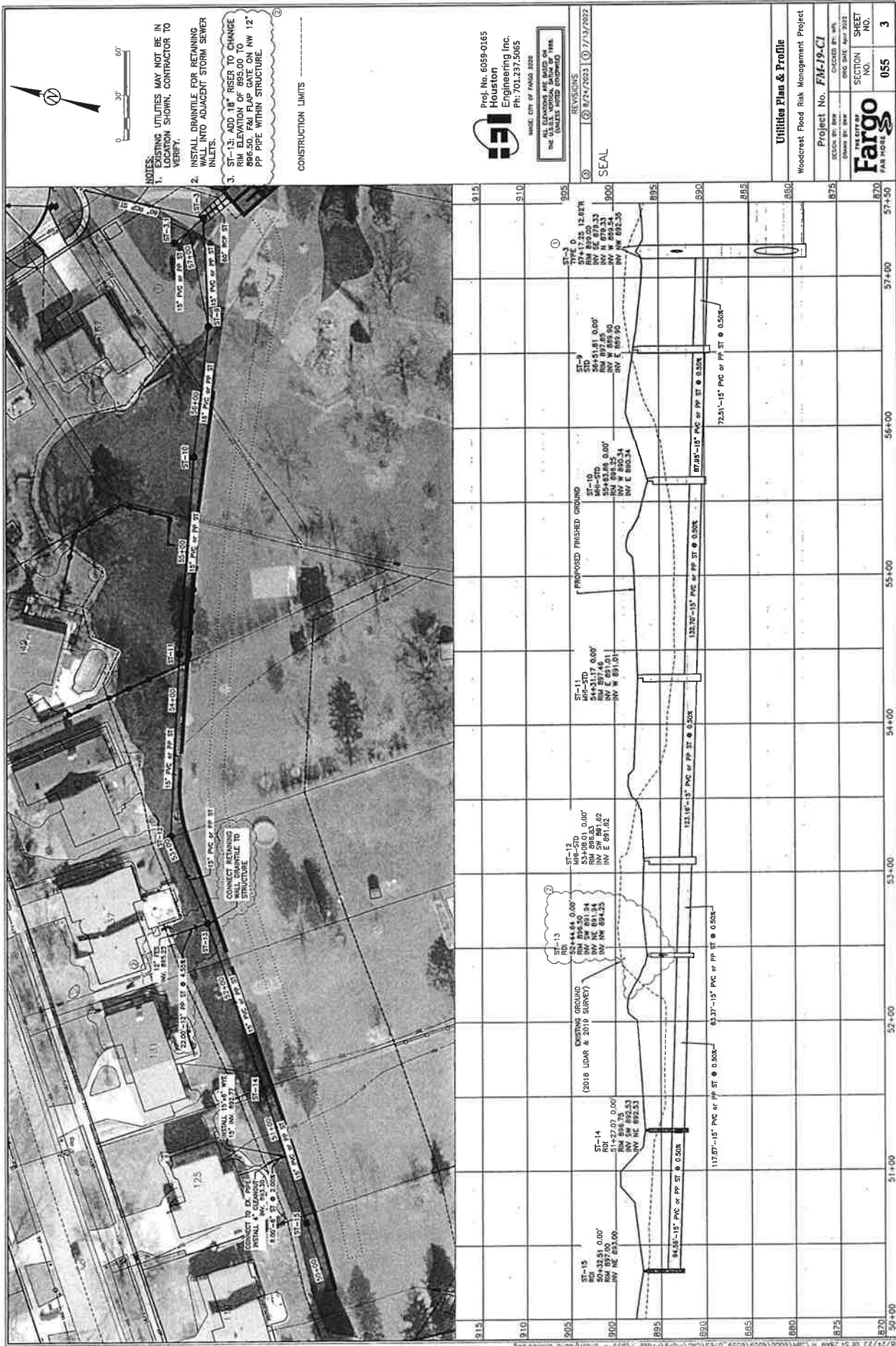
We have reviewed the proposed work and associated costs and found them to be reasonable. These proposed modifications will result in a \$18,986 increase in the current contract amount.

Sincerely,



---

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




**NOTES:**  
 EXISTING UTILITIES MAY NOT BE IN LOCATION SHOWN. CONTRACTOR TO VERIFY.  
 1. INSTALL DRAINPILE FOR RETAINING INLETS INTO ADJACENT STORM SEWER INLETS.  
 2. ST-13: ADD 18" RISER TO CHANGE RIM ELEVATION OF 895.00 TO 896.00. REPAIR EXISTING 12" PP PIPE WITHIN STRUCTURE.

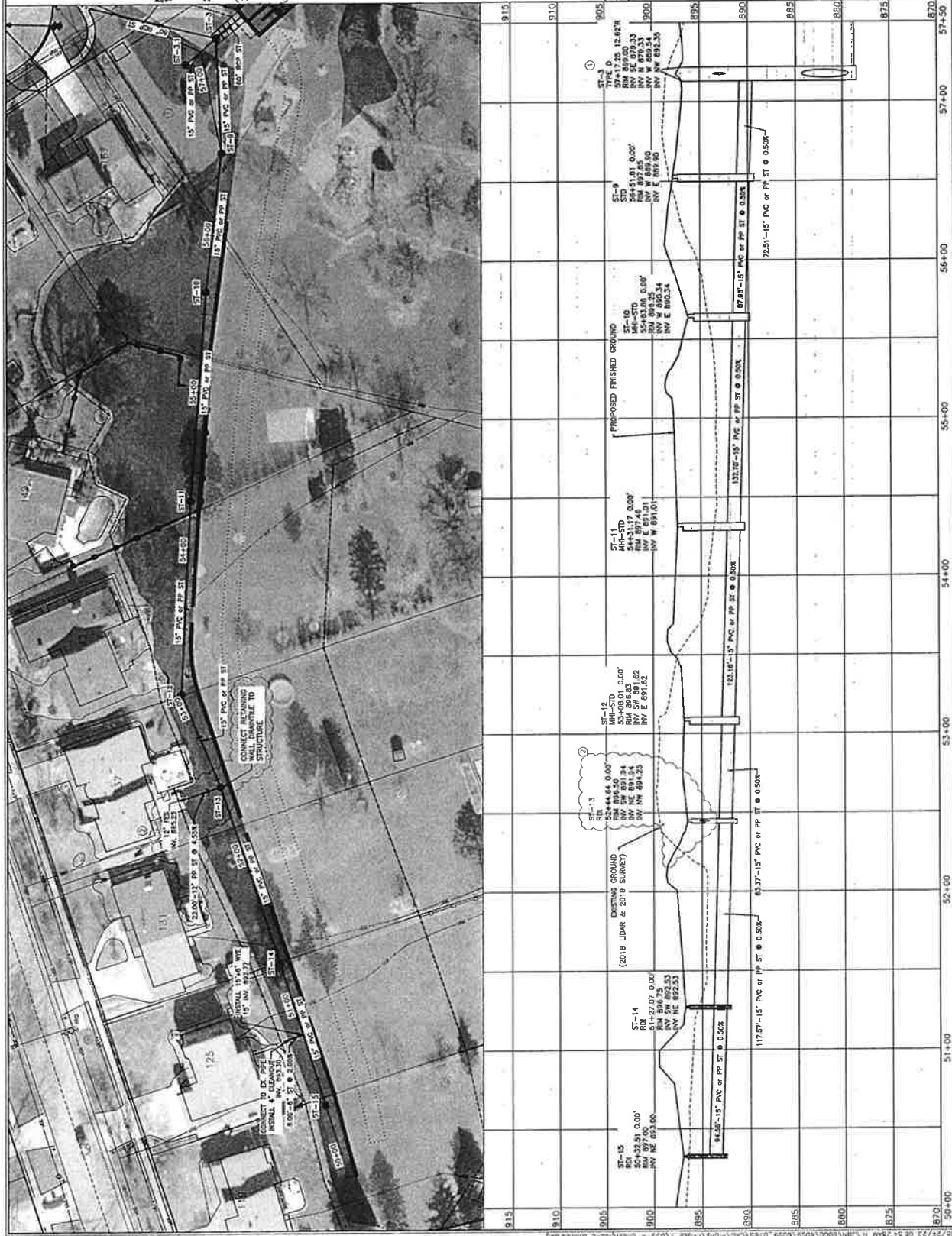
CONSTRUCTION LIMITS -----


 Proj. No. 6059-0165  
 Houston  
 Engineering Inc.  
 PH: 701.237.5065  
 MADE CITY OF FARGO 2022  
 ALL ELEVATIONS ARE BASED ON THE U.S. VERTICAL DATUM OF 1988. (UNLESS OTHERWISE SPECIFIED)

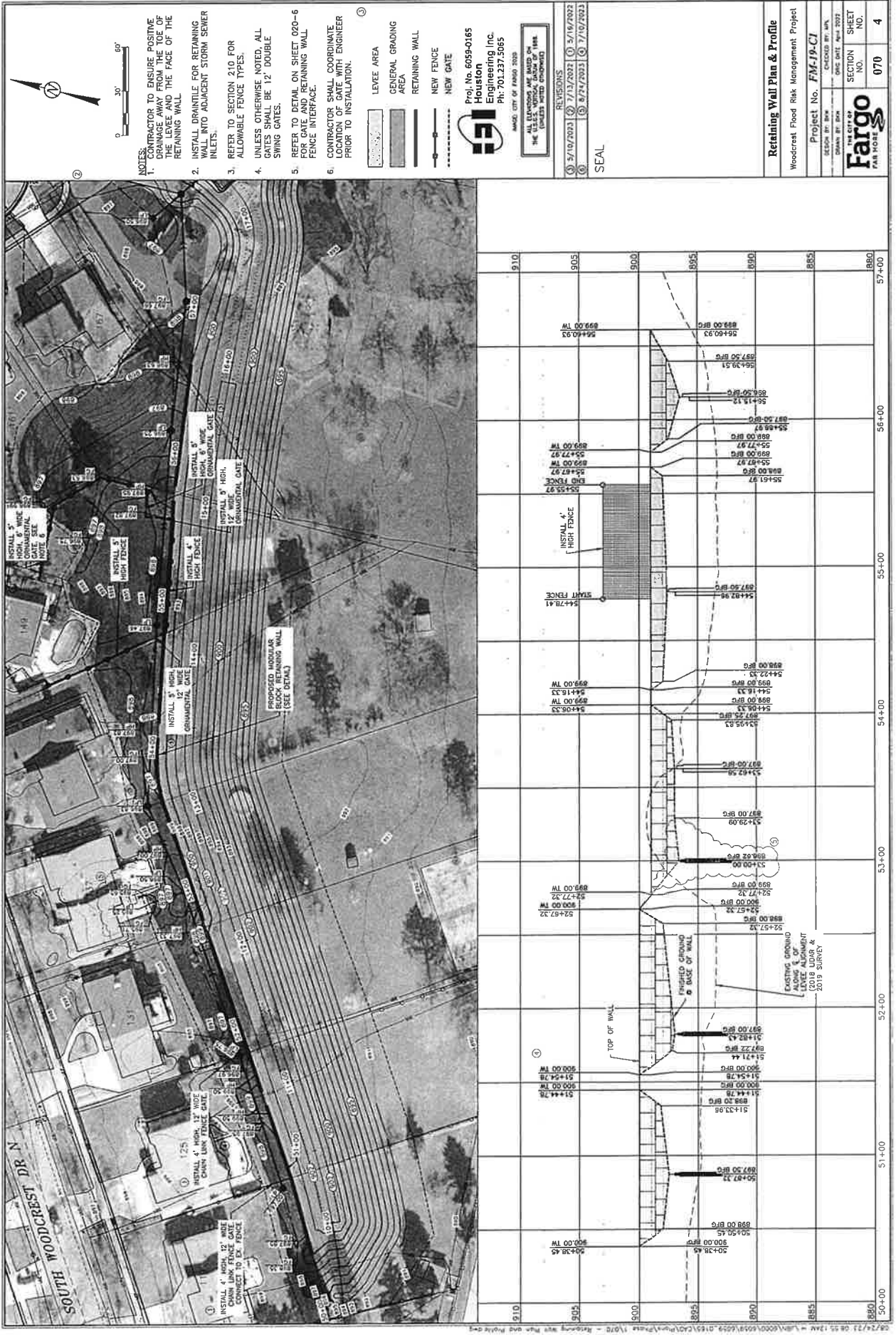
REVISIONS

1	07/13/2022	SEAL
2	07/13/2022	

**Utilities Plan & Profile**  
 Woodcrest Flood Risk Management Project  
 Project No. **FM-19-C1**  
 SECTION NO. DATE: 08/01/2022  
 CHECKED BY: JRM  
 DRAWN BY: JRM  
 SECTION NO. **055**  
 SHEET NO. **3**  




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02/24/23 08:55:13AM \\fargo\0000\0593\0529\0165\1\070 - Retaining Wall Plan and Profile.dwg - PLOT - 11/07/23



**Kerry Meske**

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**From:** Austin Stockert <austin@excavatinginc.com>  
**Sent:** Monday, September 11, 2023 5:13 PM  
**To:** Kerry Meske  
**Subject:** RE: 143 Woodcrest Dr CO

Hello Kerry,

Our price for the dirtwork, installation of the underground and riser on ST-13, and to seed the disturbed area would be \$11,400.00. This excludes the flapgate.

IBI Markup (10%) = \$1,140  
Total Price = \$12,540

Let me know if you have any questions.

Thank you,

Austin Stockert  
*Estimator/Project Manager*  
**Excavating, Inc. – Fargo**  
**651 5<sup>th</sup> Street Court NW**  
**West Fargo, ND 58078**  
[www.excavatinginc.com](http://www.excavatinginc.com)  
[austin@excavatinginc.com](mailto:austin@excavatinginc.com)  
Office: 701-277-1884  
Cell: 701-566-3954  
Fax: 701-277-8638

**From:** Mike Love <mlove@houstoneng.com>  
**Sent:** Monday, September 11, 2023 10:39 AM  
**To:** Kerry Meske <kmeske@industrialbuilders.com>; Robert J Hasey <RHasey@FargoND.gov>  
**Cc:** Jon Hager (jon@prolandscapersnd.com) <jon@prolandscapersnd.com>; Austin Stockert <austin@excavatinginc.com>; Nathan Boerboom <NBoerboom@FargoND.gov>  
**Subject:** RE: 143 Woodcrest Dr CO

Kerry,

Where are we at with the two change orders? Do you have your costs figured out now that we eliminated the flapgate?

Thanks,

Mike

**Mike Love, PE\***  
Senior Civil Engineer | Principal  
Houston Engineering, Inc.  
O 701.237.5065 | D 701.499.2062  
*\*Licensed in MN, ND*



Contractor #35798 Class A  
 2901 40th Ave N  
 Fargo, ND 58102  
 Office 701-277-7001 Fax 701-297-7748  
 Jon Cell 701-261-7725 jon@prolandscapersnd.com

August 25, 2023

**Proposal From Pro Landscapers:**

**Project Location: Fargo, ND Woodcrest Project 143 Woodcrest Dr N**

**Addendums:**

Bid is tied together, No bond included Quote is good for 30 days

Our proposal includes the following:

Item No.	Description	Quantity	Units	Unit Price	Amount
1	Mobilization	1	LS	\$ 500.00	\$ 500.00
2	Remove existing landscaping, rock, plantings in the back yard per Joe, Add shredded topsoil grade,seed,mulch & haul out material	1	LS	\$ 4,760.00	\$ 4,760.00
					\$ -
					\$ -
3	Install clothes drying poles	1	LS	\$ 600.00	\$ 600.00
	<b>TOTAL</b>				<b>\$ 5,860.00</b>

**Notes:**

Not responsible for liquidated damages due to other trades or unforeseen delays not due to Pro Landscapers  
 Traffic control by others. Topsoil placement & grading by others, debris & dirt clumps removal by others.  
 Silt fence stakes are to be returned to Pro Landscapers otherwise \$5.00/stake will be billed to contractor  
 Any questions please call.

IBI Markup (10%) \$586  
 Total Price = \$6,446

REPORT OF ACTION

14

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. FM-19-C0

Type: Contract Amendment #5

Location: Woodcrest

Date of Hearing: 11/6/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/13/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Rob Hasey</u>

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, regarding Contract Amendment #5 submitted by Houston Engineering in the amount of \$99,500.00 for additional work.

Staff is recommending approval of Contract Amendment #5 in the amount of \$99,500.00, bringing the total Contract amount to \$773,500.00.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Contract Amendment #5 to Houston Engineering.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve Amendment #5 in the amount of \$99,500.00, bringing the total contract amount to \$773,500.00 to Houston Engineering.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax (460)

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

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
			<u>✓</u>
<u>✓</u>	<u>✓</u>	<u>□</u>	
<u>✓</u>	<u>✓</u>	<u>□</u>	
<u>✓</u>	<u>✓</u>	<u>□</u>	<u>Ryan Erickson</u>
<u>✓</u>	<u>✓</u>	<u>□</u>	
<u>✓</u>	<u>✓</u>	<u>□</u>	
<u>✓</u>	<u>✓</u>	<u>□</u>	
<u>✓</u>	<u>✓</u>	<u>□</u>	

ATTEST:

TK  
 Tom Knakmuhs, P.E.  
 City Engineer

C: Kristi Olson

## Memorandum

**To:** Members of PWPEC  
**From:** Rob Hasey  
**Date:** November 6, 2023  
**Subject:** Contract Amendment #5  
Woodcrest Area Flood Mitigation – Project #FM-19-C0

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The Woodcrest Area Flood Mitigation Project consists of two phases. Phase 1 was for the construction of an earthen levee from 119 South Woodcrest Drive to 160 North Woodcrest Drive and construction of a new storm sewer lift station at 173 South Woodcrest Drive. Phase 1 was separated into two construction phases starting in 2022 and the project was completed in the fall of 2023. Phase 2 is for rerouting storm sewer along North & South Woodcrest Drive to the new lift station at 173 South Woodcrest Drive along with replacing the water main, reconstructing the roadway from Lilac Lane to Lilac Lane along North & South Woodcrest Drive and removing the old storm sewer lift station located on the VA Hospital property. Phase 2 construction will occur in 2024.

Houston Engineering is requesting a contract amendment for the extra work mentioned below and described in further detail in the memorandum for phase 1 work (earthen levee & lift station):

- Revisions to the rear yard grading at 137 South Woodcrest Drive at the request of the homeowner
- Revisions to landscaping features & final grading at 143, 167 & 149 South Woodcrest Drive associated with the levee & grading between the levee project and private property
- Revisions to the levee terminus at 119 South Woodcrest Drive at the request of the homeowner

The aforementioned tasks where budget amendments are being requested:

- Task 7 (Construction Administration, Observation and Survey (Phase 1)) – Increase of \$60,000

Houston Engineering is requesting a contract amendment for the extra work mentioned below and described in further detail in the memorandum for phase 2 work (wm replacement, storm sewer & street reconstruction):

- An increase to the project limits for street reconstruction & water main replacement to extend from Lilac Lane to Lilac Lane along North & South Woodcrest Drive
- Revisions to the lift station removal plan at the VA property
- Support during construction of phase 2 during the summer of 2024 to address potential issues and answer design related questions that arise during construction (New Task)

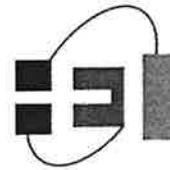
The aforementioned tasks where budget amendments are being requested:

- Task 10 (Design and Plan Preparation (Phase 2)) – Increase of \$34,500
- New Task (Phase 2 Construction Support) – Addition of \$5,000

Full descriptions of the additional work can be seen on the attached amendment submitted by Houston Engineering.

### **Recommended Motion:**

Approval of Contract Amendment #5 for FM-19-C0, the Woodcrest Area Flood Mitigation, in the amount of \$99,500.00 to Houston Engineering.



PROFESSIONAL SERVICES

AMENDMENT NO. 5 - FOR ADDITIONAL ENGINEERING SERVICES

**Project:** City of Fargo Project FM-19-C0  
Woodcrest Area Flood Mitigation  
HE Project No. 6059-0165

**Client:** City of Fargo  
225 4<sup>th</sup> Street N.  
Fargo, ND 58102  
Phone (701) 241-1545  
Attn: Nathan Boerboom, Assistant City Engineer

**Location of Project:** City of Fargo, Cass County, North Dakota

**Description of Work:** This contract amendment is for additional Professional Engineering services for construction administration, observation, testing, and survey for Phase 1 of this project along with additional design and construction services for Phase 2.

**Task 7 – Construction Administration, Observation and Survey (Phase 1)**

This task amendment is being requested to cover additional services performed during the Phase 1 project construction. These additional services are listed below.

- 137 S Woodcrest Dr N Grading Change Order – After fine grading and seeding was completed on the project, the homeowner at 137 S Woodcrest Dr N expressed concerns with the grading adjacent to their walkout basement. After meeting with the homeowner, a change order was developed to modify the grading and storm sewer layout. This resulted in additional staff time for the change order design and an extended construction duration which resulted in additional staff time for construction observation and administration not originally anticipated.
- 143 S Woodcrest Dr Clothesline Relocation – The relocation of the clothesline was planned to be completed by the homeowner as part of the easement acquisition for the levee. It was determined that this could be accomplished during construction as part of a change order to relocate the clothesline. This resulted in an extended construction during and additional

staff time for construction observation and administration not originally anticipated.

- 167 S Woodcrest Dr N Patio Modifications – Several meetings were held with the homeowner and their landscape contractor to review the proposed grading and their patio modifications. This resulted in additional construction administration time not originally anticipated.
- 149 S Woodcrest Dr N Grading and Irrigation – Several meetings were held with the homeowner to review the proposed grading and discuss restoration of their existing irrigation system. This resulted in additional construction administration time not originally anticipated.
- 119 S Woodcrest Dr N Levee Grading – Several meetings were held with the homeowner to review the initial levee grading. Modifications to the levee tie in on their property were completed to alleviate the homeowner's concerns over post project drainage patterns related to their existing shed. This resulted in additional construction administration time not originally anticipated.

We are requesting the following budget amendment to cover the additional staff time associated with the items listed above.

**Task 7 Budget Amendment     \$60,000**

#### **Task 10 – Design and Plan Preparation (Phase 2)**

This task amendment is being requested to cover additional design and administration costs related to the Phase 2 project design. In order to fit with the overall street reconstruction phasing plan for the Woodcrest neighborhood, the City increased the project extents to include additional street and watermain reconstruction on North and South Woodcrest Dr N. We also completed a project addendum to incorporate changes to the design as a result of post advertisement changes to the existing lift station and outfall removal on the VA property. These changes were requested by VA staff. We are requesting the following budget amendment to cover the costs to design these additional improvements and incorporate them into the plans.

**Task 10 Budget Amendment     \$34,500**

**New Task – Phase 2 Construction Support**

This task amendment is to provide support to the City during Phase 2 construction. It is our understanding that the City will handle all construction administration, observation, and staking for the project. We will be available on an on-call basis to assist with design related and change order questions during construction. We are requesting the following budget amendment to cover the estimated costs of these professional services.

**Task 8 Budget Amendment     \$5,000**

**Basis of**

**Proposal:** This amendment covers the additional services as described above.

**Fee:** The total requested budget amendment for the above described amended tasks is **\$99,500**. Additional work required beyond the scope listed above will be billed at our current hourly rates.

**Conditions:** The work outlined in this amendment will be performed in accordance with the Agreement for Professional Services for City Project # FM-19-C0 dated May 6, 2019.

Upon receipt of written acceptance of this amendment, Houston Engineering, Inc. will begin performing the work outlined above.

**HOUSTON ENGINEERING, INC.**



Michael P. Love, PE  
Project Manager

15

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. TR-23-A1 Type: Interim Time Extension (Change Order #1)
Location: Citywide Date of Hearing: 11/6/2023

Routing Date
City Commission 11/13/2023
PWPEC File X
Project File Kevin Morlan

The Committee reviewed the accompanying correspondence from Project Manager, Kevin Morlan, regarding an Interim Time Extension (Change Order #1), which is a 14-day time extension to the Interim Completion Date extending the date to November 14, 2023.

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

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of the Interim Time Extension (Change Order #1) to Fargo Electric.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve the 14-day Interim Time Extension (Change Order #1), bringing the date to November 14, 2023 to Fargo Electric.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Utility Funds

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

COMMITTEE

Table with 4 columns: Present, Yes, No, Unanimous. Rows include 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.

ATTEST:

Handwritten signature of Tom Knakmuhs, P.E.
Tom Knakmuhs, P.E.
City Engineer

C: Kristi Olson



# Memorandum

**To:** Members of PWPEC  
**From:** Kevin Morlan, Project Manager  
**Date:** November 2, 2023  
**Re:** Improvement District No. TR-23-A1 – Change Order #1 (Interim Completion Date)

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**Background:**

Improvement District No. TR-23-A1 is for street light and traffic signal maintenance in various locations throughout the City of Fargo.

Fargo Electric Construction is the Prime Contractor.

**Change Order #1 – This change order includes the following item:**

Fargo Electric Construction is requesting a 14 day extension to complete three interim sites. The reason for the request is because of a delay in materials causing a scheduling conflict. The majority of the work required to finish these sites has already been completed. The request is to move the interim completion date for these three sites to November 14, 2023.

**Recommended Motion:**

Approve Change Order #1 for Improvement District No. TR-23-A1.

Attachment

**CHANGE ORDER REPORT**  
**STREET LIGHT AND TRAFFIC SIGNAL MAINTENANCE**  
**PROJECT NO. TR-23-A1**  
**VARIOUS LOCATIONS**

**Change Order No** 1 **Change Order Date** 10/31/2023  
**Contractor** Fargo Electric Const Inc

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

**EXPLANATION OF CHANGE** Change Order # 1

The contractor is requesting a 14 day extension to complete three interim sites. The majority of the work required to finish these sites has already been completed.

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	Utility Funds - Street Light 528
Net Amount Change Order # 1 (\$)	\$0.00
Previous Change Orders (\$)	\$0.00
Original Contract Amount (\$)	\$874,351.50
Total Contract Amount (\$)	\$874,351.50

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	9/28/2024	Current Final Completion Date	10/28/2024
Additional Days Substantial Completion	0	Additional Days Final Completion	0
New Substantial Completion Date	9/28/2024	New Final Completion Date	10/28/2024
Interim Completion Dates		Current Interim Completion Date #1	10/31/2023
New Interim Completion Date #1	11/14/2023		

APPROVED

For Contractor

Fargo Electric Construction

Title

Project Manager

Jordan Chyle 10/31/2023

Department Head

Mayor

Attest

T. Cole

## Fargo Electric Construction, Inc.

325 39<sup>th</sup> Street NW

Fargo, ND 58102

Telephone: 701-237-9601

Fax: 701-237-9624

Email: JChyle@FargoElectric.us

# Time Extension Request

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**To:** General Traffic Controls

**From:** Jordan Chyle

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**Attn:** Kevin Morlan

**Pages:** 1

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**Fax:**

**Date:** October 31, 2023

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Re: TR-23-A1

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Due to receiving the signal anchor bolts on 10/20/2023 and not yet received the tenon adapter for project TR-23-A1, we will not be able to complete the projects specified sites by the interim completion date. We had other obligations with other City of Fargo jobs that were delayed and also sped up to have completions in the last 2 weeks. BR-23-E1 delayed, BR-23-H1 delayed, and BR-23-J1 required much more time and resources this year than originally planned all at the same moment. Requesting to move the interim completion to the 14<sup>th</sup> of November.

Sincerely,

Jordan Chyle





**Engineering Department**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.241.1545 | Fax: 701.241.8101  
Email: feng@FargoND.gov  
[www.FargoND.gov](http://www.FargoND.gov)

November 8, 2023

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Improvement District No. BR-24-A1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, November 8, 2023, for Paving and Utility Rehab/Reconstruction, Improvement District No. BR-24-A1, located as follows: On 7th Street North from 7th Avenue to 10th Avenue, on 8th Avenue North from 7th Street to Broadway, on 9th Avenue North from 8th Street to Broadway, and on 10th Avenue North from 7th Street to Broadway.

The bids were as follows:

Dakota Underground Co Inc	\$3,413,321.83
Master Construction Co Inc	\$3,604,218.60
KPH, Inc.	\$4,377,707.10
R & R Excavating, Inc.	\$6,982,742.87

Engineers Estimate	\$3,476,572.00
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Private financial security is not needed.

No protests have been received.

This office recommends award of the contract to Dakota Underground Co Inc. in the amount of \$3,413,321.83 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE  
City Engineer



**Engineer's Statement Of Cost**  
**Improvement District # BR-24-A1**  
**Paving And Utility Rehab/Reconstruction**

On 7th Street North from 7th Avenue to 10th Avenue, on 8th Avenue North from 7th Street to Broadway, on 9th Avenue North from 8th Street to Broadway, and on 10th Avenue North from 7th Street to Broadway.

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:

Paving and Utility Rehab/Reconstruction Improvement District # BR-24-A1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
<b>Sanitary Sewer</b>					
1	Remove Pipe All Sizes All Types	LF	1,065.00	15.00	15,975.00
2	Remove Manhole	EA	7.00	1,500.00	10,500.00
3	F&I Pipe w/GB SDR 26 - 6" Dia PVC	LF	1,200.00	100.00	120,000.00
4	F&I Pipe w/GB SDR 26 - 8" Dia PVC	LF	670.00	195.00	130,650.00
5	F&I Pipe w/GB SDR 35 - 10" Dia PVC	LF	260.00	200.00	52,000.00
6	F&I Pipe w/GB SDR 35 - 12" Dia PVC	LF	10.00	285.00	2,850.00
7	F&I Pipe w/GB SDR 26 - 30" Dia PVC	LF	335.00	525.00	175,875.00
8	F&I Manhole 4' Dia Reinf Conc	EA	6.00	10,000.00	60,000.00
9	Connect Pipe to Exist Pipe	EA	14.00	3,650.00	51,100.00
10	Connect Pipe to Exist Structure	EA	1.00	3,500.00	3,500.00
11	Connect Sewer Service	EA	52.00	3,500.00	182,000.00
12	Bore Pipe SDR 26 - 6" Dia PVC	LF	40.00	100.00	4,000.00
13	Clean Pipe All Sizes All Types	LF	1,357.00	5.00	6,785.00
14	F&I 1-1/4" Trench Found Rock 4" thru 12" Dia	LF	100.00	0.01	1.00
<b>Sanitary Sewer Total</b>					<b>815,236.00</b>
<b>Water Main</b>					
15	Remove Pipe All Sizes All Types	LF	1,130.00	15.00	16,950.00
16	F&I Hydrant	EA	6.00	7,000.00	42,000.00
17	F&I Hydrant Ext. 6" High	EA	1.00	1,400.00	1,400.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
18	F&I Fittings C153 Ductile Iron	LB	2,716.00	10.00	27,160.00
19	Connect Pipe to Exist Pipe	EA	7.00	2,000.00	14,000.00
20	F&I Pipe w/GB C900 DR 18 - 4" Dia PVC	LF	185.00	110.00	20,350.00
21	F&I Pipe w/GB C900 DR 18 - 6" Dia PVC	LF	115.00	115.00	13,225.00
22	F&I Pipe w/GB C900 DR 18 - 8" Dia PVC	LF	1,155.00	125.00	144,375.00
23	F&I Pipe w/GB C900 DR 18 - 10" Dia PVC	LF	1,710.00	135.00	230,850.00
24	F&I Gate Valve 4" Dia	EA	5.00	2,500.00	12,500.00
25	F&I Gate Valve 6" Dia	EA	7.00	2,800.00	19,600.00
26	F&I Gate Valve 8" Dia	EA	7.00	3,500.00	24,500.00
27	F&I Gate Valve 10" Dia	EA	6.00	4,700.00	28,200.00
28	Connect Water Service	EA	43.00	950.00	40,850.00
29	F&I Pipe w/GB 1" Dia Water Service	LF	630.00	80.00	50,400.00
30	F&I Pipe w/GB 1.5" Dia Water Service	LF	90.00	95.00	8,550.00
31	F&I Pipe w/GB 2" Dia Water Service	LF	170.00	100.00	17,000.00
32	Rem & Repl CS & Box 1" Dia	EA	27.00	800.00	21,600.00
33	Rem & Repl CS & Box 1.5" Dia	EA	2.00	1,050.00	2,100.00
34	Rem & Repl CS & Box 2" Dia	EA	8.00	1,400.00	11,200.00
35	Bore Pipe 1" Dia Water Service	LF	60.00	80.00	4,800.00
36	Furnish Temp Water Svc	EA	41.00	500.00	20,500.00
37	F&I Casting Water Service	EA	6.00	450.00	2,700.00
38	F&I Insulation 2" Thick	SY	14.00	50.00	700.00
39	F&I 1-1/4" Trench Found Rock 4" thru 12" Dia	LF	200.00	0.01	2.00
Water Main Total					<b>775,512.00</b>
<b>Storm Sewer</b>					
40	Remove Pipe All Sizes All Types	LF	825.00	30.00	24,750.00
41	Remove Manhole	EA	10.00	1,500.00	15,000.00
42	Remove Inlet	EA	18.00	1,000.00	18,000.00
43	Connect Pipe to Exist Pipe	EA	12.00	1,500.00	18,000.00
44	Connect Pipe to Exist Structure	EA	1.00	2,000.00	2,000.00
45	F&I Inlet - Single Box (SBI) Reinf Conc	EA	13.00	4,300.00	55,900.00
46	F&I Manhole 4' Dia Reinf Conc	EA	3.00	5,700.00	17,100.00
47	F&I Inlet - Manhole (MHI) 4' Dia Reinf Conc	EA	6.00	5,600.00	33,600.00
48	F&I Inlet - Manhole (MHI) 5' Dia Reinf Conc	EA	1.00	7,700.00	7,700.00
49	F&I Pipe w/GB 12" Dia Reinf Conc	LF	420.00	120.00	50,400.00
50	F&I Pipe w/GB 15" Dia Reinf Conc	LF	164.00	140.00	22,960.00



Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
51	F&I Pipe w/GB 18" Dia Reinf Conc	LF	200.00	150.00	30,000.00
52	F&I Pipe w/GB 24" Dia Reinf Conc	LF	55.00	210.00	11,550.00
53	F&I Controlled Density Fill	LS	1.00	4,000.00	4,000.00
54	Repair Manhole Floor & Invert	EA	1.00	4,000.00	4,000.00
55	Repair Pipe 18" Dia	EA	1.00	2,500.00	2,500.00
<b>Storm Sewer Total</b>					<b>317,460.00</b>
<b>Paving</b>					
56	Remove Pavement All Thicknesses All Types	SY	8,901.00	10.00	89,010.00
57	Remove Curb & Gutter	LF	5,400.00	8.00	43,200.00
58	Remove Sidewalk All Thicknesses All Types	SY	2,950.00	10.00	29,500.00
59	Remove Driveway All Thicknesses All Types	SY	1,350.00	10.00	13,500.00
60	Rem & Repl Casting - Std Manhole	EA	1.00	1,500.00	1,500.00
61	Rem & Repl Casting - Self Leveling	EA	1.00	2,600.00	2,600.00
62	Subgrade Preparation	SY	11,100.00	3.00	33,300.00
63	F&I Woven Geotextile	SY	11,100.00	2.00	22,200.00
64	F&I Class 5 Agg - 8" Thick	SY	11,100.00	14.00	155,400.00
65	F&I Edge Drain 4" Dia PVC	LF	5,400.00	12.00	64,800.00
66	F&I Curb & Gutter Standard (Type II)	LF	5,400.00	27.00	145,800.00
67	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	4,300.00	100.00	430,000.00
68	F&I Sidewalk 4" Thick Reinf Conc	SY	2,400.00	58.00	139,200.00
69	F&I Sidewalk 6" Thick Reinf Conc	SY	550.00	6.60	3,630.00
70	F&I Driveway 6" Thick Reinf Conc	SY	1,200.00	70.00	84,000.00
71	F&I Driveway 7" Thick Reinf Conc	SY	200.00	75.00	15,000.00
72	F&I Det Warn Panels Cast Iron	SF	256.00	60.00	15,360.00
73	F&I Flat MH Cover 8" Thick Reinf Conc	EA	1.00	1,500.00	1,500.00
74	Casting to Grade - Blvd	EA	2.00	500.00	1,000.00
75	Casting to Grade - no Conc	EA	30.00	600.00	18,000.00
76	GV Box to Grade - Blvd	EA	6.00	300.00	1,800.00
77	GV Box to Grade - no Conc	EA	19.00	600.00	11,400.00
78	Boulevard Grading	SY	8,350.00	3.00	25,050.00
79	Seeding Type C	SY	8,350.00	2.20	18,370.00
80	Mulching Type 1 Hydro	SY	8,350.00	0.85	7,097.50
81	Inlet Protection - New Inlet	EA	20.00	250.00	5,000.00
82	Inlet Protection - Existing Inlet	EA	30.00	250.00	7,500.00
83	Stormwater Management	LS	1.00	2,500.00	2,500.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
84	Temp Construction Entrance	EA	3.00	0.01	0.03
85	Traffic Control - Type 1	LS	1.00	15,000.00	15,000.00
86	Construction Signing	SF	36.00	15.75	567.00
87	F&I Bare Root Decid Tree 1.5" Dia	EA	5.00	550.00	2,750.00
88	Remove Tree	EA	3.00	800.00	2,400.00
89	Irrigation Repair	EA	15.00	930.00	13,950.00
90	F&I Pavement Mix Wear Course Asph	Ton	80.00	175.00	14,000.00
Paving Total					<b>1,435,884.53</b>
<b>Signing</b>					
91	F&I High Intensity Prismatic	SF	92.80	21.00	1,948.80
92	F&I Diamond Grade Cubed	SF	66.50	25.00	1,662.50
93	F&I Sign Assembly	EA	10.00	80.00	800.00
94	F&I Sign Assembly & Anchor	EA	30.00	100.00	3,000.00
Signing Total					<b>7,411.30</b>
<b>Traffic Signals</b>					
95	F&I Detection Preformed Loop	EA	3.00	4,200.00	12,600.00
96	F&I Traffic Signal - Street Light Combo Feed Point	EA	1.00	27,300.00	27,300.00
97	F&I Pull Box	EA	2.00	5,000.00	10,000.00
98	F&I Signal Cable Loop Lead-in	LF	32.00	31.50	1,008.00
99	F&I Foundation Type V	EA	1.00	3,250.00	3,250.00
100	Relocate Signal Standard Type V	EA	1.00	3,780.00	3,780.00
101	F&I Conduit 2" Dia	LF	20.00	31.50	630.00
102	Remove Foundation Type V	EA	1.00	1,050.00	1,050.00
103	F&I Signal Cable AWG 14/20	LF	100.00	22.00	2,200.00
Traffic Signals Total					<b>61,818.00</b>
<b>Total Construction in \$</b>					<b>3,413,321.83</b>

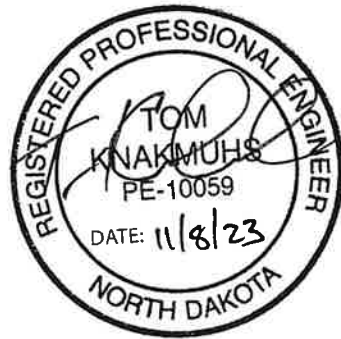
Engineering	10.00%	341,332.18
Admin	4.00%	136,532.87
Legal	3.00%	102,399.65
Interest	4.00%	136,532.87
Contingency	5.00%	170,666.09
<b>Total Estimated Costs</b>		<b>4,300,785.49</b>
Utility Funds - Wastewater - 521		1,057,374.00
Utility Funds - Water - 501		1,107,362.00
Utility Funds - Stormwater - 524		199,999.80
Utility Funds - Street Lights - 528		77,890.68
Sales Tax Funds - Infrastructure - 420		255,761.50
Special Assessments		1,602,397.51
<b>Unfunded Costs</b>		<b>0.00</b>

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

Date: 11/08/2023



Thomas Knakmuhs  
City Engineer



PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No.: BR-24-G1 Type: Agreement & CIP Revision

Location: University Dr, 13 1/2 St, 16 Ave S & 17 Ave S Date of Hearing: 11/6/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/13/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Kevin Gorder</u>

The Committee reviewed a communication from Division Engineer, Kevin Gorder, regarding a Road Reconstruction Agreement and to add the project to the 2024 CIP.

BLOC Partners is currently redeveloping a full City block between University Drive, 13 1/2 Street South, 16<sup>th</sup> Avenue South, and 17<sup>th</sup> Avenue South. Engineering has been working with the Developer in an effort to develop a cost share that would reconstruct the entire block on 13 1/2 Street South.

On a motion by Nicole Crutchfield, seconded by Steve Sprague, the Committee voted to recommend approval of the Road Reconstruction Agreement with BLOC Partners and the addition of the project to the 2024 CIP.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Road Reconstruction Agreement with BLOC Partners and the addition of the project to the 2024 CIP.

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

COMMITTEE

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

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<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:

C: Kristi Olson

  
 \_\_\_\_\_  
 Tom Knakmuhs, P.E.  
 City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Kevin Gorder, Division Engineer  
**Date:** November 2, 2023  
**Re:** BLOC Road Reconstruction Agreement

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## **Background:**

BLOC Partners is currently redeveloping a full City block between University Drive, 13 ½ Street South, 16<sup>th</sup> Avenue South, and 17<sup>th</sup> Avenue South. The entire block will be cleared and a new multi-story building will be built on this block. The water and sewer services for the existing homes that were removed will need to be terminated at the main. This will require a minimum of 8 street patches but could require 16 depending on their location in the street. In addition, multiple driveways would need to be removed and the curb and gutter replaced at these locations. New driveways would then need to be reinstalled to serve the new development. All of this work would occur on 13 ½ Street South.

Engineering has been working with the Developer in an effort to develop a cost share that would reconstruct the entire block on 13 ½ Street South in lieu of patches. This roadway is a future candidate for reconstruction and would meet Engineering criteria for replacement. Engineering worked with the Developer and proposed a plan that has the Developer paying for half of the road reconstruction and the City would make arrangements to pay for the other half. The half that the Developer would pay for exceeds the cap provided in the Infrastructure Funding Policy, but when the cap is combined with the cost of temporary patches, the estimated total is similar. Engineering also offered to let the Developer assess this total amount to their property.

The City half of the project would be funded with more typical funding sources including Water Utility Funds, Water Reclamation Funds, Special Assessments, and Infrastructure Sales Tax Fund.

## **Recommendation Motion:**

Recommend approval of the Road Reconstruction Agreement and add this project to the 2024 Engineering CIP.

KOG/klb  
Attachment

**ROAD RECONSTRUCTION AGREEMENT**

**THIS ROAD RECONSTRUCTION AGREEMENT** (“Agreement”), is made and entered by and between the City of Fargo, a municipal corporation (hereinafter referred to as “City”), and BLOC Partners, LLC, a North Dakota limited liability company (hereinafter referred to as “BLOC” or “Developer”),

**WHEREAS**, BLOC is engaged in the construction of a redevelopment project on an entire city block located between University Drive and 13 ½ Street South, and between 16<sup>th</sup> Avenue South and 17<sup>th</sup> Avenue South, in Fargo, ND (“Development”);

**WHEREAS**, Developer has removed 8 single family homes on the east side of 13 ½ Street South in furtherance of the Development. Because of removal of the homes, the existing sewer and water services for these properties have been discontinued and these utilities need to be permanently and properly terminated. To terminate these utilities permanently and properly at the main, there will be significant impacts to 13 ½ Street South and it will require numerous pavement cuts in this street with a minimum of 8 and potentially up to 16 road patches. Furthermore, the driveways for the 8 homes will need to be removed, curb and gutter will need to be replaced, and 4 new driveways

are to be constructed to service the new multi-use building planned through the Development;

**WHEREAS**, the City recognizes that the current condition of 13 ½ Street South makes it a candidate for future street reconstruction regardless of the Development,

**WHEREAS**, completing reconstruction of 13 ½ Street South during construction of the Development is beneficial to City and Developer;

**WHEREAS**, Developer acknowledges it will be subject to future assessments for the reconstruction of 13 ½ Street South under the City’s Infrastructure Funding Policy, and desires to participate in the cost allocation of reconstructing 13 ½ Street South during construction of the Development as it will facilitate and benefit the Development;

**WHEREAS**, based on the mutual benefits to both parties, the City is willing to reconstruct 13 ½ Street South adjacent to the Development, subject to certain limitations and conditions as provided herein.

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

1. Developer holds all right, title, and interest in the following real property, specifically:

Lot 1, Block 1 of Duane’s Pizza Addition situated in Fargo, Cass County, ND (“Development Property”). The Development Property is situated between University Drive and 13 ½ Street South and between 16th Avenue South and 17th Avenue South.

2. Developer has started demolition and temporarily terminated water and sewer services for the 8 single family homes located on the east side of 13 ½ Street South between 16<sup>th</sup> Avenue South and 17<sup>th</sup> Avenue South.

3. City will plan, develop, and complete a road rehabilitation and reconstruction project

for 13 ½ Street South adjacent to the Development Property. The dates for beginning and completion of this project will be agreed upon between the parties hereto at a later date, but the parties mutually agree the project will not start earlier than May 2024. Developer and City agree to work together on construction phasing that will allow the project sufficient time to entice bidders and allow for the lowest possible bid. The City has the sole right and discretion to accept and reject bids for the project, and to forego implementation of the road rehabilitation and reconstruction project due to cost or if the project otherwise becomes unfeasible. In the event the project is not implemented, Developer hereby agrees that it shall complete termination of the water and sewer services for the 8 single family homes located on the east side of 13 ½ Street South between 16<sup>th</sup> Avenue South and 17<sup>th</sup> Avenue South, at Developer's sole cost and per the City's policy for termination of such services.

4. The current cost estimate for the road rehabilitation and reconstruction project is \$575,046. The parties hereby mutually acknowledge that this estimate is subject to change prior to bid award and completion of the project. Developer has requested and the City concurs that the Developer's share be assessed to the Development Property. The Developer and City agree to pay the costs of this road rehabilitation and reconstruction project as follows:

a. One-half of the total final project costs will be specially assessed to the Development Property in accordance with the City's Infrastructure Funding Policy in effect at the time the project begins. Developer hereby expressly waives its right to protest any resolution of necessity for the project costs as may be required by N.D.C.C. Ch. 40-22, and specifically consents to the road rehabilitation and reconstruction and related improvements and to the assessment of one-half of the total final project costs to the Development Property.



b. The other one-half of the total final project costs will be apportioned among the City and remaining residential properties at the sole discretion of the City of Fargo. This could include special assessments up to the caps in the City's Infrastructure Funding Policy in effect at the time the project begins, which will include special assessments to the properties located on the west side of 13 ½ Street South subject to lawful protest in accordance with North Dakota law.

5. The Developer and its contractors performing services in furtherance of the Development shall, during any use of City's public right-of-way, use due care to protect City streets, utilities, and all other public property and private utilities occupying the public right-of-way.

6. This Agreement constitutes the entire agreement by and between the parties with respect to the subject matter hereof, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent agreements, promises, covenants, or representations on the part of either party hereto.

7. No amendment, modification, or waiver of any condition, provision, or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default.

8. If any provision, section, or clause herein is held by a court with jurisdiction to be illegal or invalid for any reason, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

9. The parties hereby stipulate and agree that this Agreement is controlled by the laws of North Dakota and that the State District Court of Cass County, North Dakota, shall be the sole

and exclusive venue for any lawsuit pertaining to this Agreement.

10. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

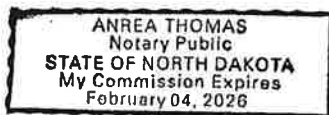
Dated this 25 day of Oct, 2023.

**BLOC Partners, LLC**

By: [Signature]  
Its: managing member

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

On this 25<sup>th</sup> day of October, 2023, before me, a notary public in and for said county and state, personally appeared Richard A. Berg to me known to be the Managing Member of **BLOC Partners, LLC**, a North Dakota limited liability company and the entity described herein and that executed the within and foregoing instrument, and acknowledged to me that said entity executed the same.



(SEAL)

[Signature]  
Notary Public  
Cass County, North Dakota

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023

**CITY OF FARGO, NORTH DAKOTA  
a municipal corporation**

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

**ATTEST:**

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

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

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a notary public in and for said county and state, personally appeared **TIMOTHY J. MAHONEY** and **STEVEN SPRAGUE**, to me known to be the Mayor and City Auditor, respectively, of the CITY OF FARGO, NORTH DAKOTA, a municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

\_\_\_\_\_  
Notary Public  
Cass County, North Dakota

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PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-21-C1 Type: Negative Final Balancing Change Order #7

Location: 21st Ave S, 15th St to Gold Dr Date of Hearing: 11/6/2023

<u>Routing</u>	<u>Date</u>
City Commission	11/13/2023
PWPEC File	X
Project File	Aaron Edgar

The Committee reviewed the accompanying correspondence from Project Manager, Aaron Edgar, regarding Negative Final Balancing Change Order #7 in the amount of \$-63,970.71, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Negative Final Balancing Change Order #7 in the amount of \$-63,970.71, bringing the total contract amount to \$3,131,467.87.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Negative Final Balancing Change Order #7 to Border States Paving.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #7 in the amount of \$-63,970.71, bringing the total contract amount to \$3,131,467.87 to Border States Paving.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Utility Funds, Sales Tax, State & Special Assessments

	<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"/>	Ryan Erickson
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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:** Aaron Edgar, Project Manager  
**Date:** October 24, 2023  
**Re:** Improvement District No. BR-21-C1 – Negative Final Balancing Change Order #7

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**Background:**

Improvement District BR-21-C1 on 21<sup>st</sup> Avenue South from 15<sup>th</sup> Street to Gold Drive.

Border States is the prime contractor on this project.

Attached is the Negative Final Balancing Change Order in the amount of \$-63,970.71. The Contractor met the requirements of the contract and it has been accepted by the City. This FBCO reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

Original Contract:	\$ 3,097,221.28
Change Order #1	\$ 62,070.00
Change Order #2	\$ 0.00
Change Order #3	\$ 0.00
Change Order #4	\$ 24,726.15
Change Order #5	\$ 5,627.60
Change Order #6	\$ 5,793.55
FBCO #7	\$ <u>-63,970.71</u>
Total Contract:	\$ 3,131,467.86

**Recommended Motion:**

Approve Negative Final Balancing Change Order #7 in the amount of \$-63,970.71 to Border States for Improvement District BR-21-C1.

Attachment



**CHANGE ORDER REPORT**

Final Balancing  
Change Order

**WATER MAIN REPLACEMENT, STORM SEWER, STREET RECONSTRUCTION & INCIDENTALS**

**IMPROVEMENT DISTRICT NO. BR-21-C1**

**ON 21ST AVENUE SOUTH FROM GOLD DRIVE TO THE EAST SIDE OF 15TH STREET.**

Change Order No 7      Change Order Date 10/12/2023  
 Contractor Border States Paving Inc

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

**EXPLANATION OF CHANGE**      Change Order # 7

Final Balancing Change Order.

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 (\$)
Street Lights		Relocate Street Light	EA	1			-1	0	\$2,650.00	-\$2,650.00
								<b>Street Lights Sub Total</b>		<b>-\$2,650.00</b>
Water Main Replacement		F&I Hydrant Ext. 6" High	EA	1			-1	0	\$907.00	-\$907.00
		F&I Hydrant Ext. 12" High	EA	1			-1	0	\$1,010.00	-\$1,010.00
		F&I Insulation 2" Thick	SY	14			-14	0	\$50.40	-\$705.60
								<b>Water Main Replacement Sub Total</b>		<b>-\$2,622.60</b>
Paving		F&I Flat MH Cover 8" Thick Reinf Conc	EA	1			-1	0	\$1,010.00	-\$1,010.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
		Weed Control Type B	SY	7500		7500	-7500	0	\$0.08	-\$600.00
		F&I Base 6' Deep Reinf Conc	EA	1		1	-1	0	\$849.00	-\$849.00
Street Lights								<b>Paving Sub Total</b>		<b>-\$1,610.00</b>
Sanitary Sewer	1	Remove Pipe All Sizes All Types	LF	305	0	367.5	26.2	393.7	\$10.10	\$264.62
	2	F&I Pipe w/GB SDR 35 - 12" Dia PVC	LF	305	0	305	16.2	321.2	\$90.70	\$1,469.34
	5	F&I Pipe w/GB SDR 26 - 6" Dia PVC	LF	105	0	105	-3	102	\$90.70	-\$272.10
	7	Clean Pipe All Sizes All Types	LF	1419	0	1419	-0.7	1418.3	\$3.00	-\$2.10
								<b>Sanitary Sewer Sub Total</b>		<b>\$1,459.76</b>
Water Main Replacement	8	Remove Pipe Asbestos Cement	LF	1890	0	1890	-290	1600	\$15.10	-\$4,379.00
	11	F&I Fittings Ductile Iron	LB	4144	0	2799	43	2842	\$5.55	\$238.65

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 (\$)
	12	F&I Pipe w/GB C900 DR 18 - 6" Dia PVC	LF	280	0	280	-14.6	265.4	\$75.60	-\$1,103.76
	13	F&I Pipe w/GB C900 DR 18 - 8" Dia PVC	LF	2600	0	2600	227.7	2827.7	\$79.60	\$18,124.92
	14	F&I Pipe w/GB C900 DR 18 - 10" Dia PVC	LF	260	0	260	4.7	264.7	\$91.70	\$430.99
	15	F&I Pipe w/GB C900 DR 18 - 16" Dia PVC	LF	82	0	82	-9.1	72.9	\$126.00	-\$1,146.60
	16	F&I Gate Valve 6" Dia	EA	8	0	8	1	9	\$1,340.00	\$1,340.00
	17	F&I Gate Valve 8" Dia	EA	7	0	7	1	8	\$1,740.00	\$1,740.00
	21	F&I Pipe w/GB 1.5" Dia Water Service	LF	31	0	31	1.5	32.5	\$65.50	\$98.25
	22	F&I Pipe w/GB 2" Dia Water Service	LF	195	0	195	-26.8	168.2	\$68.60	-\$1,838.48



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 (\$)
	26	F&I 1-1/4" Trench Found Rock 4" thru 12" Dia	LF	200	0	200	-100	100	\$10.10	-\$1,010.00
	<b>Water Main Replacement Sub Total \$12,494.97</b>									
Raw Water Transmission Main	29	F&I Pipe w/GB C900 DR 18 - 30" Dia PVC	LF	6	0	6	13	19	\$302.00	\$3,926.00
	30	F&I Pipe w/GB C900 DR 25 - 36" Dia PVC	LF	2985	0	2985	5.5	2990.5	\$222.00	\$1,221.00
	31	F&I Fittings Ductile Iron	LB	9217	0	9260	-1345	7915	\$6.45	-\$8,675.25
	<b>Raw Water Transmission Main Sub Total -\$3,528.25</b>									
Storm Sewer	33	Remove Pipe All Sizes All Types	LF	385	0	385	1.9	386.9	\$12.10	\$22.99
	34	Remove Manhole	EA	3	0	3	1	4	\$706.00	\$706.00
	35	Remove Inlet	EA	7	0	7	-1	6	\$151.00	-\$151.00
	42	F&I Manhole 4' Dia Reinf Conc	EA	3	0	3	-1	2	\$2,960.00	-\$2,960.00
	45	F&I Pipe w/GB 15" Dia Reinf Conc	LF	68	0	68	-21.4	46.6	\$63.50	-\$1,358.90

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 (\$)
	46	F&I Pipe w/GB 18" Dia Reinf Conc	LF	890	0	890	-54.1	835.9	\$66.50	-\$3,597.65
	47	F&I Pipe w/GB 21" Dia Reinf Conc	LF	350	0	350	-3	347	\$69.60	-\$208.80
	48	F&I Pipe w/GB 24" Dia Reinf Conc	LF	360	0	360	3.2	363.2	\$73.60	\$235.52
	49	F&I Pipe w/GB 30" Dia Reinf Conc	LF	370	0	370	-6	364	\$93.80	-\$562.80
	50	F&I 1-1/4" Trench Found Rock 14" thru 24" Dia	LF	100	0	100	-50	50	\$10.10	-\$505.00
								<b>Storm Sewer Sub Total</b>		<b>-\$8,379.64</b>
Paving	52	Remove Pavement All Thicknesses All Types	SY	10600	0	10600	316.89	10916.89	\$16.10	\$5,101.93
	53	Remove Curb & Gutter	LF	3040	0	3040	381.5	3421.5	\$4.30	\$1,640.45
	54	Remove Driveway All Thicknesses All Types	SY	597	0	597	-5	592	\$10.20	-\$51.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	55	Remove Sidewalk All Thicknesses All Types	SY	790	0	790	21.21	811.21	\$8.00	\$169.68
	57	F&I Bare Root Decid Tree 2" Dia	EA	33	0	33	-2	31	\$594.00	-\$1,188.00
	59	Subgrade Preparation	SY	12000	0	12000	-346.3	11653.7	\$1.85	-\$640.66
	60	F&I Woven Geotextile	SY	12000	0	12000	-346.3	11653.7	\$1.50	-\$519.45
	61	F&I Class 5 Agg - 12" Thick	SY	12000	0	12000	-346.3	11653.7	\$15.00	-\$5,194.50
	62	F&I Edge Drain 4" Dia PVC	LF	6000	0	6000	-1818	4182	\$8.50	-\$15,453.00
	63	F&I Curb & Gutter Mountable (Type I)	LF	6000	0	6000	9	6009	\$21.20	\$190.80
	64	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	5300	0	5300	-308.91	4991.09	\$72.00	-\$22,241.52
	65	F&I Sidewalk 4" Thick Reinf Conc	SY	1300	0	1300	-11.32	1288.68	\$45.90	-\$519.59

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 (\$)
	66	F&I Sidewalk 5" Thick Reinf Conc	SY	1900	0	1900	-19.21	1880.79	\$48.00	-\$922.08
	67	F&I Sidewalk 6" Thick Reinf Conc	SY	190	0	190	-153.78	36.22	\$52.00	-\$7,996.56
	68	F&I Impressioned 5" Thick Reinf Conc	SY	650	0	650	-156.97	493.03	\$86.20	-\$13,530.81
	69	F&I Det Warn Panels Cast Iron	SF	104	0	104	-8	96	\$49.40	-\$395.20
	70	F&I Driveway 7" Thick Reinf Conc	SY	920	0	920	-96.9	823.1	\$58.40	-\$5,658.96
	73	Casting to Grade - no Conc	EA	10	0	10	4	14	\$619.00	\$2,476.00
	74	Casting to Grade - w/Conc	EA	15	0	15	1	16	\$754.00	\$754.00
	75	GV Box to Grade - Blvd	EA	11	0	11	3	14	\$123.00	\$369.00
	77	Rem & Repl Casting - Std Manhole	EA	2	0	2	-1	1	\$706.00	-\$706.00
	78	Rem & Repl Casting - Self Leveling	EA	6	0	6	1	7	\$1,490.00	\$1,490.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	79	Boulevard Grading	SY	7499.999999999999	0	7499.999999999999	1105.3	8605.3	\$6.55	\$7,239.71
	80	Seeding Type C	SY	7500	0	7500	105.3	7605.3	\$0.74	\$77.92
	81	Mulching Type 1 Hydro	SY	7500	0	7500	105.3	7605.3	\$0.35	\$36.86
	83	Silt Fence - Standard	LF	2300	0	2300	-237	2063	\$2.35	-\$556.95
	86	Temp Construction Entrance	EA	4	0	4	-2	2	\$1,150.00	-\$2,300.00
	87	F&I Traffic Surface Gravel	Ton	175	0	175	-35	140	\$34.60	-\$1,211.00
	89	Construction Signing	SF	18	0	18	38	56	\$11.20	\$425.60
								<b>Paving Sub Total</b>		<b>-\$59,113.33</b>
Signing	90	F&I Diamond Grade Cubed	SF	37	0	37	7.9	44.9	\$21.20	\$167.48
								<b>Signing Sub Total</b>		<b>\$167.48</b>
Street Lights	98	F&I Base 5' Deep Reinf Conc	EA	20	0	20	1	21	\$637.00	\$637.00
	100	F&I Innerduct 1.5" Dia	LF	4358	0	4358	-7	4351	\$4.25	-\$29.75
	101	F&I Conductor #6 USE Cu	LF	12798	0	12798	39	12837	\$1.35	\$52.65

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
<b>Street Lights Sub Total</b>										
										<b>\$659.90</b>

Summary

Source Of Funding	Waste Water Utility, Water utility, Sales Tax, State Funds, Special Assessments
Net Amount Change Order # 7 (\$)	-\$63,970.71
Previous Change Orders (\$)	\$98,217.30
Original Contract Amount (\$)	\$3,097,221.28
Total Contract Amount (\$)	\$3,131,467.87

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

APPROVED  
 For Contractor  
 Title

*Joel Paur*  
 Border States Paving Inc  
 Area Manager

APPROVED DATE  
 Department Head  
 Mayor  
 Attest

*T. Cole*

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REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-22-A1 Type: Negative Final Balancing Change Order #5  
 Location: 45<sup>th</sup> St S, 43<sup>rd</sup> St S, 54<sup>th</sup> Ave S, Date of Hearing: 11/6/2023  
 56<sup>th</sup> Ave S & 64<sup>th</sup> Ave S

<u>Routing</u>	<u>Date</u>
City Commission	11/13/2023
PWPEC File	X
Project File	Jason Leonard

The Committee reviewed the accompanying correspondence from Project Manager, Jason Leonard, regarding Negative Final Balancing Change Order #5 in the amount of \$-141,877.35, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Negative Final Balancing Change Order #5 in the amount of \$-141,877.35, bringing the total contract amount to \$12,285,995.45.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Negative Final Balancing Change Order #5 to Dakota Underground.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #5 in the amount of \$-141,877.35, bringing the total contract amount to \$12,285,995.45 to Dakota Underground.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Water Utility, Sanitary Utility, Cass Rural Water, 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

	<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"/>	Ryan Erickson
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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, Project Manager  
**Date:** November 1, 2023  
**Re:** Improvement District No. BN-22-A1 – Negative Final Balancing Change Order # 5

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## **Background:**

Improvement District No. BN-22-A1 will install underground utilities, asphalt & concrete paving, and incidentals on 43<sup>rd</sup> Street South (900' section just south of 64<sup>th</sup> Avenue South), 45<sup>th</sup> Street South (between 52<sup>nd</sup> Avenue South and 64<sup>th</sup> Avenue South), 54<sup>th</sup> Avenue South (between 44<sup>th</sup> Street South and 45<sup>th</sup> Street South), 56<sup>th</sup> Avenue South (between 44<sup>th</sup> Street South and 45<sup>th</sup> Street South), 64<sup>th</sup> Avenue South (between 38<sup>th</sup> Street South and 45<sup>th</sup> Street South) changing the sections of roadways from minimum maintenance section line roadway or green field development areas to an urban 3-lane concrete roadway section, 2-lane rural asphalt roadway section and urban asphalt section. The project will be funded with Special Assessments (City of Fargo & Cass Rural Water User District), Street Sales Tax, Waste Water Utility Fund and Water Utility Fund.

Attached is a Negative Final Balancing Change Order for Improvement District No. BN-22-A1 in the amount of -\$141,877.35 bringing the total contract amount to \$12,285,995.45. This change order 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 \$11,675,967.59 and this Negative FBCO will bring the project final amount to \$12,285,995.45 (5.22% Increase).

## **Recommended Motion:**

Approve Negative Final Balancing Change Order # 5 in the amount of -\$141,877.35.

JTL/klb  
Attachment



**CHANGE ORDER REPORT**

**NEW PAVING AND UTILITY CONSTRUCTION  
IMPROVEMENT DISTRICT NO. BN-22-A1**

**45TH ST S, 43RD ST S, 54TH AVE S, 56TH AVE S, 64TH AVE S**

Final Balancing  
Change Order

**Change Order No** 5      **Change Order Date** 8/10/2023  
**Contractor** Dakota Underground Co Inc

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

**EXPLANATION OF CHANGE**      Change Order # 5

Removed pipe at 38th Street S and 64th Avenue S to disconnect the City of Fargo's system from Cass Rural Water User Districts system. This Change Order reconciles all items in the contract.

Section	Line No	Item Description	Unit	Orig		Prev		Curr C/O		Tot Cont		Unit Price (\$)	C/O Ext Price (\$)
				Cont Qty	C/O Qty	Cont Qty	C/O Qty	Qty	Qty	Qty	Qty		
Paving		Sediment Control Log 6" to 8" Dia	LF	1000		1000		-1000		0	\$2.10		-\$2,100.00
Storm Sewer		Modify Manhole	EA	6		6		-6		0	\$2,500.00		-\$15,000.00
											<b>Paving Sub Total</b>		<b>-\$2,100.00</b>
											<b>Storm Sewer Sub Total</b>		<b>-\$15,000.00</b>
Sanitary Sewer		F&I 1-1/4" Trench Found Rock 4" thru 12" Dia	LF	1726		1726		-1726		0	\$0.01		-\$17.26
		F&I 1-1/4" Trench Found Rock 14" thru 24" Dia	LF	295		295		-295		0	\$0.01		-\$2.95
		F&I 1-1/4" Trench Found Rock 27" thru 36" Dia	LF	6046		6046		-6046		0	\$0.01		-\$60.46
											<b>Sanitary Sewer Sub Total</b>		<b>-\$80.67</b>
Cass Rural Water User District		F&I Hydrant Ext. 12" High	EA	3		3		-3		0	\$1,400.00		-\$4,200.00
											<b>Cass Rural Water User District Sub Total</b>		<b>-\$4,200.00</b>

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 (\$)
Water Main - COF (North of 64th Ave)		F&I Pipe C900 DR 18 - 20" Dia PVC	LF	3	3	3	-3	0	\$340.00	-\$1,020.00
						<b>Water Main - COF (North of 64th Ave) Sub Total</b>				<b>-\$1,020.00</b>
64th Avenue - Salvage Gravel		F&I Woven Geotextile	SY	-718	0	8560	-8560	0	\$1.80	-\$15,408.00
						<b>64th Avenue - Salvage Gravel Sub Total</b>				<b>-\$15,408.00</b>
Traffic Signals		F&I Fiber Optic Terminations & Equip	LS	1	1	1	-1	0	\$6,300.00	-\$6,300.00
						<b>Traffic Signals Sub Total</b>				<b>-\$6,300.00</b>
Sanitary Sewer	3	Modify Manhole	EA	8	0	8	-1	7	\$8,200.00	-\$8,200.00
	8	F&I Pipe SDR 35 - 12" Dia PVC	LF	1241	0	1241	19	1260	\$65.00	\$1,235.00
	9	F&I Pipe w/GB SDR 35 - 12" Dia PVC	LF	340	0	340	28	368	\$130.00	\$3,640.00
	10	F&I Pipe SDR 35 - 15" Dia PVC	LF	295	0	295	295	590	\$76.00	\$22,420.00
	11	F&I Pipe SDR 35 - 36" Dia PVC	LF	5896	0	5896	24	5920	\$290.00	\$6,960.00
	12	F&I Pipe w/GB SDR 35 - 36" Dia PVC	LF	150	0	150	-30	120	\$400.00	-\$12,000.00
	14	F&I Pipe w/GB SDR 26 - 6" Dia PVC	LF	54	0	54	-18	36	\$60.00	-\$1,080.00
	15	F&I Pipe SDR 26 - 6" Dia PVC	LF	82	0	82	-28	54	\$40.00	-\$1,120.00
Miscellaneous						<b>Sanitary Sewer Sub Total</b>				<b>\$11,855.00</b>
		Mulching Type 2 Straw	SY	30000	0	30000	15980	45980	\$0.11	\$1,757.80
	Seeding Type A	SY	30000	0	30000	-25111	4889	\$0.16	-\$4,017.76	
						<b>Miscellaneous Sub Total</b>				<b>-\$2,259.96</b>

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Change Order 1	21	F&I Detection Preformed Loop	EA	-4	0	26	-2	24	\$1,899.00	-\$3,798.00
	23	F&I Conduit 2" Dia	LF	35	0	390	-40	350	\$5.28	-\$211.20
	24	F&I Conduit 4" Dia	LF	0	0	564	-14	550	\$26.38	-\$369.32
	25	F&I Pull Box PVC	EA	2	0	12	-2	10	\$1,055.00	-\$2,110.00
<b>Change Order 1 Sub Total</b>										
Change Order 5	35	Remove Pipe All Sizes All Types	LF	0	0	0	20	20	\$1,135.00	\$22,700.00
	<b>Change Order 5 Sub Total</b>									
Water Main - COF (North of 64th Ave)	36	F&I Fittings C153 Ductile Iron	LB	3420	0	4316	-316	4000	\$9.30	-\$2,938.80
	37	F&I Hydrant	EA	4	0	4	2	6	\$4,800.00	\$9,600.00
	42	F&I Pipe C900 DR 18 - 12" Dia PVC	LF	490	0	490	-20.5	469.5	\$70.00	-\$1,435.00
	44	F&I Gate Valve 6" Dia	EA	4	0	4	2	6	\$1,400.00	\$2,800.00
<b>Water Main - COF (North of 64th Ave) Sub Total</b>										
Cass Rural Water User District	49	F&I Fittings C153 Ductile Iron	LB	3723	0	3407	896	4303	\$9.20	\$8,243.20
	52	F&I Pipe C900 DR 18 - 6" Dia PVC	LF	142	0	142	3.2	145.2	\$35.00	\$112.00
	54	F&I Pipe C900 DR 18 - 8" Dia PVC	LF	191	0	191	-30.5	160.5	\$50.00	-\$1,525.00
	57	F&I Pipe C900 DR 18 - 16" Dia PVC	LF	3657	0	3657	-6	3651	\$103.00	-\$618.00
	58	F&I Pipe w/GB C900 DR 18 - 16" Dia PVC	LF	72	0	72	10	82	\$130.00	\$1,300.00
	63	F&I Hydrant Ext. 6" High	EA	3	0	3	0.1	3.1	\$1,250.00	\$125.00
	64	F&I Hydrant Ext. 18" High	EA	3	0	3	-1	2	\$1,500.00	-\$1,500.00
	<b>Water Main - COF (North of 64th Ave) Sub Total</b>									

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Storm Sewer	67	F&I Manhole 6' Dia Reinf Conc	EA	4	0	4	1	5	\$6,800.00	\$6,800.00
	70	Connect Pipe to Exist Structure	EA	2	0	2	1	3	\$1,000.00	\$1,000.00
	74	F&I Inlet - Round (RDI) Reinf Conc	EA	7	0	10	-2	8	\$1,950.00	-\$3,900.00
	75	F&I Pipe 12" Dia	LF	308	0	308	25.33	333.33	\$47.00	\$1,190.51
	76	F&I Pipe 18" Dia	LF	329	0	329	-41.26	287.74	\$52.00	-\$2,145.52
	77	F&I Pipe 18" Dia Reinf Conc	LF	141	0	213	1.44	214.44	\$52.00	\$74.88
	78	F&I Pipe w/GB 18" Dia Reinf Conc	LF	607	0	607	-1.4	605.6	\$68.00	-\$95.20
	79	F&I Pipe 24" Dia Reinf Conc	LF	367	0	367	-0.01	366.99	\$63.00	-\$0.63
	80	F&I Pipe 24" Dia	LF	444	0	444	-0.18	443.82	\$63.00	-\$11.34
	82	F&I Pipe 24" Dia Corr Steel	LF	262	0	262	38	300	\$77.00	\$2,926.00
	84	F&I Pipe 30" Dia Reinf Conc	LF	240	0	240	-3.98	236.02	\$91.00	-\$362.18
85	F&I Pipe 30" Dia	LF	828	0	828	0.15	828.15	\$91.00	\$13.65	
88	F&I Pipe 36" Dia	LF	992	0	992	28.64	1020.64	\$115.00	\$3,293.60	
89	F&I Pipe 42" Dia Reinf Conc	LF	825	0	825	-1	824	\$159.00	-\$159.00	
93	F&I Flared End Section 24" Dia Corr Steel	EA	10	0	10	2	12	\$750.00	\$1,500.00	
<b>Storm Sewer Sub Total</b>										<b>\$10,124.77</b>
Paving	98	Remove Pavement All Thicknesses All Types	SY	520	0	520	14.66	534.66	\$15.00	\$219.90

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 (\$)
	99	Remove Curb & Gutter	LF	200	0	200	-18	182	\$10.00	-\$180.00
	104	Subcut	CY	34646	0	34646	-29646	5000	\$5.00	-\$148,230.00
	105	Subgrade Preparation	SY	56406	0	56406	718	57124	\$1.50	\$1,077.00
	106	F&I Woven Geotextile	SY	56406	0	56406	718	57124	\$1.50	\$1,077.00
	107	F&I Edge Drain 4" Dia PVC	LF	14250	0	14250	230.2	14480.2	\$9.00	\$2,071.80
	108	F&I Class 5 Agg - 8" Thick	SY	22462	0	22462	-1557	20905	\$9.50	-\$14,791.50
	109	F&I Class 5 Agg - 12" Thick	SY	36600	0	36600	-570	36030	\$13.90	-\$7,923.00
	110	F&I Curb & Gutter Standard (Type II)	LF	16210	0	16210	-567	15643	\$23.00	-\$13,041.00
	111	F&I Median Nose Conc	SY	15	0	15	4.95	19.95	\$160.00	\$792.00
	112	F&I Pavement 10" Thick Doweled Conc	SY	30600	0	30600	-1291.34	29308.66	\$75.00	-\$96,850.50
	113	F&I Sidewalk 4" Thick Reinf Conc	SY	450	0	450	995	1445	\$50.00	\$49,750.00
	114	F&I Sidewalk 6" Thick Reinf Conc	SY	150	0	150	-28	122	\$55.00	-\$1,540.00
	115	F&I Sidewalk 5" Thick Reinf Conc	SY	8610	0	8610	115	8725	\$50.00	\$5,750.00
	116	F&I Driveway 7" Thick Reinf Conc	SY	150	0	150	223	373	\$60.00	\$13,380.00
	117	F&I Det Warn Panels Cast Iron	SF	516	0	516	84	600	\$53.00	\$4,452.00
	118	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	8800	0	8800	-642.72	8157.28	\$79.00	-\$50,774.88
	119	Casting to Grade - Blvd	EA	30	0	30	20	50	\$275.00	\$5,500.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	120	Casting to Grade - w/Conc	EA	31	0	31	6	37	\$450.00	\$2,700.00
	122	Seeding Type B	SY	46510	0	46510	45134	91644	\$0.44	\$19,858.96
	123	Seeding Type C	SY	100000	0	100000	-27362	72638	\$0.42	-\$11,492.04
	124	Mulching Type 1 Hydro	SY	146510	0	146510	22661	169171	\$0.40	\$9,064.40
	125	Temp Construction Entrance	EA	2	0	2	-1	1	\$0.01	-\$0.01
	130	F&I Impressioned 5" Thick Reinf Conc	SY	440	0	440	-148.5	291.5	\$100.00	-\$14,850.00
								<b>Paving Sub Total</b>		<b>-\$243,979.87</b>
Pavement Marking	131	F&I Contrast Tape Messages	SF	736	0	736	372	1108	\$47.00	\$17,484.00
	132	F&I Grooved Plastic Film 16" Wide	LF	78	0	78	23	101	\$24.00	\$552.00
	133	F&I Grooved Contrast Film 7" Wide	LF	13480	0	13480	-1174	12306	\$14.00	-\$16,436.00
	134	F&I Grooved Contrast Film 11" Wide	LF	2958	0	2958	1108	4066	\$21.00	\$23,268.00
	135	Paint Epoxy Line 4" Wide	LF	6910	3500	3500	-808	2692	\$3.15	-\$2,545.20
	136	Paint Epoxy Line 6" Wide	LF	237	0	237	7113	7350	\$8.40	\$59,749.20
	137	Paint Epoxy Line 8" Wide	LF	100	0	100	905	1005	\$6.30	\$5,701.50
	138	Paint Epoxy Message	SF	336	0	336	-130	206	\$15.75	-\$2,047.50
	139	Obliterate Pavement Markings	SF	500	0	500	328	828	\$7.35	\$2,410.80
								<b>Pavement Marking Sub Total</b>		<b>\$88,136.80</b>

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 (\$)
Traffic Signals	142	F&I Detection Performed Loop	EA	-15	0	9	4	13	\$1,900.00	\$7,600.00
	144	F&I Pull Box PVC	EA	0	0	10	-2	8	\$1,050.00	-\$2,100.00
	145	F&I Signal Cable Loop Lead-in	LF	2310	0	2310	-310	2000	\$1.60	-\$496.00
	146	F&I Conduit 2" Dia	LF	8185	0	8535	-35	8500	\$5.25	-\$183.75
	147	F&I Fiber Optic Cable	LF	9500	0	9500	-500	9000	\$1.60	-\$800.00
Signing								<b>Traffic Signals Sub Total</b>		<b>\$4,020.25</b>
	151	F&I Sign Assembly	EA	2	0	2	4	6	\$90.00	\$360.00
	152	F&I Sign Assembly & Anchor	EA	21	0	21	22	43	\$160.00	\$3,520.00
Street Lights	153	F&I Diamond Grade Cubed	SF	101	0	101	135	236	\$25.00	\$3,375.00
	154	F&I High Intensity Prismatic	SF	116	0	116	19.5	135.5	\$23.00	\$448.50
	155	F&I Barricade Type III	EA	8	0	8	-4	4	\$700.00	-\$2,800.00
								<b>Signing Sub Total</b>		<b>\$4,903.50</b>
Street Lights	161	F&I Conductor #6 USE Cu	LF	39729	0	39729	-193	39536	\$2.65	-\$511.45
	162	F&I Innerduct 1.5" Dia	LF	14637	0	14637	-103	14534	\$4.20	-\$432.60
								<b>Street Lights Sub Total</b>		<b>-\$944.05</b>



Summary.

**Source Of Funding**

Special Assessment, Water Utility Fund, Sanitary Utility Fund, City Sales Tax, Cass Rural Water	
Net Amount Change Order # 5 (\$)	-\$141,877.35
Previous Change Orders (\$)	\$751,905.21
Original Contract Amount (\$)	\$11,675,967.59
Total Contract Amount (\$)	\$12,285,995.45

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

APPROVED

*Jared Heller, PE*

APPROVED DATE

For Contractor

Dakota Underground Company

Department Head

Title

Project Manager

Mayor

Attest



# Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** November 9, 2023  
**Re:** Master Service Agreements for Engineering/Architectural Services  
(RFP24010, RFP24011)

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Historically, City of Fargo divisions have operated independently when sending out Requests for Proposals and entering into agreements for facilities services. This results in having multiple RFPs and Agreements or Contracts with the same contractor that are very similar in nature, but limited in scope by building or division:

In an effort to create efficiencies in purchasing, Facilities Management worked with the Finance Department to map out a process to pre-qualify vendors for common facilities services used across the entire City of Fargo organization. The process includes a Request for Qualifications, review by a selection committee to determine qualification against the published criteria, and entering into a Master Service Agreement with the approved vendor(s) which will allow all Divisions to utilize the vendor(s). This process is in line with the Purchasing Policy. The Master Service Agreement has been reviewed by the City Attorney.

Facilities Management published a Request for Qualifications (RFQ) on October 5, 2023. This RFQ was specifically for Engineering/Architectural Services. Submissions were opened and reviewed on November 3, 2023. Fourteen firms were pre-qualified through this process. Those firms are:

- CMTA Engineering
- Foss Architecture
- Heyer Engineering
- JLG Architects
- KLJ Engineering
- MBN Engineering
- Michael J. Burns Architects
- RLE Architects
- Shultz and Associates
- Stone Group Architects
- Vareberg Engineering
- Walker Consultants
- WildCRG, Ltd.
- Zerr Berg Architects

The Agreements do not guarantee any work with the City of Fargo, nor does this process exclude other Engineering/Architectural firms from future work with the City of Fargo.

Facilities Management is requesting the Commission's approval to move forward with the process of securing Master Service Agreements with the firms listed above. The Master Service Agreements will be brought to the Commission on November 27<sup>th</sup> for final approval and signature.

**Recommended Action:**

Move to approve the fourteen selected pre-qualified firms and direct the Facilities Management department to pursue Master Service Agreements with each firm.

(21)

City of Fargo, North Dakota  
**General Fund - Budget to Actual**

Unaudited Monthly Financial Statements - Through October 31, 2023

Amounts shown in thousands

	YTD Budget		YTD Actual		YTD Variance		
<b>REVENUES:</b>							
<b>1</b>	Taxes	\$	39,949	\$	38,982	\$	(967)
<b>2</b>	Licenses & Permits		5,611		5,448		(162)
<b>3</b>	Intergovernmental Revenue		18,239		16,255		(1,984)
<b>4</b>	Charges for Services		11,092		13,566		2,474
<b>5</b>	Fines & Traffic Tickets		1,869		1,247		(621)
<b>6</b>	Interest		2,433		5,422		2,989
<b>7</b>	Miscellaneous Revenue		3,693		528		(3,165)
<b>8</b>	Transfers In		11,602		10,740		(862)
	<b>Total Revenues</b>	<b>\$</b>	<b>94,488</b>	<b>\$</b>	<b>92,188</b>	<b>\$</b>	<b>(2,298)</b>
<b>EXPENDITURES:</b>							
<b>9</b>	General Government	\$	22,019	\$	21,126	\$	893
<b>10</b>	Public Safety		40,674		38,436		2,238
<b>11</b>	Public Works		12,497		12,141		356
<b>12</b>	Health & Welfare		12,536		11,526		1,010
<b>13</b>	Culture & Recreation		4,799		4,333		466
<b>14</b>	Economic Development		477		210		267
<b>15</b>	General Support		1,141		1,106		35
<b>16</b>	Capital Outlay		495		129		366
<b>17</b>	Operating Transfers		3,983		3,768		215
<b>18</b>	Contingency (Salary Savings)		(1,816)		92		(1,907)
	<b>Total Expenditures</b>	<b>\$</b>	<b>96,805</b>	<b>\$</b>	<b>92,867</b>	<b>\$</b>	<b>3,938</b>
	<b>Revenue Over (Under) Expenditures</b>	<b>\$</b>	<b>(2,317)</b>	<b>\$</b>	<b>(679)</b>	<b>\$</b>	<b>1,638</b>

**Note:** Requested budget adjustments have not been posted and are not reflected here.

If approved, budget adjustments will be posted in November and reflected in the November statement.



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**FINANCE OFFICE**  
225 4<sup>th</sup> Street North  
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**TO:** Board of Commissioners  
**FROM:** Susan Thompson, Director of Finance  
**RE:** 2023 Budget Adjustments  
**DATE:** November 13, 2023

During the Finance Department's preparation of Third Quarter 2023 Year-End General Fund projections, we reviewed the budget balances (expended and remaining) for all General Fund accounts and also met with department heads to discuss their plans and expectations for the fourth quarter.

YTD actuals through September and fourth quarter estimates generated year-end General Fund projections which were presented at the October 16, 2023 City Commission Meeting.

Attached please find our request for budget adjustments as per our review. We've listed the individual accounts, requested adjustments, pre- and post-adjustment budget balances, and our basis for the adjustments. Please note that moving forward, it is our intent to request budget adjustments on a quarterly basis in conjunction with our ongoing quarterly reviews.

At their meeting on October 23, 2023, the Finance Committee approved the proposed budget adjustments.

**Suggested Motion:**

Approve 2023 Budget Adjustments as presented.

City of Fargo  
2023 Mid-Year Budget Adjustment

Per our review, we suggest the following revenue adjustments (+/-) based on actual receipts and trends. The adjustments result in a net revenue decrease of just over \$2 million. If additional revenue is recognized, we suggest it be used to replenish the reserve fund.

Revenues	Account Number	Current Budget	Adjustment	Ending Balance	Notes
Prior Year Levies	101-0000-311.40-00	336,004	(100,000)	236,004	Actual received + trend
Franchise Fees - Xcel	101-0000-316.10-01	3,400,000	600,000	4,000,000	November 1 start date.
Franchise Fees - CCE	101-0000-316.10-02	1,430,000	200,000	1,630,000	November 1 start date.
McLoed USA	101-0000-316.30-02	-	300	300	Actual received + trend
Delinquent Tax P & I	101-0000-319.10-00	500,000	(100,000)	400,000	Actual received + trend
Occupational Licenses	101-0000-320.50-01	45,000	(5,000)	40,000	Trend
House Move/Roof/Sign Hang	101-0000-320.50-02	5,400	(5,400)	-	Trend
Waived Fees	101-0000-322.10-10	(15,000)	15,000	-	Actual received + trend
Sidewalk & Paving	101-0000-322.11-01	100,000	10,000	110,000	Trend
Animal Licenses	101-0000-322.30-00	9,000	5,000	14,000	Actual received + trend
Other Licenses	101-0000-332.50-00	8,000	3,000	11,000	Actual received + trend
Municipal Hwy Funds	101-0000-335.10-00	8,993,000	(1,000,000)	7,993,000	Trend
Homestead Credit	101-0000-335.23-00	180,000	(31,239)	148,761	Actual received
Verteran's Tax Credit	101-0000-335.24-00	147,000	65,949	212,949	Actual received
Fire Pemium Tax 2.25%	101-0000-335.50-00	986,000	500,000	1,486,000	Confirmed
Gaming Tax	101-0000-335.60-00	60,000	(7,750)	52,250	Actual received
State Library Aid	101-0000-335.70-00	140,000	96,100	236,100	Actual received
RRVUAS Entities Fee	101-0000-337.28-00	30,000	5,000	35,000	Actual received
Capital Grants	101-0000-337.40-00	-	36,466	36,466	Actual received
Fargo VA HealthcareSystem	101-0000-337.68-03	-	13,000	13,000	Actual received + trend
Other PILOT Payments	101-0000-339.20-00	401,800	(251,800)	150,000	Trend
EV Charging Station	101-0000-341.50-10	-	2,000	2,000	Actual received + trend
Other Police Charges	101-0000-342.20-00	80,000	(30,000)	50,000	Trend
Training Course Fees	101-0000-342.25-00	-	16,879	16,879	Actual received
FireHazMat Reimbursements	101-0000-342.31-00	16,000	(16,000)	-	Actual received
Right of Way Fees	101-0000-344.50-00	120,000	20,000	140,000	Trend
Special Assessment CIP	101-0000-348.05-10	5,633,372	2,500,000	8,133,372	Actual received + trend
Fargo Parks Assmt CIP	101-0000-348.05-12	100,000	(100,000)	-	Actual received
Utility Funds CIP	101-0000-348.05-15	1,678,000	(500,000)	1,178,000	Trend
Overhead Cost Allocation	101-0000-348.25-00	1,600,000	(150,000)	1,450,000	Actual received
Pension Accounting	101-0000-348.30-05	64,200	20,000	84,200	Actual received + trend
Tax Increment Admin	101-0000-348.30-06	100,000	(100,000)	-	Actual received
Utility Fund Mechanics	101-0000-348.40-02	457,000	(150,000)	307,000	Trend
Street Charges for Services	101-0000-349.02-00	30,000	22,000	52,000	Actual received
Fire Charges for Services	101-0000-349.03-00	13,500	(3,500)	10,000	Trend
IT Charges for Services	101-0000-349.05-00	45,000	(15,000)	30,000	Trend
Central Garage (Charges)	101-0000-349.07-00	132,000	92,000	224,000	Actual received + trend
Finance Charges for Services	101-0000-349.10-00	192,000	11,000	203,000	Actual received + trend
Finance/TIF Fees	101-0000-349.25-00	24,000	(21,500)	2,500	Trend
PILOT Proj Admin&App Fee	101-0000-349.30-00	30,000	(25,000)	5,000	Trend
Municipal Court Fees	101-0000-351.10-01	1,400,000	(400,000)	1,000,000	Trend
Cass County Court Fines	101-0000-351.10-02	20,000	(10,000)	10,000	Trend
Victim/Witness Fees	101-0000-351.10-03	15,000	(15,000)	-	Trend
Court Copies/Fees	101-0000-351.10-07	2,000	(1,000)	1,000	Trend
Library Fees and Copies	101-0000-351.25-01	20,000	5,000	25,000	Actual received + trend
Parking Tickets	101-0000-351.30-01	500,000	(200,000)	300,000	Trend
PT Revenue Sharing School	101-0000-351.30-22	(4,500)	(6,000)	(10,500)	Actual received
PT Rev Sharing MayorComm	101-0000-351.30-23	(3,000)	(1,100)	(4,100)	Actual received
Parking Ticket Outsource	101-0000-351.30-30	(125,000)	75,000	(50,000)	Trend
Automobile Impound	101-0000-351.50-01	175,000	25,000	200,000	Trend?
Opioid 2021 Settlement	101-0000-351.80-04	20,000	(20,000)	-	Received in 280

Alcohol Compliance Fines	101-0000-351.80-20	5,000	(3,000)	2,000	Trend
Certified Collections	101-0000-355.10-00	200,000	(50,000)	150,000	Trend
Uncertified Collections	101-0000-355.20-00	-	1,800	1,800	Actual received
Interest on Pooled Cash	101-0000-360.10-00	150,000	900,000	1,050,000	Actual + Trend
Interest on Deficit Funds	101-0000-360.20-00	1,970,000	1,000,000	2,970,000	Actual received + trend
RIB Bond Defeasance	101-0000-360.63-02	400,000	(400,000)	-	Actual received
Claims and Judgements	101-0000-361.17-00	-	1,500	1,500	Actual received
Settlement Agreement	101-0000-361.17-01	-	27,400	27,400	Actual received
Insurance Proceeds	101-0000-361.18-00	390,000	(100,000)	290,000	Actual received
Assessor Misc Rev	101-0000-361.61-01	1,000	(1,000)	-	Actual received
Street Misc Revenue	101-0000-361.61-02	8,000	(8,000)	-	Actual received
Fire Misc Revenue	101-0000-361.61-03	5,000	5,500	10,500	Actual received
Engineering Misc Revenue	101-0000-361.61-04	20,000	(10,000)	10,000	Actual received + trend
Auditor Misc Revenue	101-0000-361.61-06	4,875	(3,875)	1,000	Actual received + trend
Traffic Engineering Misc Rev	101-0000-361.61-07	8,000	(8,000)	-	Actual received
Library Misc Revenue	101-0000-361.61-08	4,000	2,000	6,000	Actual received + trend
Human Resources Misc Rev	101-0000-361.61-09	1,500	(1,500)	-	Actual received
Central Garage Misc Rev	101-0000-361.61-11	20,000	(3,000)	17,000	Actual received + trend
Buildings & Grounds Misc Rev	101-0000-361.61-15	2,000	(1,900)	100	Actual received
City Commission Misc Rev	101-0000-361.61-16	2,000	(2,000)	-	Actual received
Street-Tack Oil/Ice Ctrl	101-0000-361.61-27	50,000	(10,000)	40,000	Actual received
Health Dept Misc Rev	101-0000-361.61-28	-	5,125	5,125	Actual received
IS Misc Revenue	101-0000-361.61-41	3,000	(3,000)	-	Actual
PFM Pcard Rebates	101-0000-361.75-01	200,000	(40,000)	160,000	Trend
Lease/Rental Payments	101-0000-361.85-00	40,000	(30,000)	10,000	Trend
Water Tower Rentals	101-0000-361.85-10	200,000	(200,000)	-	Actual received
Sales of Fixed Assets	101-0000-362.20-00	3,250,000	(3,212,483)	37,517	Actual received
Fire Department Donation	101-0000-365.80-00	-	1,120	1,120	Actual received
Police Department	101-0000-365.85-00	5,000	(4,000)	1,000	Actual received
DEI Donations	101-0000-365.90-00	-	9,000	9,000	Actual received
Transfer in from DS Fund	101-0000-391.30-00	1,072,000	(1,072,000)	-	Actual received
			(2,136,908)		

**Expenses**

Salary and benefit savings for the following departments from **January through September 30, 2023** are being proposed to offset the expected net decrease in budget revenues. We propose the following net adjustments of nearly \$2 million in reduced spending.

Department	Budget to Date		Actual to Date		Adjustment
	Salaries	Benefits	Salaries	Benefits	
DEI	123,390	47,241	120,918	33,255	(16,459)
HR	723,339	214,740	608,187	174,611	(155,281)
IS	1,421,523	450,342	1,318,035	406,851	(146,980)
Comms	554,301	220,023	426,494	131,803	(216,027)
Finance	1,178,298	355,896	1,064,116	296,791	(173,288)
Court	390,267	128,889	378,990	130,478	(9,688)
Assessor	761,733	233,451	707,170	225,229	(62,785)
Facilities	761,625	350,793	523,113	196,664	(392,641)
Planning	918,756	264,879	857,532	249,659	(76,445)
Inspections	1,497,249	532,440	1,352,830	469,118	(207,741)
Engineering	3,310,218	920,952	2,906,117	816,720	(508,333)
Traffic Engineering	502,875	135,504	458,120	113,221	(67,038)
Central Garage	1,348,425	463,275	1,192,741	444,218	(174,741)
Fire	8,479,946	3,826,662	7,984,463	3,809,691	(512,454)
Police	13,329,162	4,341,870	12,450,343	4,133,173	(1,087,516)
Library	2,244,690	785,988	2,087,048	666,071	(277,559)
					(4,101,150)

To allocate the unallocated amounts in the final 2023 budget.

101-8570-570.11-00	500,000.00
101-8570-570.99-00	1,679,151.00
<b>Total Expense Adjustment</b>	<b>\$ (1,921,998.58)</b>



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23

TO: BOARD OF CITY COMMISSIONERS

FROM: SUSAN THOMPSON, DIRECTOR OF FINANCE

RE: CONTRACT FOR ENTERPRISE RESOURCE PLANNING - RFP23029

DATE: NOVEMBER 9, 2023

The attached contract with Tyler Technologies is in regard to the Enterprise Resource Planning (ERP) system within the City of Fargo. This project was approved on July 10, 2023, Regular agenda item 41. This project will commence in early 2024.

Suggested Motion:

Move to approve the contract for Tyler Technologies.



## SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

### SECTION A – DEFINITIONS

- **“Agreement”** means this Software as a Service Agreement.
- **“Business Travel Policy”** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **“Client”** means the City of Fargo, North Dakota.
- **“Data”** means your data necessary to utilize the Tyler Software.
- **“Data Storage Capacity”** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **“Defined Users”** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary. If Exhibit A contains Enterprise Permitting & Licensing labeled software, defined users means the maximum number of named users that are authorized to use the Enterprise Permitting & Licensing labeled modules as indicated in the Investment Summary. If Exhibit A contains Enterprise ERP software, “Defined Users” means the maximum number of concurrent users that are authorized to use the Enterprise ERP modules as indicated in the comments section of the Investment Summary.
- **“Developer”** means a third party who owns the intellectual property rights to Third Party Software.
- **“Documentation”** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **“Effective Date”** means the date by which both your and our authorized representatives have signed the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.





- **“Investment Summary”** means the agreed upon cost proposal for the products and services attached as Exhibit A.
- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Order Form”** means an ordering document that includes a quote or investment summary and specifying the items to be provided by Tyler to Client, including any addenda and supplements thereto.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.
- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Statement of Work”** means the industry standard implementation plan describing how our professional services will be provided to implement the Tyler Software, and outlining your and our roles and responsibilities in connection with that implementation. The Statement of Work is attached as Exhibit E.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party SaaS Services”** means software as a service provided by a third party, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Products or other parties’ products or services, as applicable, and attached or indicated at Exhibit D.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

## SECTION B – SAAS SERVICES

1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we

have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.

2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s). Prior to any increase in charges pursuant to this Section, Tyler will provide you notice of such excess(es) and reasonably cooperate with you to identify opportunities for managing user and Data Storage Capacity limits so as to not incur additional charges.
3. Ownership.
  - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
  - 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
  - 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.
6. SaaS Services.
  - 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on

Standards for Attestation Engagements (“SSAE”) No. 21. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon execution of a mutually agreeable Non-Disclosure Agreement (“NDA”), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data center.

- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective (“RPO”) of 1 hour and a Recovery Time Objective (“RTO”) of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
- 6.4 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.5 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.6 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.7 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.8 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel.

Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.

6.9 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

### SECTION C – PROFESSIONAL SERVICES

1. Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. If you cancel services less than three (3) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) daily fees associated with cancelled professional services if we are unable to reassign our personnel and (b) any non-refundable travel expenses already incurred by us on your behalf. We will make all reasonable efforts to reassign personnel in the event you cancel within three (3) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.

7. **Background Checks.** For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
8. **Client Assistance.** You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).
9. **Maintenance and Support.** For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:
  - 9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);
  - 9.2 provide support during our established support hours;
  - 9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
  - 9.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
  - 9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless

Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

#### **SECTION D – THIRD PARTY PRODUCTS**

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
3. Third Party Products Warranties.
  - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
  - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
  - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

#### **SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES**

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS

Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

## SECTION F – TERM AND TERMINATION

1. **Term.** The initial term of this Agreement is equal to the number of years indicated for SaaS Services in Exhibit A, commencing on the first day of the first month following the Effective Date, unless earlier terminated as set forth below. If no duration is indicated in Exhibit A, the initial term is one (1) year. Upon expiration of the initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then-current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. **Termination.** This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
  - 2.1 **Failure to Pay SaaS Fees.** You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
  - 2.2 **For Cause.** If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
  - 2.3 **Force Majeure.** Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
  - 2.4 **Lack of Appropriations.** If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.
3. **Disentanglement.** In connection with the termination of this Agreement for any reason, and only upon the execution of a mutually agreed change order or addendum, Tyler shall use commercially reasonable efforts to accomplish an adequate and timely transition from Tyler to the Client, or to any replacement providers designated by the Client (a "Disentanglement"). The parties shall reasonably cooperate during Disentanglement. Client shall reimburse Tyler for Disentanglement services provided by Tyler at Tyler's then-current rates, plus reasonable costs and expenses, as set forth in the parties' executed change order or addendum.

## **SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE**

### **1. Intellectual Property Infringement Indemnification.**

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

### **2. General Indemnification.**

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.



3. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT UNDERSTANDS AND AGREES THAT TYLER DISCLAIMS ANY LIABILITY FOR ERRORS THAT RELATE TO USER ERROR.
4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TWO TIMES (2X) THE TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, TWO TIMES (2X) THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).
5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

## **SECTION H – GENERAL TERMS AND CONDITIONS**

1. **Additional Products and Services.** You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. **Optional Items.** Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. **Dispute Resolution.** You agree to provide us with written notice within thirty (30) days of becoming

aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.

10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:

- (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
- (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
- (c) a party receives from a third party who has a right to disclose it to the receiving party; or
- (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.

18. Quarantining of Client Data. Some services provided by Tyler require us to be in possession of your Data. In the event we detect malware or other conditions associated with your Data that are reasonably suspected of putting Tyler resources or other Tyler clients' data at risk, we reserve the absolute right to move your Data from its location within a multi-tenancy Tyler hosted environment to an isolated "quarantined" environment without advance notice. Your Data will remain in such quarantine for a period of at least six (6) months during which time we will review the Data, and all traffic associated with the Data, for signs of malware or other similar issues. If no issues are detected through such reviews during the six (6) month period of quarantine, we will coordinate with you the restoration of your Data to a non-quarantined environment. In the event your Data must remain in quarantine beyond this six (6) month period through no fault of Tyler's, we reserve the right to require payment of additional fees for the extended duration of quarantine. We will provide an estimate of what those costs will be upon your request.
19. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
20. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.
21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.
22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
23. Data & Insights Solution Terms. Your use of certain Tyler solutions includes Tyler's Data & Insights data platform. Your rights, and the rights of any of your end users, to use Tyler's Data & Insights data platform is subject to the Data & Insights SaaS Services Terms of Service, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.

24. Contract Documents. This Agreement includes the following exhibits:

- Exhibit A Investment Summary
- Exhibit B Invoicing and Payment Policy  
Schedule 1: Business Travel Policy
- Exhibit C Service Level Agreement  
Schedule 1: Support Call Process
- Exhibit D Third Party Terms  
Schedule 1: Hyperlinked Terms  
Schedule 2: DocOrigin Terms
- Exhibit E Statement of Work
- Exhibit F Tyler’s Proposal Dated January 20, 2023 (“Proposal”)
- Exhibit G Client’s Request for Proposal & Addenda (“RFP”)

25. Order of Precedence. In the event of conflict between the contract documents listed in Section H(24), the following order of precedence will apply:

1. This Agreement, excluding Exhibit F (Proposal) and Exhibit G (RFP)
2. Exhibit F (Proposal)
3. Exhibit G (RFP)

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Fargo, North Dakota

By: Rob Kennedy-Jensen

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

Name: Rob Kennedy-Jensen

Name: \_\_\_\_\_

Title: Group General Counsel

Title: \_\_\_\_\_

Date: Nov. 8, 2023

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

Address for Notices:

Tyler Technologies, Inc. One Tyler Drive  
Yarmouth, ME 04096 Attention: Chief Legal Officer

Address for Notices:

City of Fargo  
225 4<sup>th</sup> Street N  
Fargo, ND 58102-4809  
Attention: \_\_\_\_\_

**ATTEST:**

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

Name: \_\_\_\_\_



Title: \_\_\_\_\_

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



**Exhibit A**  
**Investment Summary**

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

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Quoted By: Alban Michaud  
 Quote Expiration: 12/31/23  
 Quote Name: City of Fargo-ERP-Munis  
 Quote Description: Tyler ERP Pricing - No-To-Exceeds  
 SaaS Term: 5.00

**Sales Quotation For:**

City of Fargo  
 200 3rd St N  
 Fargo ND 58102-4809

**Tyler SaaS and Related Services**

Description	Qty	Imp. Hours	Annual Fee
<b>Financial Management</b>			
Accounting	1	340	\$ 43,524.00
Accounts Payable	1	96	\$ 12,691.00
Bid Management	1	72	\$ 5,489.00
Budgeting	1	128	\$ 12,691.00
Capital Assets	1	148	\$ 12,037.00
Cash Management	1	96	\$ 8,851.00
Contract Management	1	72	\$ 5,478.00
eProcurement (Vendor Access and Punch-Out)	1	72	\$ 10,500.00
Inventory	1	148	\$ 12,037.00
Inventory Mobile	1	20	\$ 2,898.00
Project & Grant Accounting	1	120	\$ 8,476.00
Purchasing	1	340	\$ 21,436.00
<b>Human Resources Management</b>			
Employee Expense Reimbursement	1	96	\$ 4,912.00
Human Resources & Talent Management	1	264	\$ 21,360.00
Payroll with Employee Access	1	424	\$ 30,064.00



<b>Revenue Management</b>			
Accounts Receivable	1	224	\$ 10,487.00
Cashiering	1	96	\$ 15,728.00
General Billing	1	128	\$ 5,687.00
Resident Access	1	128	\$ 12,000.00
<b>Content Management</b>			
Content Manager Core	1	84	\$ 15,009.00
<b>Data Insights</b>			
Enterprise Analytics and Reporting w Executive Insights	1	168	\$ 22,109.00
<b>Additional</b>			
ACFR Statement Builder	1	40	\$ 7,397.00
Enterprise Forms Processing Software (including Common Form Set)	1	0	\$ 8,125.00
GIS	10	8	\$ 2,960.00
<b>Integrations</b>			
API Toolkit Bundle	1	64	\$ 17,336.00

Sub-Total: \$ 329,282.00  
 Less Discount: **\$ 82,322.00**  
**TOTAL \$ 246,960.00**

**Tyler Annual Services**

Description	QTY	Imp. Hours	Annual Fee
<b>Recurring Services</b>			
User Monitoring and Response	1	0	\$ 15,000.00
<b>TOTAL:</b>	<b>0</b>	<b>0</b>	<b>\$ 15,000.00</b>

**Professional Services**

Description	Quantity	Unit Price	Ext Discount	Extended Price	Maintenance
50% of Dedicated Project Manager (Monthly) - FIN/HCM	27	\$ 14,800.00	\$ 0.00	\$ 399,600.00	\$ 0.00

Additional Implementation Hours - No-To-Exceeds	704	\$ 225.00	\$ 0.00	\$ 158,400.00	\$ 0.00														\$ 0.00
Executive Insights Implementation	1	\$ 10,500.00	\$ 0.00	\$ 10,500.00	\$ 0.00														\$ 0.00
Conversions – See Detailed Breakdown Below				\$ 69,000.00	\$ 0.00														\$ 0.00
Onsite Implementation	880	\$ 225.00	\$ 0.00	\$ 198,000.00	\$ 0.00														\$ 0.00
Remote Implementation	2496	\$ 200.00	\$ 0.00	\$ 499,200.00	\$ 0.00														\$ 0.00
<b>TOTAL</b>				<b>\$ 1,334,700.00</b>															<b>\$ 0.00</b>

**Payments**

	Use Case	List Price	Service %	Min	Points	Rate	Cap	POS	Online	IVR
<b>Payments - Client Card Cost - Interchange Plus</b>										
<b>Enterprise ERP</b>										
Enterprise ERP Payments	General Billing				0.50%	\$ 0.50		X	X	X
<b>Payments - Other Fees</b>										
<b>Enterprise ERP</b>										
Client eCheck Cost		\$ 1.95								
eCheck Rejects		\$ 5.00								
Credit Card Chargebacks		\$ 15.00								

**Client Card Cost - Interchange Plus** Per card transaction with Visa, MasterCard, Discover, and American Express for all transactions on top of industry-driven rates for bank fees, card brand fees, interchange fees, dues, assessments, and other processing fees.

**Client eCheck Cost** Per electronic check transaction.

**eCheck Rejects** When an eCheck transaction comes back as declined (e.g bounced check)

**Credit Card Chargebacks** If a card payer disputes a transaction at the card issuing bank (e.g. stolen card)

**3rd Party Hardware, Software and Services**

Description	Qty	Unit Price	Discount	Total Price	Maint/SaaS	Unit Discount	Maint/SaaS	Total
Pattern Stream Automated Document System - Implementation	64	\$ 185.00	\$ 0.00	\$ 11,840.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

Pattern Stream Automated Document System -

SaaS	1	\$ 0.00	\$ 0.00	\$ 0.00	\$ 26,505.00	\$ 0.00	\$ 26,505.00
Payments Lane 3000 Terminal Purchase	1	\$ 419.00	\$ 0.00	\$ 419.00	\$ 0.00	\$ 0.00	\$ 0.00
Payments PCI Service Fee (Per Device)	1	\$ 0.00	\$ 0.00	\$ 0.00	\$ 180.00	\$ 0.00	\$ 180.00
<b>TOTAL</b>				<b>\$ 12,259.00</b>			<b>\$ 26,685.00</b>

**Summary**

Total Tyler License Fees	One Time Fees	Recurring Fees
Total SaaS	\$ 0.00	\$ 0.00
Total Tyler Services	\$ 0.00	\$ 246,960.00
Total Third-Party Hardware, Software, Services	\$ 1,334,700.00	\$ 15,000.00
<b>Summary Total</b>	<b>\$ 12,259.00</b>	<b>\$ 26,685.00</b>
<b>Estimated Travel Expenses excl in Contract</b>	<b>\$ 1,346,959.00</b>	<b>\$ 288,645.00</b>
<b>Total</b>	<b>\$ 130,255.00</b>	

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ P.O.#: \_\_\_\_\_

*All Primary values quoted in US Dollars*

**Detailed Breakdown of Conversions (Included in Summary Total)**

Description	Qty	Unit Price	Unit Discount	Extended Price
Accounting				
AC - Actuals up to 3 years	1	\$ 3,000.00	\$ 0.00	\$ 3,000.00
AC - Budgets up to 3 years	1	\$ 3,000.00	\$ 0.00	\$ 3,000.00
AC Standard COA	1	\$ 3,500.00	\$ 0.00	\$ 3,500.00
Accounts Payable				
AP - Checks up to 5 years	1	\$ 5,200.00	\$ 0.00	\$ 5,200.00

AP - Invoice up to 5 years	1	\$ 6,500.00	\$ 0.00	\$ 6,500.00
AP Standard Master	1	\$ 3,000.00	\$ 0.00	\$ 3,000.00
<b>Capital Assets</b>				
CA - History	1	\$ 3,000.00	\$ 0.00	\$ 3,000.00
CA Std Master	1	\$ 4,500.00	\$ 0.00	\$ 4,500.00
<b>General Billing</b>				
GB - Bills up to 5 years	1	\$ 5,500.00	\$ 0.00	\$ 5,500.00
GB Std CID	1	\$ 2,500.00	\$ 0.00	\$ 2,500.00
<b>Payroll</b>				
PR Payroll - Accrual Balances	1	\$ 2,500.00	\$ 0.00	\$ 2,500.00
PR Payroll - Accumulators up to 5 years	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00
PR Payroll - Check History up to 5 years	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00
PR Payroll - Deductions	1	\$ 2,800.00	\$ 0.00	\$ 2,800.00
PR Payroll - Earning/Deduction Hist up to 5 years	1	\$ 3,500.00	\$ 0.00	\$ 3,500.00
PR Payroll - Standard	1	\$ 3,000.00	\$ 0.00	\$ 3,000.00
<b>Project &amp; Grant Accounting</b>				
PG - Actuals up to 3 years	1	\$ 3,000.00	\$ 0.00	\$ 3,000.00
PG - Budgets up to 3 years	1	\$ 3,000.00	\$ 0.00	\$ 3,000.00
PGA Standard	1	\$ 3,500.00	\$ 0.00	\$ 3,500.00
<b>Purchasing</b>				
Purchasing - Standard	1	\$ 4,000.00	\$ 0.00	\$ 4,000.00
<b>TOTAL</b>				<b>\$ 69,000.00</b>

**Optional Tyler SaaS and Related Services**

Description	Qty	Imp. Hours	Annual Fee
<b>Financial Management</b>			
Assets Mobile	1	20	\$ 2,898.00
Performance Based Budgeting	1	288	\$ 15,358.00
<b>Human Resources Management</b>			

Advanced Scheduling w Mobile Access - Up to 500 Employees	1	104	\$ 19,017.00
Recruiting	1	56	\$ 5,475.00
Time & Attendance w Mobile Access - Up to 2000 Employees	1	288	\$ 42,994.00
<b>Revenue Management</b>			
Utility Billing Special Assessments	1	144	\$ 13,626.00
<b>Civic Services</b>			
My Civic	1	128	\$ 10,000.00
<b>Data Insights</b>			
Capital Projects Explorer	1	0	\$ 10,000.00
Open Finance	1	0	\$ 19,000.00
<b>Integrations</b>			
Cashiering API	1	52	\$ 5,326.00
SnapLogic - Up to 5 Integrations	1	40	\$ 2,000.00
<b>TOTAL:</b>		<b>1120</b>	<b>\$ 145,694.00</b>

**Optional Tyler Annual Services**

Description	Qty	Imp. Hours	Annual Fee
<b>Recurring Services</b>			
Managed Detection & Response	1	0	\$ 53,000.00
<b>TOTAL:</b>		<b>0</b>	<b>\$ 53,000.00</b>

**Optional Professional Services**

Description	Quantity	Unit Price	Ext. Discount	Extended Price	Maintenance
<b>25% of Dedicated Project Manager (Monthly) - Special Assessments</b>					
Assessments	4	\$ 8,800.00	\$ 0.00	\$ 35,200.00	\$ 0.00
Install Fee - Capital Projects Explorer	1	\$ 4,200.00	\$ 0.00	\$ 4,200.00	\$ 0.00
Install Fee - Managed Detection & Response	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00	\$ 0.00
Install Fee - Open Finance	1	\$ 7,000.00	\$ 0.00	\$ 7,000.00	\$ 0.00

Conversion – See Detailed Breakdown Below				\$ 27,500.00	\$ 0.00
Onsite Implementation	292	\$ 225.00	\$ 0.00	\$ 65,700.00	\$ 0.00
Remote Implementation	828	\$ 200.00	\$ 0.00	\$ 165,600.00	\$ 0.00
<b>TOTAL</b>				<b>\$ 307,200.00</b>	<b>\$ 0.00</b>

**Optional 3rd Party Hardware, Software and Services**

Description	Qty	Unit Price	Unit Discount	Total Price	Unit Maint/SaaS	Unit Discount	Total Maint/SaaS
Barcode Printer Kit	1	\$ 1,445.00	\$ 0.00	\$ 1,445.00	\$ 145.00	\$ 0.00	\$ 145.00
Barcode Scanner - NX6 Rugged Mobile Scanning Device	1	\$ 1,695.00	\$ 0.00	\$ 1,695.00	\$ 170.00	\$ 0.00	\$ 170.00
Cash Drawer	1	\$ 260.00	\$ 0.00	\$ 260.00	\$ 0.00	\$ 0.00	\$ 0.00
Hand Held Scanner - Model 1950GSR	1	\$ 450.00	\$ 0.00	\$ 450.00	\$ 0.00	\$ 0.00	\$ 0.00
Hand Held Scanner Stand	1	\$ 30.00	\$ 0.00	\$ 30.00	\$ 0.00	\$ 0.00	\$ 0.00
Koa Hills - Chart of Accounts (COA) Design Leadership	1	\$ 61,920.00	\$ 0.00	\$ 61,920.00	\$ 0.00	\$ 0.00	\$ 0.00
Koa Hills - Data Conversion Assistance - Finance	1	\$ 47,562.00	\$ 0.00	\$ 47,562.00	\$ 0.00	\$ 0.00	\$ 0.00
Koa Hills - Data Conversion Assistance - HRM	1	\$ 43,020.00	\$ 0.00	\$ 43,020.00	\$ 0.00	\$ 0.00	\$ 0.00
Printer (TM-S9000II)	1	\$ 1,623.00	\$ 0.00	\$ 1,623.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>TOTAL</b>				<b>\$ 158,005.00</b>			<b>\$ 315.00</b>

**Optional Conversion Details (Prices Reflected Above)**

Description	Quantity	Unit Price	Discount	Total
Contract Management Contracts	1	\$ 6,000.00	\$ 0.00	\$ 6,000.00
General Billing GB - Recurring Invoices	1	\$ 4,500.00	\$ 0.00	\$ 4,500.00
Inventory IN Std Master Payroll	1	\$ 4,500.00	\$ 0.00	\$ 4,500.00

HR Human Resources - Certifications	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00
HR Human Resources - Education	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00
HR Human Resources - PM Action History up to 5 years	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00
HR Human Resources - Position Control	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00
HR Human Resources - Recruiting	1	\$ 2,000.00	\$ 0.00	\$ 2,000.00
<b>Utility Billing</b>				
Utility Billing - Option 2 Assessments	1	\$ 2,500.00	\$ 0.00	\$ 2,500.00
<b>TOTAL</b>				<b>\$ 27,500.00</b>

**Tyler Annual Discount Detail (Excludes Optional Products)**

Description	Annual Fee		Annual Fee Net	
	Annual Fee	Discount	Annual Fee	Annual Fee Net
<b>Financial Management</b>				
Accounting	\$ 43,524.00	\$ 10,881.00	\$ 32,643.00	\$ 32,643.00
Accounts Payable	\$ 12,691.00	\$ 3,173.00	\$ 9,518.00	\$ 9,518.00
Bid Management	\$ 5,489.00	\$ 1,372.00	\$ 4,117.00	\$ 4,117.00
Budgeting	\$ 12,691.00	\$ 3,173.00	\$ 9,518.00	\$ 9,518.00
Capital Assets	\$ 12,037.00	\$ 3,009.00	\$ 9,028.00	\$ 9,028.00
Cash Management	\$ 8,851.00	\$ 2,213.00	\$ 6,638.00	\$ 6,638.00
Contract Management	\$ 5,478.00	\$ 1,370.00	\$ 4,108.00	\$ 4,108.00
eProcurement (Vendor Access and Punch-Out)	\$ 10,500.00	\$ 2,625.00	\$ 7,875.00	\$ 7,875.00
Inventory	\$ 12,037.00	\$ 3,009.00	\$ 9,028.00	\$ 9,028.00
Inventory Mobile	\$ 2,898.00	\$ 725.00	\$ 2,173.00	\$ 2,173.00
Project & Grant Accounting	\$ 8,476.00	\$ 2,119.00	\$ 6,357.00	\$ 6,357.00
Purchasing	\$ 21,436.00	\$ 5,359.00	\$ 16,077.00	\$ 16,077.00
<b>Human Resources Management</b>				
Employee Expense Reimbursement	\$ 4,912.00	\$ 1,228.00	\$ 3,684.00	\$ 3,684.00
Human Resources & Talent Management	\$ 21,360.00	\$ 5,340.00	\$ 16,020.00	\$ 16,020.00
Payroll with Employee Access	\$ 30,064.00	\$ 7,516.00	\$ 22,548.00	\$ 22,548.00
<b>Revenue Management</b>				
Accounts Receivable	\$ 10,487.00	\$ 2,622.00	\$ 7,865.00	\$ 7,865.00
Cashiering	\$ 15,728.00	\$ 3,932.00	\$ 11,796.00	\$ 11,796.00

General Billing	\$ 5,687.00	\$ 1,422.00	\$ 4,265.00
Resident Access	\$ 12,000.00	\$ 3,000.00	\$ 9,000.00
Content Management			
Content Manager Core	\$ 15,009.00	\$ 3,752.00	\$ 11,257.00
Data Insights			
Enterprise Analytics and Reporting w Executive Insights Additional	\$ 22,109.00	\$ 5,528.00	\$ 16,581.00
ACFR Statement Builder	\$ 7,397.00	\$ 1,849.00	\$ 5,548.00
Enterprise Forms Processing Software (including Common Form Set)	\$ 8,125.00	\$ 2,031.00	\$ 6,094.00
GIS	\$ 2,960.00	\$ 740.00	\$ 2,220.00
Integrations			
API Toolkit Bundle	\$ 17,336.00	\$ 4,334.00	\$ 13,002.00
Recurring Services			
User Monitoring and Response	\$ 15,000.00	\$ 0.00	\$ 15,000.00

**TOTAL \$ 344,282.00 \$ 82,322.00 \$ 261,960.00**

**Comments**

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the scope, level of engagement, and timeline as defined in the Statement of Work (SOW) for your project. The actual amount of services required may vary, based on these factors.

Tyler's pricing is based on the scope of proposed products and services contracted from Tyler. Should portions of the scope of products or services be altered by the Client, Tyler reserves the right to adjust prices for the remaining scope accordingly.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely but can be done onsite upon request at an additional cost.

In the event Client cancels services less than four (4) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

The Implementation Hours included in this quote assume a work split effort of 60% Client and 40% Tyler.



Implementation Hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

As a new Tyler client, you are entitled to a 14-day or a 30-day trial of the Managed Detection and Response cybersecurity service. Please reference <https://www.tylertech.com/services/tyler-detect> for more information on the service and contact [CybersecuritySales@tylertech.com](mailto:CybersecuritySales@tylertech.com) to initiate the trial.

Tyler currently supports the following identity providers (IdP's) for use with Tyler back-office solutions: Microsoft Active Directory through Azure AD, ADFS or Okta AD agent, Google Cloud Identity, Okta, and Identity Automation Rapid Identity. Any requirement by you to use an IdP not supported by Tyler will require additional costs, available upon request.

Content Manager Core includes up to 1TB of storage. Should additional storage be needed it may be purchased as needed at an annual fee of \$5,000 per TB.

The SaaS fees for product that are not named users are based on 150 concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.

For the avoidance of doubt, User Monitoring & Response is a subscription service, not SaaS. Notwithstanding the foregoing language, payment of annual subscription fees for User Monitoring & Response commence on the availability of the service. User Monitoring & Response services will renew automatically for additional one (1) year terms, and subsequent subscription fees are due annually in advance on the anniversary of the availability date at our then-current rates. Pricing is based on client's current network size as defined by their entity size. Any material increases of network size may result in additional fees being assessed for the User Monitoring & Response service upon renewal.

For the avoidance of doubt, Managed Detection & Response is a subscription service, not SaaS. Notwithstanding the foregoing language, payment of annual subscription fees for Managed Detection & Response commence on the availability of the service. Managed Detection & Response services will renew automatically for additional one (1) year terms, and subsequent subscription fees are due annually in advance on the anniversary of the availability date at our then-current rates. Pricing is based on client's current network size as defined by their entity size. Any material increases of network size may result in additional fees being assessed for the Managed Detection & Response service upon renewal. The quoted Managed Detection & Response amount does not include monitoring of student devices nor analysis of student network traffic. Tyler can quote an additional fee for these services.

All hardware related to Assets Mobile and Inventory Mobile will be under a standard maintenance plan which starts when they are shipped. This includes replacement of your current hardware if it cannot be fixed through the standard helpdesk process.

Fees for year one of hardware maintenance are invoiced upon delivery of the hardware, with subsequent years' fees billed annually, in advance.

Financial library includes: standard A/P check, standard EFT/ACH, standard Purchase order, standard Contract, 1099M, 1099INT, 1099S, 1099NEC and 1099G.

General Billing library includes: standard invoice, standard statement, standard general billing receipt and standard miscellaneous receipt.

Personnel Actions Forms Library includes: standard Personnel Action form - New and standard Personnel Action Form - Change.

Each API Toolkit or Connector comes with 8 free hours of API Development Consulting hours. Each API Bundle comes with 16 free API Development Consulting hours. Additional hours can be purchased beyond this standard offering.

Your rights, and the rights of any of your end users, to use Tyler's Data & Insights SaaS Services, or certain Tyler solutions which include Tyler's Data & Insights data platform, are subject to the Terms of Services, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing this sales quotation, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.

In the event Client acquires from Tyler any edition of Content Manager software other than Enterprise Edition, the license for Content Manager is restricted to use with Tyler applications only. If Client wishes to use Content Manager software with non-Tyler applications, Client must purchase or upgrade to Content Manager Enterprise Edition.

Payroll library includes: standard PR check, standard direct deposit, standard vendor from payroll check, standard vendor from payroll direct deposit, W2, W2c, ACA 1095B, ACA 1095C and 1099 R.

Your use of Payments and any related items included on this order is subject to the terms found at: <https://www.tylertech.com/terms/payment-card-processing-agreement>. By signing this order or the agreement in which it is included, you agree you have read, understand, and agree to such terms. Please see attached Payments fee schedule.



## Exhibit B Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

**Invoicing:** We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates.
2. **Other Tyler Software and Services.**
  - 2.1 **Implementation and Other Professional Services (including training):** Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
  - 2.2 **Consulting Services:** If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Best Practice Recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
  - 2.3 **Conversions:** Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
  - 2.4 **Requested Modifications to the Tyler Software:** Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.
  - 2.5 **Other Fixed Price Services:** Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where "Project Planning Services" are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
  - 2.6 **Web Services:** Annual fees for web services are payable in advance, commencing upon the availability of the service. Your annual fees for the initial term are set forth in the

Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.

2.7 *Annual Services*: Unless otherwise indicated in this Exhibit B, fees for annual services are due annually, in advance, commencing on the availability of the service. Your annual fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.

3. Third Party Products.

3.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.

3.2 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.

3.3 *Third Party Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.

3.4 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary. For the avoidance of doubt, Finite Matters will invoice Client directly for any services fees for Pattern Stream.

3.5 *Third Party SaaS*: Third Party SaaS Services fees, if any, are invoiced annually, in advance, commencing with availability of the respective Third Party SaaS Services. Pricing for the first year of Third Party SaaS Services is indicated in the Investment Summary. Pricing for subsequent years will be at the respective third party's then-current rates.

4. Transaction Fees. Unless paid directly by an end user at the time of transaction, per transaction (call, message, etc.) fees are invoiced on a quarterly basis. Fees are indicated in the Investment Summary and may be increased by Tyler upon notice of no less than thirty (30) days.

5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy. Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

**Payment.** Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting [AR@tylertech.com](mailto:AR@tylertech.com).



**Exhibit B**  
**Schedule 1**  
**Business Travel Policy**

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

## 2. Ground Transportation

### A. Private Automobile

Mileage Allowance – Business use of an employee’s private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

### B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

### C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

### D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

## 3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem).

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

\*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.\*

\*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.





## Exhibit C

### SERVICE LEVEL AGREEMENT

#### I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. All other support services are documented in the Support Call Process. This SLA does not apply to any Third Party SaaS Services. All other support services are documented in the Support Call Process.

**II. Definitions.** Except as defined below, all defined terms have the meaning set forth in the Agreement.

*Actual Attainment:* The percentage of time the Tyler Software is available during a calendar month, calculated as follows:  $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$ .

*Client Error Incident:* Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

*Downtime:* Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

*Emergency Maintenance Window:* (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

*Planned Downtime:* Downtime that occurs during a Standard or Emergency Maintenance window.

*Service Availability:* The total number of minutes in a calendar month that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, denial of service attacks and Force Majeure. Service Availability only applies to Tyler Software being used in the live production environment.

*Standard Maintenance:* Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

#### III. **Service Availability**

##### a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

##### b. Our Responsibilities



When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned Downtime, a Client Error Incident, denial of service attack or Force Majeure). We will also work with you to resume normal operations.

c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS Fees paid for the calendar month.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable month. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Credits are only payable when Actual Attainment results in eligibility for credits in consecutive months and only for such consecutive months.

Client Relief Schedule	
Actual Attainment	Client Relief
99.99% - 99.70%	Remedial action will be taken
99.69% - 98.50%	2% of SaaS Fees paid for applicable month
98.49% - 97.50%	4% of SaaS Fees paid for applicable month
97.49% - 96.50%	6% of SaaS Fees paid for applicable month
96.49% - 95.50%	8% of SaaS Fees paid for applicable month
Below 95.50%	10% of SaaS Fees paid for applicable month

\* Notwithstanding language in the Agreement to the contrary, Recovery Point Objective is one (1) hour.

#### IV. Maintenance Notifications

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable, that the Tyler Software will be unavailable during the maintenance window.



## Exhibit C Schedule 1 Support Call Process

### Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users\*:

- (1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most “how-to” and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
- (2) Email – for less urgent situations, users may submit emails directly to the software support group.
- (3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

*\* Channel availability may be limited for certain applications.*

### Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – [www.tylertech.com](http://www.tylertech.com) – for accessing client tools, documentation, and other information including support contact information.
- (2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
- (3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (4) Tyler University – online training courses on Tyler products.

### Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

For support teams that provide after-hours service, we will provide you with procedures for contacting



support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

**Incident Handling**

*Incident Tracking*

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique case number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler’s Customer Portal or by calling software support directly.

*Incident Priority*

Each incident is assigned a priority level, which corresponds to the Client’s needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a “confirmed support incident” mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets*
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler’s responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

*\*Response and Resolution Targets may differ by product or business need*

*Incident Escalation*

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

*Remote Support Tool*

Some support calls may require further analysis of the Client’s database, processes or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler’s support team must have the ability to quickly connect to the Client’s system and view the site’s setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.





**Exhibit D**  
**Third Party Terms**

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**Exhibit D  
Schedule 1  
Hyperlinked Terms**

Pattern Stream Terms. Your use of Pattern Stream software and services is subject to the terms found here: <https://www.tylertech.com/terms/finite-matters-ltd-consolidated-terms>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using Pattern Stream software or services, you agree that you have read, understood, and agree to such terms.

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**Exhibit D**  
**Schedule 2**  
**DocOrigin Terms**

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- B. Per-Document.** This is defined as a fee per document based on the total number of documents generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages. A document may contain 1 or more pages. For instance, a batch of invoices for 250 customers may contain 1,000 pages, this will be counted as 250 documents which should correspond to 250 invoices.
- C. Per-Surface.** This is defined as a fee per surface based on the total number of surfaces generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages, the pages may be printed one side (one surface) or duplexed (2 surfaces). The documents may be rendered to a computer file (i.e. PDF), each page placed in the file is considered a surface. A document may contain 1 or more surfaces. For instance, a batch of invoices for 250 customers may contain 500 pages duplexed, this will be counted as 1000 surfaces.
- 1.5 Disaster Recovery License.** You may request a Disaster Recovery license of the Software for each production license You have purchased as a failover in the event of loss of use of the production server(s). This license is for disaster recovery purposes only and under no circumstance may the disaster recovery license be used for production simultaneously with a production license with which it is paired.
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7.3 Your rights to use the Software will immediately terminate upon termination or expiration of this Agreement. Within thirty (30) days of termination or expiration of this Agreement, You shall purge all Software and all copies thereof from all computer systems and storage devices on which it was stored, and certify such to Eclipse Corporation.

## 8. GENERAL PROVISIONS

8.1 **No Waiver.** No delay or failure in exercising any right under this Agreement, or any partial or single exercise of any right, will constitute a waiver of that right or any other rights under this Agreement. No consent to a breach of any express or implied term set out in this Agreement constitutes consent to any subsequent breach, whether of the same or any other provision.

8.2 **Severability.** If any provision of this Agreement is, or becomes, unenforceable, it will be severed from this Agreement and the remainder of this Agreement will remain in full force and effect.

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8.4 **Governing Law and Venue if You are located in the USA.** This Agreement shall be governed by the laws of the State of Texas if You are located in the USA. No choice of laws rules of any jurisdiction shall apply to this Agreement. You consent and agree that the courts of the State of Texas shall have jurisdiction over any legal action or proceeding brought by You arising out of or relating to this Agreement, and You consent to the jurisdiction of such courts for any such action or proceeding.

8.5 **Governing Law and Venue if You are not located in the USA.** This Agreement shall be governed by the laws of the Province of Ontario in Canada if You are not located in the USA. No choice of laws rules of any jurisdiction shall apply to this Agreement. You consent and agree that the courts of the Province of Ontario in Canada shall have jurisdiction over any legal action or proceeding brought by You arising out of or relating to this Agreement, and You consent to the jurisdiction of such courts for any such action or proceeding.

8.6 **Entire Agreement.** This Agreement is the entire understanding and agreement between You and Eclipse Corporation with respect to the subject matter hereof, and it supersedes all prior negotiations, commitments and understandings, verbal or written, and purchase order issued by You. This Agreement may be amended or otherwise modified by Eclipse Corporation from time to time and the most recent version of the Agreement will be available on the Eclipse Corporation website [www.docorigin.com](http://www.docorigin.com).

Last Updated: July 22, 2017



**Exhibit E**  
**Statement of Work**

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# City of Fargo

## SOW from Tyler Technologies, Inc.

7/3/2023

Presented to:  
Mayor Tim Mahoney  
City of Fargo  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

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# Part 1: Executive Summary

## 1. Project Overview

### 1.1 Introduction

Tyler Technologies (“Tyler”) is the largest and most established provider of integrated software and technology services focused solely on the public sector. Tyler’s end-to-end solutions empower public sector entities including local, state, provincial and federal government, to operate more efficiently and connect more transparently with their constituents and with each other. By connecting data and processes across disparate systems, Tyler’s solutions transform how clients gain actionable insights that solve problems in their communities.

### 1.2 Project Goals

This Statement of Work (“SOW”) documents the methodology, implementation stages, activities, and roles and responsibilities, and project scope listed in the Investment Summary of the Agreement between Tyler and the City of Fargo (collectively the “Project”).

The overall goals of the project are to:

- Successfully implement the contracted scope on time and on budget
- Increase operational efficiencies and empower users to be more productive
- Improve accessibility and responsiveness to external and internal customer needs
- Overcome current challenges and meet future goals
- Providing a single, comprehensive, and integrated solution to manage business functions
- Streamlining business processes through automation, integration, and workflows
- Enhance features and functionality to support increased automation and operational efficiencies by streamlining use of systems
- Provide a user-friendly user interface to promote system use
- Increase productivity by eliminating redundancy and unnecessary tasks
- Utilize information technology to consolidate costs, and ongoing training and maintenance

### 1.3 Methodology

This is accomplished by the City of Fargo and Tyler working as a partnership and Tyler utilizing its depth of implementation experience. While each Project is unique, all will follow Tyler’s six-stage methodology. Each of the six stages is comprised of multiple work packages, and each work package includes a narrative description, objectives, tasks, inputs, outputs/deliverables, assumptions, and a responsibility matrix.

Tailored specifically for Tyler’s public sector clients, the project methodology contains Stage Acceptance Control Points throughout each Phase to ensure adherence to scope, budget, timeline controls, effective communications, and quality standards. Clearly defined, the project methodology repeats consistently across Phases, and is scaled to meet the City of Fargo’s complexity and organizational needs.



## Tyler's Six Stage Project Methodology



The methodology adapts to both single-phase and multiple-phase projects.

To achieve Project success, it is imperative that both the City of Fargo and Tyler commit to including the necessary leadership and governance. During each stage of the Project, it is expected that the City of Fargo and Tyler Project teams work collaboratively to complete tasks. An underlying principle of Tyler's Implementation process is to employ an iterative model where the City of Fargo's business processes are assessed, configured, validated, and refined cyclically in line with the project budget. This approach is used in multiple stages and work packages as illustrated in the graphic below.

## Iterative Project Model



The delivery approach is systematic, which reduces variability and mitigates risks to ensure Project success. As illustrated, some stages, along with work packages and tasks, are intended to be overlapping by nature to complete the Project efficiently and effectively.



# Part 2: Project Foundation

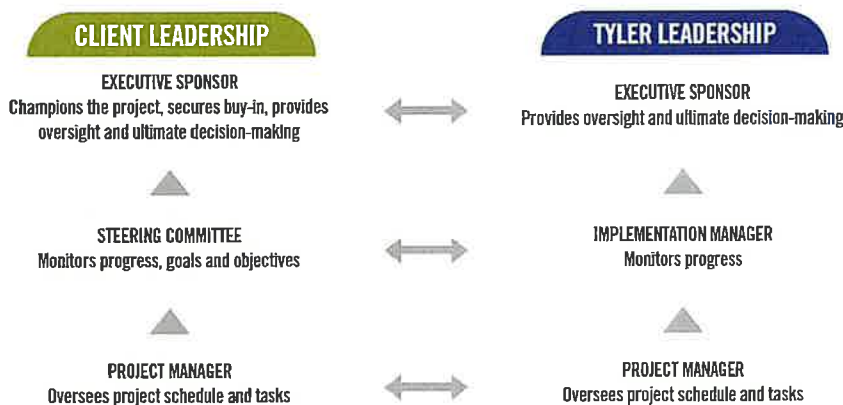
## 2. Project Governance

Project governance is the management framework within which Project decisions are made. The role of Project governance is to provide a decision-making approach that is logical, robust, and repeatable. This allows organizations to have a structured approach for conducting its daily business in addition to project related activities.

This section outlines the resources required to meet the business needs, objectives, and priorities for the Project, communicate the goals to other Project participants, and provide support and guidance to accomplish these goals. Project governance defines the structure for escalation of issues and risks, Change Control review and authority, and Organizational Change Management activities. Throughout the Statement of Work Tyler has provided RACI Matrices for activities to be completed throughout the implementation which will further outline responsibilities of different roles in each stage. Further refinement of the governance structure, related processes, and specific roles and responsibilities occurs during the Initiate & Plan Stage.

The chart below illustrates an overall team perspective where Tyler and the City of Fargo collaborate to resolve Project challenges according to defined escalation paths. If project managers do not possess authority to determine a solution, resolve an issue, or mitigate a risk, Tyler implementation management and the City of Fargo Steering Committee become the escalation points to triage responses prior to escalation to the City of Fargo and Tyler executive sponsors. As part of the escalation process, each Project governance tier presents recommendations and supporting information to facilitate knowledge transfer and issue resolution. The City of Fargo and Tyler executive sponsors serve as the final escalation point.

### Project Governance Relationships



## 3. Project Scope Control

### 3.1 Managing Scope and Project Change

Project Management governance principles contend that there are three connected constraints on a Project: budget, timeline, and scope. These constraints, known as the “triple constraints” or project management triangle, define budget in terms of financial cost, labor costs, and other resource costs. Scope is defined as the work performed to deliver a product, service or result with the specified features and functions, while time is simply defined as the schedule. The Triple Constraint theory states that if you change one side of the triangle, the other two sides must be correspondingly adjusted. For example, if the scope of the Project is increased, cost and time to complete will also need to increase. The Project and executive teams will need to remain cognizant of these constraints when making impactful decisions to the Project. A simple illustration of this triangle is included here, showing the connection of each item and their relational impact to the overall Scope.



A pillar of any successful project is the ability to properly manage scope while allowing the appropriate level of flexibility to incorporate approved changes. Scope and changes within the project will be managed using the change control process outlined in the following section.

### 3.2 Change Control

It may become necessary to change the scope of this Project due to unforeseeable circumstances (e.g., new constraints or opportunities are discovered). This Project is being undertaken with the understanding that Project scope, schedule, and/or cost may need to change to produce optimal results for stakeholders. Changes to contractual requirements will follow the change control process specified in the final contract, and as described below.

### 3.3 Change Request Management

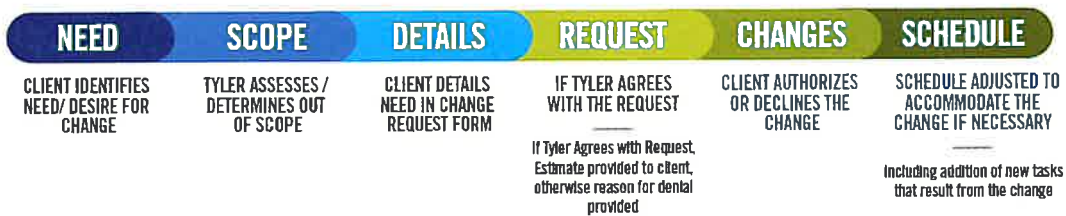
Should the need for a change to Project scope, schedule, and/or cost be identified during the Project, the change will be brought to the attention of the Steering Committee and an assessment of the change will occur. While such changes may result in additional costs and delays relative to the schedule, some changes may result in less cost to the City of Fargo; for example, the City of Fargo may decide it no longer needs a deliverable originally defined in the Project. The Change Request will include the following information:



- The nature of the change.
- A good faith estimate of the additional cost or associated savings to the City of Fargo, if any.
- The timetable for implementing the change.
- The effect on and/or risk to the schedule, resource needs or resource responsibilities.

The City of Fargo will use its good faith efforts to either approve or disapprove any Change Request within ten (10) Business Days (or other period as mutually agreeable between Tyler and the City of Fargo). Any changes to the Project scope, budget, or timeline must be documented and approved in writing using a Change Request form. These changes constitute a formal amendment to the Statement of Work and will supersede any conflicting term in the Statement of Work.

## Change Request Process



## 4. Acceptance and Acknowledgement Processes

The implementation of a Project involves many decisions to be made throughout its lifecycle. Decisions will vary from higher level strategy decisions to smaller, detailed Project level decisions. It is critical to the success of the Project that each City of Fargo office or department designates specific individuals for making decisions on behalf of their offices or departments.

Both Tyler and the City of Fargo will identify representative project managers. These individuals will represent the interests of all stakeholders and serve as the primary contacts between the two organizations.

The coordination of gaining City of Fargo feedback and approval on Project deliverables will be critical to the success of the Project. The City of Fargo project manager will strive to gain deliverable and decision approvals from all authorized City of Fargo representatives. When possible, to ensure an efficient response process, the Tyler Project Manager will notify the City of Fargo Project Manager of an upcoming Deliverable or Control Point to allow the City of Fargo Project Manager adequate time to align resources for review and to effectively use the review timeline window, in order to meet mutually agreed upon response timelines. This will typically occur during recurring weekly status calls between Tyler and the City of Fargo. Given that the designated decision-maker for each department may not always be available, there must be a designated proxy for each decision point in the Project. Assignment of each proxy will be the responsibility of the leadership from each City of Fargo department. The proxies will be named individuals that have the authorization to make decisions on behalf of their department.

The following process will be used for accepting Deliverables and Control Points:

- The City of Fargo shall have ten (10) business days from the date of delivery, or as otherwise mutually agreed upon by the parties in writing, to accept each Deliverable or Control Point. If the City of Fargo does not provide acceptance or acknowledgement within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, and does not give notice of rejection, Tyler may deem the Deliverable or Control Point as accepted.
- If the City of Fargo does not agree the Deliverable or Control Point meets requirements, the City of Fargo shall notify Tyler project manager(s), in writing, with reasoning within ten (10) business days, or the otherwise agreed-upon timeframe, not to be unreasonably withheld, of receipt of the Deliverable.
- Tyler shall address any deficiencies and redeliver the Deliverable or Control Point. The City of Fargo shall then have five (5) business days, or an otherwise agreed-upon timeframe, from receipt of the redelivered Deliverable or Control Point to accept or again submit written notification of reasons for rejecting the milestone. If the City of Fargo does not provide acceptance within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted. If the City of Fargo again deems the Deliverable or Control point to be deficient and not in conformance with the stated Scope and Objectives of said Deliverable, the City of Fargo shall reject the Deliverable and work with Tyler to cure the deficiency and re-deliver the Deliverable according to the process set forth in this Section.
- Certain Deliverables developed throughout the project may not be static, and will be updated as needed throughout the process. As an example, the Implementation Project Plan (“Project Plan” or “schedule”) will be delivered as a baseline document and developed collaboratively with the City of Fargo. For these types of Deliverables that will be revised or otherwise maintained throughout the project, Tyler requires the City of Fargo Acknowledgement of receipt of the Deliverable, and not formal Acceptance. The City of Fargo shall have five (5) business days from the date of receipt, or as otherwise mutually agreed upon in writing by the parties, to (a) acknowledge receipt of the





Deliverable and conformance to the stated Scope and Objectives of said Deliverable; or (b) reject the Deliverable.

- Acceptance by the City of Fargo shall, in no event, modify or limit Tyler's obligations under this SOW, nor shall the City of Fargo be deemed to have waived any rights or remedies it may have under the Agreement, including this SOW.

## 5. Roles and Responsibilities

The following defines the roles and responsibilities of each Project resource for the City of Fargo and Tyler. Roles and responsibilities may not follow the organizational chart or position descriptions at the City of Fargo, but are roles defined within the Project. It is common for individual resources on both the Tyler and City of Fargo project teams to fill multiple roles. Similarly, it is common for some roles to be filled by multiple people.

### 5.1 Tyler Roles & Responsibilities

Tyler assigns a project manager prior to the start of each Phase of the Project (some Projects may only be one Phase in duration). Additional Tyler resources are assigned as the schedule develops and as needs arise.

#### 5.1.1 Tyler Executive Manager

Tyler executive management has indirect involvement with the Project and is part of the Tyler escalation process. This team member offers additional support to the Project team and collaborates with other Tyler department managers as needed to escalate and facilitate implementation Project tasks and decisions.

- Provides clear direction for Tyler staff on executing on the Project Deliverables to align with satisfying the City of Fargo's overall organizational strategy.
- Authorizes required Project resources.
- Resolves all decisions and/or issues not resolved at the implementation management level as part of the escalation process.
- Acts as the counterpart to the City of Fargo's executive sponsor.

#### 5.1.2 Tyler Implementation Manager

- Tyler implementation management has indirect involvement with the Project and is part of the Tyler escalation process. The Tyler project managers consult implementation management on issues and outstanding decisions critical to the Project. Implementation management works toward a solution with the Tyler Project Manager or with City of Fargo management as appropriate. Tyler executive management is the escalation point for any issues not resolved at this level.
- Assigns Tyler Project personnel.
- Provides support for the Project team.
- Provides management support for the Project to ensure it is staffed appropriately and staff have necessary resources.
- Monitors Project progress including progress towards agreed upon goals and objectives.

#### 5.1.3 Tyler Project Manager

- The Tyler project manager(s) provides oversight of the Project, coordination of Tyler resources between departments, management of the Project budget and schedule, effective risk, and issue management, and is the primary point of contact for all Project related items. As requested by the City of Fargo, the Tyler Project Manager provides regular updates to the City of Fargo Steering



Committee and other Tyler governance members. Tyler Project Manager's role includes responsibilities in the following areas:

#### 5.1.3.1 Contract Management

- Validates contract compliance throughout the Project.
- Ensures Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions.
- Prepares and presents contract milestone sign-offs for acceptance by the City of Fargo project manager(s).
- Coordinates Change Requests, if needed, to ensure proper Scope and budgetary compliance.

#### 5.1.3.2 Planning

- Delivers project planning documents.
- Defines Project tasks and resource requirements.
- Develops initial Project schedule and Project Management Plan and maintains the Project schedule on a regular basis.
- Collaborates with the City of Fargo project manager(s) to plan and schedule Project timelines to achieve on-time implementation.
- Keeps Tyler Implementation Manager(s) proactively apprised of any and all issues which may result in the need for additional training, change in schedule, change in process decisions, or which have the potential to adversely impact the success of the Project prior to taking action.
- 

#### 5.1.3.3 Implementation Management

- Tightly manages Scope and budget of Project to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.
- Establishes and manages a schedule and Tyler resources that properly support the Project Schedule and are also in balance with Scope/budget.
- Establishes risk/issue tracking/reporting process between the City of Fargo and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to the City of Fargo any items that may impact the outcomes of the Project.
- Collaborates with the City of Fargo's project manager(s) to establish key business drivers and success indicators that will help to govern Project activities and key decisions to ensure a quality outcome of the project.
- Collaborates with the City of Fargo's project manager(s) to set a routine communication plan that will aide all Project team members, of both the City of Fargo and Tyler, in understanding the goals, objectives, status, and health of the Project.

#### 5.1.3.4 Resource Management

- Acts as liaison between Project team and Tyler manager(s) and Implementation Consultants.
- Identifies and coordinates all Tyler resources across all applications, Phases, and activities including development, forms, installation, reports, implementation, and billing.
- Provides direction and support to Project team.
- Manages the appropriate assignment and timely completion of tasks as defined in the Project Schedule, task list, and Go-Live Checklist.
- Assesses team performance and adjusts as necessary.
- Consulted on in Scope 3rd party providers to align activities with ongoing Project tasks.



- Consulted on in Scope 3rd party providers to align activities with ongoing Project tasks.
- Interfaces closely with Tyler developers to coordinate program Modification activities.

#### 5.1.4 Tyler Implementation Consultant

- Completes tasks as assigned by the Tyler project manager(s).
- As appropriate, follows-up on issues identified during sessions and conveys these items to the Tyler Project Manager.
- Documents activities for services performed by Tyler.
- Guides the City of Fargo through software validation process following configuration.
- Assists during Go-Live process and provides support until the City of Fargo transitions to Client Services.
- Facilitates training sessions and discussions with the City of Fargo and Tyler staff to ensure adequate discussion of the appropriate agenda topics during the allotted time.
- May provide conversion review and error resolution assistance.

#### 5.1.5 Tyler Sales

- Supports Sales to Implementation knowledge transfer during Initiate & Plan.
- Provides historical information, as needed, throughout implementation.
- Participates in pricing activities if additional licensing and/or services are needed.

#### 5.1.6 Tyler Technical Services

- Maintains Tyler infrastructure requirements and design document(s).
- Involved in system infrastructure planning/review(s).
- Provides first installation of licensed software with initial database on servers.
- Supports and assists the project team with technical/environmental issues/needs.
- Deploys Tyler products.
- Conducts GIS Planning.
- Reviews GIS data and provides feedback to the City of Fargo.
- Loads City of Fargo provided GIS data into the system.

#### 5.1.7 Tyler API Services

- Provides training in the use of the API Toolkit.
- Provides consulting services in the use of the API Toolkit to the City of Fargo, as the City of Fargo builds interfaces.

### 5.2 City of Fargo Roles & Responsibilities

City of Fargo resources will be assigned prior to the start of each Phase of the Project. One person may be assigned to multiple Project roles.

#### 5.2.1 City of Fargo Executive Sponsor

The City of Fargo executive sponsor provides support to the Project by providing strategic direction and communicating key issues about the Project and its overall importance to the organization. When called upon, the executive sponsor also acts as the final authority on all escalated Project issues. The executive sponsor engages in the Project, as needed, to provide necessary support, oversight, guidance, and escalation,



but does not participate in day-to-day Project activities. The executive sponsor empowers the City of Fargo steering committee, project manager(s), and functional leads to make critical business decisions for the City of Fargo.

- Champions the project at the executive level to secure buy-in.
- Authorizes required project resources.
- Actively participates in organizational change communications.

### 5.2.2 City of Fargo Steering Committee

The City of Fargo steering committee understands and supports the cultural change necessary for the Project and fosters an appreciation for the Project's value throughout the organization. The steering committee oversees the City of Fargo project manager and Project through participation in regular internal meetings. The City of Fargo steering committee remains updated on all Project progress, Project decisions, and achievement of Project milestones. The City of Fargo steering committee also serves as primary level of issue resolution for the Project.

- Works to resolve all decisions and/or issues not resolved at the project manager level as part of the escalation process.
- Attends all scheduled steering committee meetings.
- Provides support for the project team.
- Assists with communicating key project messages throughout the organization.
- Prioritizes the project within the organization.
- Helps to ensure the project is staffed appropriately by the City of Fargo based upon the information furnished to the City of Fargo by Tyler related to staffing resource demands, and that staff have necessary resources.
- Monitors project progress including progress towards agreed upon goals and objectives.
- Has the authority to approve or deny changes impacting the following areas:
  - Cost
  - Scope
  - Schedule
  - Project Goals
  - City of Fargo Policies
  - Needs of other client projects

### 5.2.3 City of Fargo Project Manager

The City of Fargo shall assign project manager(s) prior to the start of this project with overall responsibility and authority to make decisions related to Project Scope, scheduling, and task assignment. The City of Fargo Project Manager should communicate decisions and commitments to the Tyler project manager(s) in a timely and efficient manner. When the City of Fargo project manager(s) do not have the knowledge or authority to make decisions, he or she engages the necessary resources to participate in discussions and make decisions in a timely fashion to avoid Project delays. The City of Fargo project manager(s) are responsible for reporting to the City of Fargo steering committee and determining appropriate escalation points.

#### 5.2.3.1 Contract Management

- Validates contract compliance throughout the project.
- Helps to ensure that invoicing and Deliverables meet contract requirements.



- Acts as primary point of contact for all contract and invoicing questions. Collaborates on and seeks approval from Steering Committee for Change Requests, if needed, to help ensure proper scope and budgetary compliance.

#### 5.2.3.2 Planning

- Reviews and accepts project planning documents.
- Defines project tasks and resource requirements for the City of Fargo project team.
- Collaborates in the development and approval of the project schedule.
- Collaborates with Tyler project manager(s) to plan and schedule project timelines to achieve on-time implementation.

#### 5.2.3.3 Implementation Management

- Tightly manages project budget and scope.
- Collaborates with Tyler project manager(s) to establish a process and approval matrix to ensure that scope changes and budget (planned versus actual) are transparent and handled effectively and efficiently.
- Collaborates with Tyler project manager to establish and manage a schedule and resource plan that properly supports the project schedule as a whole and is also in balance with scope and budget.
- Collaborates with Tyler project manager(s) to establish risk and issue tracking and reporting process between the City of Fargo and Tyler and takes all reasonably necessary steps to proactively mitigate these items or communicate with transparency to Tyler any items that may impact the outcomes of the project.
- Collaborates with Tyler project manager(s) to establish key business drivers and success indicators that will help to govern project activities and key decisions to help ensure a quality outcome of the project.
- Routinely communicates with both the City of Fargo staff and Tyler, aiding in the understanding of goals, objectives, current status, and health of the project by all team members.
- Manages the requirements gathering process and ensure timely and quality business requirements are being provided to Tyler.

#### 5.2.3.4 Resource Management

- Acts as liaison between project team and stakeholders.
- Identifies and coordinates all City of Fargo resources across all modules, phases, and activities including data conversions, forms design, hardware and software installation, reports building, and satisfying invoices.
- Provides direction and support to project team.
- Builds partnerships among the various stakeholders, negotiating authority to move the project forward.
- Manages the appropriate assignment and timely completion of tasks as defined.
- Assesses team performance and takes corrective action, if needed.
- Provides guidance to City of Fargo technical teams to ensure appropriate response and collaboration with Tyler Technical Support Teams to ensure timely response and appropriate resolution.
- Owns the relationship with in-Scope 3rd party providers and aligns activities with ongoing project tasks.
- Helps to ensure that users have appropriate access to Tyler project toolsets as required.
- Conducts training on proper use of toolsets.
- Validates completion of required assignments using toolsets.



### 5.2.4 City of Fargo Functional Leads

- Lead the City of Fargo's preparation for and participation in Tyler-led sessions and other project meetings for the represented functional area.
- Provide available documentation and support the review of business processes, rules, and requirements.
- Lead system setup and configuration efforts among the City of Fargo staff.
- Makes business process change decisions under time sensitive conditions.
- Communicates existing business processes and procedures to Tyler consultants.
- Assists in identifying business process changes that may require escalation.
- Contributes business process expertise for Current & Future State Analysis.
- Identifies and includes additional subject matter experts to participate in Current & Future State Analysis.
- Validates that necessary skills have been retained by end users.
- Provides End Users with dedicated time to complete required homework tasks.
- Acts as an ambassador/champion of change for the new process and provide business process change support.
- Identifies and communicates any additional training needs or scheduling conflicts to the City of Fargo project manager.
- Actively participates in all aspects of the implementation, including, but not limited to, the following key activities:
  - Task completion
  - Stakeholder Meeting
  - Project Management Plan development
  - Schedule development
  - Maintenance and monitoring of risk register
  - Escalation of issues
  - Communication with Tyler project team
  - Coordination of City of Fargo resources
  - Attendance at scheduled sessions
  - Change management activities
  - Modification specification, demonstrations, testing and approval assistance
  - Data analysis assistance
  - Decentralized end user training
  - Process testing
  - Solution Validation

### 5.2.5 City of Fargo Power Users

- Participate in project activities as required by the project team and project manager(s).
- Provide subject matter expertise on the City of Fargo business processes and requirements.
- Act as subject matter experts and attend Current & Future State Analysis sessions as needed.
- Attend all scheduled training sessions.
- Participate in all required post-training processes as needed throughout project.
- Test all application configuration to help ensure the application satisfies the City of Fargo business process requirements.
- Become application experts.
- Participate in Solution Validation.
- Adopt and support changed procedures.



- Complete all deliverables by the due dates defined in the project schedule.
- Demonstrate competency with Tyler products processing prior to Go-live.
- Provide knowledge transfer to the City of Fargo staff during and after implementation.
- Participate in conversion review and validation.

### 5.2.6 City of Fargo End Users

- Attend all scheduled training sessions.
- Become proficient in application functions related to job duties.
- Adopt and utilize changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Utilize software to perform job functions at and beyond Go-live.

### 5.2.7 City of Fargo Technical Lead

- Coordinates updates and releases with Tyler as needed.
- Coordinates the copying of source databases to training/testing databases as needed for training days.
- Coordinates and adds new users, printers and other peripherals as needed.
- Validates that all users understand log-on process and have necessary permission for all training sessions.
- Coordinates interface development for City of Fargo third party interfaces.
- Develops or assists in creating reports as needed.
- Helps to ensure on-site network and peripheral devices meet specifications provided by Tyler.
- Assists with software installation as needed.
- Extracts and transmits conversion data and control reports from the City of Fargo's legacy system per the conversion schedule set forth in the project schedule.

#### 5.2.7.1 City of Fargo GIS

- Participates in GIS planning activities.
- Responsible for management and maintenance of City of Fargo GIS infrastructure and data.
- Ensures GIS data/service endpoints are in alignment with Tyler software requirements.
- Provides Tyler implementation team with GIS data/service access information.

#### 5.2.7.2 City of Fargo Upgrade Coordination

- Becomes familiar with the software upgrade process and required steps.
- Becomes familiar with Tyler's releases and updates.
- Utilizes Tyler resources to stay abreast of the latest Tyler releases and updates, as well as the latest helpful tools to manage the City of Fargo's software upgrade process.
- Assists with the software upgrade process during implementation.
- Manages software upgrade activities post-implementation.
- Manages software upgrade plan activities.
- Coordinates software upgrade plan activities with City of Fargo and Tyler resources.
- Communicates changes affecting users and department stakeholders.
- Obtains department stakeholder acceptance to upgrade production environment.

### 5.2.8 City of Fargo Change Management Lead

- Validates that users receive timely and thorough communication regarding process changes.



- Provides coaching to supervisors to prepare them to support users through the project changes.
- Identifies the impact areas resulting from project activities and develops a plan to address them proactively.
- Identifies areas of resistance and develops a plan to reinforce the change.
- Monitors post-production performance and new process adherence.





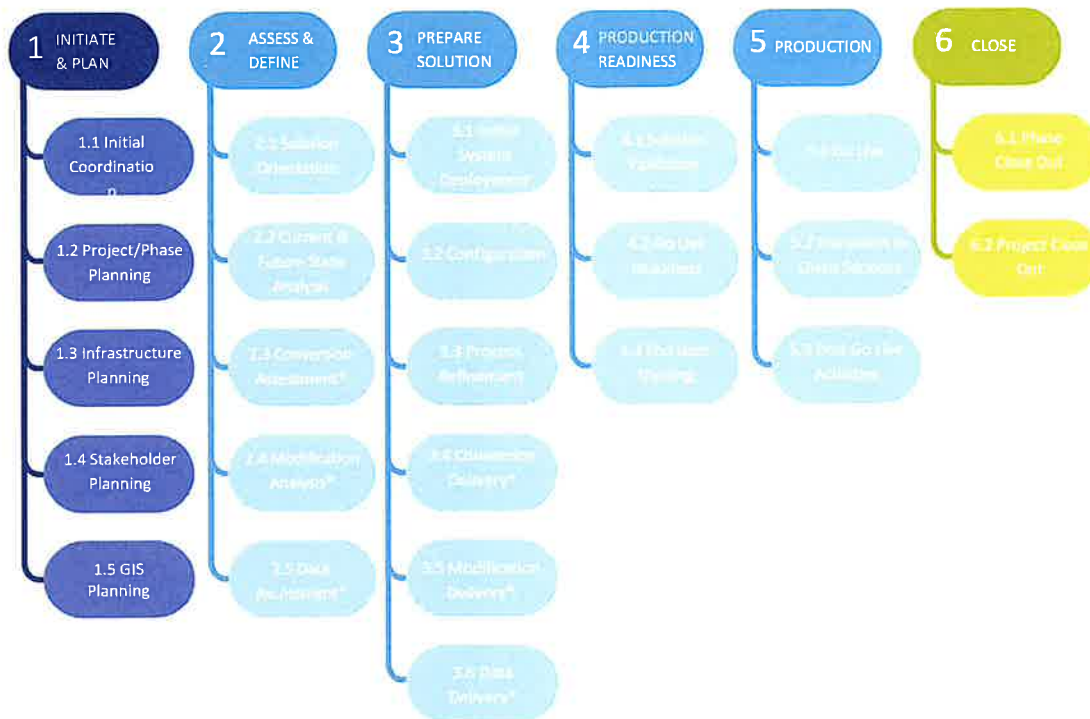
# Part 3: Project Plan

## 6. Project Stages

### Work Breakdown Structure

The Work Breakdown Structure (WBS) is a hierarchical representation of a Project or Phase broken down into smaller, more manageable components. The top-level components are called “Stages” and the second level components are called “Work Packages”. The work packages, shown below each stage, contain the high-level work to be done. The detailed Project Schedule, developed during Project/Phase Planning and finalized during subsequent stages, lists the tasks to be completed within each work package. Each stage ends with a “Control Point”, confirming the work performed during that stage of the Project has been accepted by the City of Fargo.

## Work Breakdown Structure (WBS)



*\*Items noted with an asterisk in the graphic above relate to specific products and services. If those products and services are not included in the scope of the contract, these specific work packages will be noted as “Intentionally Left Blank” in Section 6 of the Statement of Work.*



## 6.1 Initiate and Plan

The Initiate and Plan stage involves Project initiation, infrastructure, and planning. This stage creates a foundation for the Project by identifying and establishing sequence and timing for each Phase as well as verifying scope for the Project. This stage will be conducted at the onset of the Project, with a few unique items being repeated for the additional Phases as needed.

### 6.1.1 Initial Coordination

Prior to Project commencement, Tyler management assigns project manager(s). Additional Project resources will be assigned later in the Project as a Project schedule is developed. Tyler will make every effort with such assignment of additional resources to not cause a delayed project timelines or start-up. Tyler provides the City of Fargo with initial Project documents used to gather names of key personnel, their functional role as it pertains to the Project, as well as any blackout dates to consider for future planning. the City of Fargo gathers the information requested by the provided deadline to help in ensuring preliminary planning and scheduling can be conducted moving the Project forward in a timely fashion. Internally, the Tyler Project Manager(s) coordinate with sales to ensure transfer of vital information from the sales process prior to scheduling a Project Planning Meeting with the City of Fargo’s team. During this step, Tyler will work with the City of Fargo to establish the date(s) for the Project and Phase Planning session.

**Objectives:**

- Formally launch the project.
- Establish project governance.
- Define and communicate governance for Tyler.
- Identify City of Fargo project team.

STAGE 1	Initial Coordination																
	Tyler								City of Fargo								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Tyler project team is assigned	A	R	C	I	I	I	I	I	I		I						
City of Fargo project team is assigned									A	I	R	I	I	I			
Provide initial project documents to the City of Fargo		A	R	C			C		I		I						
Gather preliminary information requested			I						A		R	C		C		C	C
Sales to implementation knowledge transfer		A	R	I	I	I	I				I						





<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
	Schedule and conduct planning session(s)	A	R						I		C	C	I				
	Develop Project Management Plan	A	R						I		C	C	I				
	Develop initial project schedule	A	R	I	I	I	I		I	I	C	C	I	I	C		I

Inputs	Contract documents
	Statement of Work
	Guide to Starting Your Project

Outputs / Deliverables		<b>Acceptance Criteria [only] for Deliverables</b>
	Project Management Plan	Delivery of document
	Project Operational Plan	Delivery of document
	Initial Project Schedule	City of Fargo provides acceptance of schedule based on resource availability, project budget, and goals.

**Work package assumptions:**

- City of Fargo has reviewed and completed the Guide to Starting Your Project document.

### 6.1.3 Infrastructure Planning

Procuring required hardware and setting it up properly is a critical part of a successful implementation. This task is especially important for Tyler-hosted/SaaS deployment models where Tyler will be responsible for building the environments for a hosted/SaaS deployment. Tyler will install Licensed Software on application server(s). The City of Fargo is responsible for the installation and setup of all peripheral devices.

**Objectives:**

- Ensure the City of Fargo’s infrastructure meets Tyler’s application requirements.
- Ensure the City of Fargo’s infrastructure is scheduled to be in place and available for use on time.

STAGE 1	Infrastructure Planning	
	Tyler	City of Fargo



<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads	
	Provide Infrastructure Requirements and Design Document	A	R		C		C				I							I
	Initial Infrastructure Meeting	A	R		C		C				C							C
	Schedule SaaS Environment Availability	A	R				C				I							
	Schedule Installation of All Licensed Software	A	R				C				I							I
	Infrastructure Audit	A	R				C				I							C

Inputs	Initial Infrastructure Requirements
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Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Completed Infrastructure Requirements	Delivery of Requirements
	Infrastructure Audit	System Passes Audit Criteria

### 6.1.4 Stakeholder Meeting

Communication of the Project planning outcomes to the City of Fargo Project team, executives and other key stakeholders is vital to Project success. The Stakeholder meeting is a strategic activity to inform, engage, gain commitment, and instill confidence in the City of Fargo team. During the meeting, the goals and objectives of the Project will be reviewed along with detail on Project scope, implementation methodology, roles and responsibilities, Project timeline and schedule, and keys to Project success.

**Objectives:**

- Formally present and communicate the project activities and timeline.
- Communicate project expectations.

STAGE 1	Stakeholder Meeting	
	Tyler	City of Fargo



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
	I	A	R	I	I				I	I	C		I				
		I	C						A		R		C				
	I	A	R	I	I				I	I	C	I	I	I	I	I	I

Inputs	Agreement
	SOW
	Project Management Plan

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Stakeholder Meeting Presentation	Presentation developed by, and delivered to identified City of Fargo stakeholders and led by Tyler representatives

Work package assumptions:

- None

### 6.1.5 GIS Preparation

GIS data is a core part of many Tyler applications. Other City of Fargo offices/products may also use this data and have different GIS requirements. A key focus of this preparation will be the process for developing the GIS data for use with Tyler applications. This can be an iterative process, so it is important to begin preparation early.

Objectives:

- Identify all City of Fargo GIS data sources and formats.
- Tyler to understand the City of Fargo’s GIS needs and practices.
- Ensure the City of Fargo’s GIS data meets Tyler product requirements.

STAGE 1	GIS Preparation	
	Tyler	City of Fargo



<p>RACI MATRIX KEY:                  R = Responsible                  A = Accountable                  C = Consulted                  I = Informed</p>	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
	Initial GIS Planning Meeting	A	R				C				C						C
	Determine all GIS Data Sources			I			I		A		R						C
	Provide Source GIS Data			I			I		A		R						C
	Review GIS Data and Provide Feedback	A	R				C				I						C

Inputs	GIS Requirements Document
--------	---------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Production Ready Map Data	Meets Tyler GIS Requirements.

**Work package assumptions:**

- GIS data provided to Tyler is accurate and complete.
- GIS data provided to Tyler is current.
- City of Fargo is responsible for maintaining the GIS data.

**6.1.6 Control Point 1: Initiate & Plan Stage Acceptance**

Acceptance criteria for this stage includes completion of all criteria listed below.

Note: Advancement to the Assess & Define stage is not dependent upon Tyler’s receipt of this stage acceptance.

**Initiate & Plan Stage Deliverables:**

- Project Management Plan
- Initial Project Schedule

**Initiate & Plan stage acceptance criteria:**

- All stage deliverables accepted based on acceptance criteria previously defined
- Project governance defined
- Project portal made available to the City of Fargo
- Stakeholder meeting complete
- GIS Data Production Ready
- Completed Infrastructure Requirements and Design Document
- System Passes Infrastructure Audit (as applicable)



## 6.2 Assess & Define

The Assess & Define stage will provide an opportunity to gather information related to current City of Fargo business processes. This information will be used to identify and define business processes utilized with Tyler software. The City of Fargo collaborates with Tyler providing complete and accurate information to Tyler staff, both by volunteering such information and in response to requests made by Tyler, and assisting in analysis, understanding current workflows and business processes. Tyler will in turn educate the City of Fargo staff on options available in the Tyler Software that may be used to meet City requirements, and advise on best practices and workflow. City of Fargo shall be responsible for making configuration decisions based on the options presented by Tyler in a timely manner in accordance with the agreed-upon project schedule.

### 6.2.1 Solution Orientation

The Solution Orientation provides the Project stakeholders a high-level understanding of the solution functionality prior to beginning the current and future state analysis. The primary goal is to establish a foundation for upcoming conversations regarding the design and configuration of the solution.

Tyler utilizes a variety of tools for the Solution Orientation, focusing on City of Fargo team knowledge transfer such as: eLearning, documentation, or walkthroughs. The City of Fargo team will gain a better understanding of the major processes and focus on data flow, the connection between configuration options and outcome, integration, and terminology that may be unique to Tyler’s solution.

Objectives:

- Provide a basic understanding of system functionality.
- Prepare the City of Fargo for current and future state analysis.

STAGE 2	Solution Orientation																	
	Tyler							City of Fargo										
<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads	
	Provide pre-requisites			A	R							I	I		I	I		I
	Complete pre-requisites											A	R		C			C
	Conduct orientation			A	R							I	I		I	I		I

Inputs	Solution orientation materials
	Training Plan





### 6.2.2 Current & Future State Analysis

The Current & Future State Analysis provides the Project stakeholders and Tyler an understanding of process changes that will be achieved with the new system.

The City of Fargo and Tyler will evaluate current state processes, options within the new software, pros and cons of each based on current or desired state and make decisions about the future state configuration and processing. This may occur before or within the same timeframe as the configuration work package. The options within the new software will be limited to the scope of this implementation and will make use of standard Tyler functionality.

The City of Fargo will adopt the existing Tyler solution wherever possible to avoid project schedule and quality risk from over customization of Tyler products. It is the City of Fargo’s responsibility to verify that in-scope requirements are being met throughout the implementation if functional requirements are defined as part of the contract. The following guidelines will be followed when evaluating if a modification to the product is required:

- A reasonable business process change is available.
- Functionality exists which satisfies the requirement.
- Configuration of the application satisfies the requirement.
- An in-scope modification satisfies the requirement.

Requirements that are not met will follow the agreed upon change control process and can have impacts on the project schedule, scope, budget, and resource availability.

STAGE 2	Current & Future State Analysis																	
	Tyler							City of Fargo										
<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads	
	Current State process review			A	R	I	I	I				C	C	C	C			C
	Discuss future-state options			A	R	C	C	C				C	C	C	C			C
	Make future-state decisions (non-COTS)			C	C	C	C	C				A	R	I	C			C
	Document anticipated configuration options required to support future state			A	R	C	C	C				I	I	I	I			I

Inputs	City of Fargo current state documentation
	Solution Orientation completion



Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Documentation that describes future-state decisions and configuration options to support future-state decisions.	Delivery of document

Work package assumptions:

- City of Fargo attendees possess sufficient knowledge and authority to make future state decisions.
- The City of Fargo is responsible for any documentation of current state business processes.
- The City of Fargo can effectively communicate current state processes.

### 6.2.3 Conversion Assessment

Data Conversions are a major effort in any software implementation. Tyler’s conversion tools facilitate the predictable, repeatable conversion process that is necessary to support a successful transition to the Tyler system. The first step in this process is to perform an assessment of the existing (“legacy”) system(s), to better understand the source data, risks, and options available. Once the data has been analyzed, the plan for data conversion is completed and communicated to the appropriate stakeholders.

Objectives:

- Communicate a common understanding of the project goals with respect to data.
- Ensure complete and accurate source data is available for review/transfer.
- Map the data from the source to the Tyler system.
- Document the data conversion/loading approach.

STAGE 2	Data Conversion Assessment																
	Tyler							City of Fargo									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Extract Data from Source Systems			I		C						A						R
Review and Scrub Source Data			I	I	I						A	R		C			I
Build/Update Data Conversion Plan			R	C	C						C	I	I	I			I

Inputs	City of Fargo Source data
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	City of Fargo Source data Documentation (if available)
--	--

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data Conversion Plan built/updated	City of Fargo Acceptance of Data Conversion Plan

**Work package assumptions:**

- Tyler will be provided with data from the Legacy system(s) in a mutually agreed upon format.
- Tyler will work with the City of Fargo representatives to identify business rules before writing the conversion.
- City of Fargo subject matter experts and resources most familiar with the current data will be involved in the data conversion planning effort.

**6.2.4 Intentionally left blank.**

**6.2.5 Intentionally left blank.**

**6.2.6 Control Point 2: Assess & Define Stage Acceptance**

Acceptance criteria for this Stage includes completion of all criteria listed below.

Note: Advancement to the Prepare Solution Stage is dependent upon Tyler’s receipt of the Stage Acceptance.

**Assess & Define Stage Deliverables:**

- Documentation of future state decisions and configuration options to support future state decisions.
- Modification specification document.
- Assess & Define Stage Acceptance Criteria:
  - All stage deliverables accepted based on criteria previously defined.
  - Solution Orientation is delivered.
  - Conversion data extracts are received by Tyler.
  - Data conversion plan built.

**6.3 Prepare Solution**

During the Prepare Solution stage, information gathered during the Initiate & Plan and Assess & Define stages will be used to install and configure the Tyler software solution. Software configuration will be validated by the City of Fargo against future state decisions defined in previous stages and processes refined as needed to ensure business requirements are met.

**6.3.1 Initial System Deployment**

The timely availability of the Tyler Solution is important to a successful Project implementation. The success and timeliness of subsequent work packages are contingent upon the initial system deployment of Tyler Licensed Software on an approved network and infrastructure. Delays in executing this work package can affect the project schedule.



Objectives:

- All licensed software is installed and operational.
- The City of Fargo can access the software.

STAGE 3	Initial System Deployment (Hosted/SaaS)*																
	Tyler							City of Fargo									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Prepare hosted environment			A				R				I						C
Install Licensed Software with Initial Database on Server(s) for Included Environments			A				R				I						C
Install Licensed Software on City of Fargo Devices (if applicable)			I				C				A						R
Tyler System Administration Training (if applicable)			A				R				I						C

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
Licensed Software is Installed on the Server(s)	Software is accessible
Licensed Software is Installed on City of Fargo Devices (if applicable)	Software is accessible
Installation Checklist/System Document	System meets prescribed checklist
Infrastructure Design Document (C&J – If Applicable)	

Work package assumptions:

- The most current available version of the Tyler Licensed Software will be installed.
- The City of Fargo will provide network access for Tyler modules, printers, and Internet access to all applicable City of Fargo and Tyler Project staff.



### 6.3.2 Configuration

The purpose of Configuration is to prepare the software product for validation.

Tyler staff collaborates with the City of Fargo to complete software configuration based on the outputs of the future state analysis performed during the Assess and Define Stage. The City of Fargo collaborates with Tyler staff iteratively to validate software configuration.

**Objectives:**

- Software is ready for validation.
- Educate the City of Fargo Power User how to configure and maintain software.
- Prepare standard interfaces for process validation (if applicable).

STAGE 3	Configuration																
	Tyler							City of Fargo									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Conduct configuration training			A	R							I	C		C			
Complete Tyler configuration tasks (where applicable)			A	R							I	I		I			
Complete City of Fargo configuration tasks (where applicable)			I	C							A	R		C			
Standard interfaces configuration and training (if applicable)			A	R			C				I	C		C			C
Updates to Solution Validation testing plan			C	C							A	R		C			C

Inputs	Documentation that describes future state decisions and configuration options to support future state decisions.
--------	--

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Configured System	

**Work package assumptions:**



- Tyler provides guidance for configuration options available within the Tyler software. The City of Fargo is responsible for making decisions when multiple options are available.

### 6.3.3 Process Refinement

Tyler will educate the City of Fargo users on how to execute processes in the system to prepare them for the validation of the software. The City of Fargo collaborates with Tyler staff iteratively to validate software configuration options to support future state.

**Objectives:**

- Ensure that the City of Fargo understands future state processes and how to execute the processes in the software.
- Refine each process to meet the business requirements.
- Validate standard interfaces, where applicable.
- Validate forms and reports, where applicable.

STAGE 3	Process Refinement																
	Tyler							City of Fargo									
<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
	Conduct process training			A	R							I	C	I	C		
Confirm process decisions			I	C					A		R	C	I	C			
Test configuration			I	C							A	R		C			
Refine configuration (City of Fargo Responsible)			I	C							A	R		C			
Refine configuration (Tyler Responsible)			A	R							I	I		I			
Validate interface process and results			I	C			C				A	R		C			C
Update City of Fargo-specific process documentation (if applicable)			I	C							A	R		C			
Updates to Solution Validation testing plan			C	C							A	R		C			C



Inputs	Initial Configuration	
	Documentation that describes future state decisions and configuration options to support future state decisions.	
	Solution validation test plan	
Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated solution validation test plan	
	Completed City of Fargo-specific process documentation (completed by City of Fargo)	

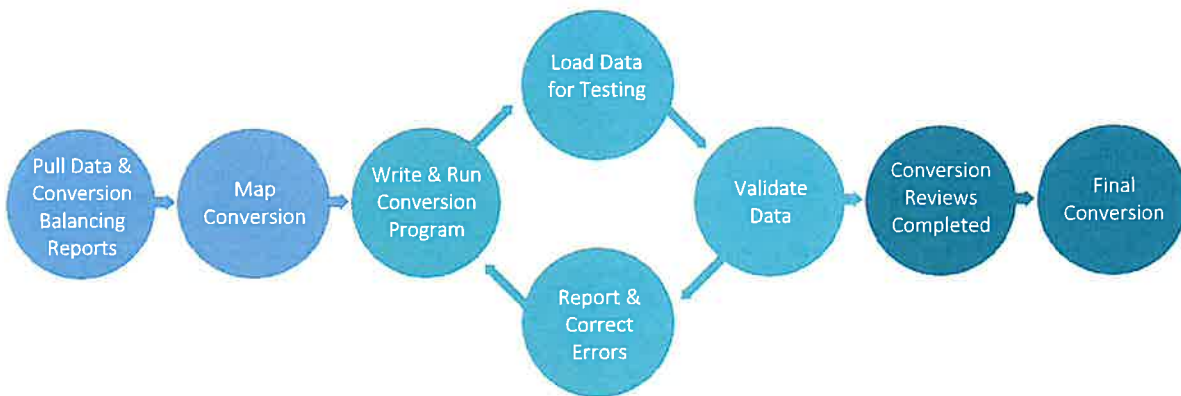
**Work package assumptions:**

- None

### 6.3.4 Conversion Delivery

The purpose of this task is to transition the City of Fargo’s data from their source (“legacy”) system(s) to the Tyler system(s). The data will need to be mapped from the legacy system into the new Tyler system format. A well-executed data conversion is key to a successful cutover to the new system(s).

With guidance from Tyler, the City of Fargo will review specific data elements within the system and identify / report discrepancies. Iteratively, Tyler will collaborate with the City of Fargo to address conversion discrepancies. This process will allow for clean, reconciled data to transfer from the source system(s) to the Tyler system(s). Reference Conversion Appendix for additional detail.



**Objectives:**

- Data is ready for production (Conversion).

STAGE 3	Data Delivery & Conversion	
	Tyler	City of Fargo



<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads	
	Provide data crosswalks/code mapping tool			A	C	R					I	I		I				
	Populate data crosswalks/code mapping tool			I	C	C					A	R		C				
	Iterations: Conversion Development			A	C	R					I							I
	Iterations: Deliver converted data			A		R		I			I							I
	Iterations: Proof/Review data and reconcile to source system			C	C	C					A	R		C				C

Inputs	
	Data Conversion Plan
	Configuration

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Code Mapping Complete / Validated	
	Conversion Iterations / Reviews Complete	Conversion complete, verified, and ready for final pass

**Work package assumptions:**

- The City of Fargo will provide a single file layout per source system as identified in the investment summary.
- The City of Fargo subject matter experts and resources most familiar with the current data will be involved in the data conversion effort.
- The City of Fargo project team will be responsible for completing the code mapping activity, with assistance from Tyler.





6.3.5 Intentionally left blank.

6.3.6 Intentionally left blank.

6.3.7 Control Point 3: Prepare Solution Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below in each Work Package.

Note: Advancement to the Production Readiness Stage is dependent upon Tyler’s receipt of the Stage Acceptance.

Prepare Solution Stage Deliverables:

- Licensed software is installed.
- Installation checklist/system document.
- Conversion iterations and reviews complete.

Prepare Solution Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Software is configured.
- Solution validation test plan has been reviewed and updated if needed.

6.4 Production Readiness

Activities in the Production Readiness stage will prepare the City of Fargo team for go-live through solution validation, the development of a detailed go-live plan and end user training. A readiness assessment will be conducted with the City of Fargo to review the status of the project and the organizations readiness for go-live.

6.4.1 Solution Validation

Solution Validation is the end-to-end software testing activity to ensure that the City of Fargo verifies all aspects of the Project (hardware, configuration, business processes, etc.) are functioning properly, and validates that all features and functions per the contract have been deployed for system use.

Objectives:

- Validate that the solution performs as indicated in the solution validation plan.
- Ensure the City of Fargo organization is ready to move forward with go-live and training (if applicable).

STAGE 4	Solution Validation	
	Tyler	City of Fargo



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Update Solution Validation plan			A	R	C						C	C		C			
Update test scripts (as applicable)			C	C	C						A	R		C			
Perform testing			C	C	C						A	R		C			
Document issues from testing			C	C	C						A	R		C			
Perform required follow-up on issues			A	R	C						C	C		C			
Perform retest			C	C	C						A	R		C			

Inputs	Solution Validation plan
	Completed work product from prior stages (configuration, business process, etc.)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Solution Validation Report	City of Fargo updates report with testing results

**Work package assumptions:**

- Designated testing environment has been established.
- Testing includes current phase activities or deliverables only.

**6.4.2 Go-Live Readiness**

Tyler and the City of Fargo will ensure that all requirements defined in Project planning have been completed and the Go-Live event can occur, as planned. A go-live readiness assessment will be completed identifying risks or actions items to be addressed to ensure the City of Fargo has considered its ability to successfully Go-Live. Issues and concerns will be discussed, and mitigation options documented. Tyler and the City of Fargo will jointly agree to move forward with transition to production. Expectations for final preparation and critical dates for the weeks leading into and during the Go-Live week will be planned in detail and communicated to Project teams.

**Objectives:**

- Action plan for go-live established.
- Assess go-live readiness.
- Stakeholders informed of go-live activities.



STAGE 4	Go-Live Readiness																
	Tyler							City of Fargo									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Perform Readiness Assessment	I	A	R	C	C	I	C	I	I	I	I		I				I
Conduct Go-Live planning session		A	R	C							C	C	C	C	C		C
Order peripheral hardware (if applicable)			I							A	R						C
Confirm procedures for Go-Live issue reporting & resolution		A	R	I	I	I	I				C	C	I	I	I	I	I
Develop Go-Live checklist		A	R	C	C						C	C	I	C			C
Final system infrastructure review (where applicable)			A				R				C						C

Inputs	Future state decisions
	Go-live checklist

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated go-live checklist	Updated Action plan and Checklist for go-live delivered to the City of Fargo

**Work package assumptions:**

- None

### 6.4.3 End User Training

End User Training is a critical part of any successful software implementation. Using a training plan previously reviewed and approved, the Project team will organize and initiate the training activities.

Train the Trainer: Tyler provides one occurrence of each scheduled training or implementation topic. City of Fargo users who attended the Tyler sessions may train additional users. Additional Tyler led sessions may be contracted at the applicable rates for training.

Tyler will provide standard application documentation for the general use of the software. It is not Tyler’s responsibility to develop City of Fargo specific business process documentation. City of Fargo-led training labs using City of Fargo specific business process documentation if created by the City of Fargo can be added to the regular training curriculum, enhancing the training experiences of the end users.



Objectives:

- End users are trained on how to use the software prior to go-live.
- The City of Fargo is prepared for on-going training and support of the application.

STAGE 4	End User Training																
	Tyler							City of Fargo									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Update training plan		A	R	C							C		I		C		
Train-the-trainer		A	R	C							C	C	I	C			
End User training (City of Fargo-led)			C	C							A	R	I	C	C	C	

Inputs	Training Plan
	List of End Users and their Roles / Job Duties
	Configured Tyler System

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	End User Training	City of Fargo signoff that training was delivered

Work package assumptions:

- The City of Fargo project team will work with Tyler to jointly develop a training curriculum that identifies the size, makeup, and subject-area of each of the training classes.
- Tyler will work with the City of Fargo as much as possible to provide end-user training in a manner that minimizes the impact to the daily operations of City of Fargo departments.
- The City of Fargo will be responsible for training new users after go-live (exception—previously planned or regular training offerings by Tyler).

6.4.4 Control Point 4: Production Readiness Stage Acceptance

Acceptance criteria for this stage includes all criteria listed below. Advancement to the Production stage is dependent upon Tyler’s receipt of the stage acceptance.

Production Readiness stage deliverables:

- Solution Validation Report.
- Update go-live action plan and/or checklist.
- End user training.



Production Readiness stage acceptance criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live planning session conducted.

## 6.5 Production

Following end user training the production system will be fully enabled and made ready for daily operational use as of the scheduled date. Tyler and the City of Fargo will follow the comprehensive action plan laid out during Go-Live Readiness to support go-live activities and minimize risk to the Project during go-live. Following go-live, Tyler will work with the City of Fargo to verify that implementation work is concluded, post go-live activities are scheduled, and the transition to Client Services is complete for long-term operations and maintenance of the Tyler software.

### 6.5.1 Go-Live

Following the action plan for Go-Live, defined in the Production Readiness stage, the City of Fargo and Tyler will complete work assigned to prepare for Go-Live.

The City of Fargo provides final data extract and Reports from the Legacy System for data conversion and Tyler executes final conversion iteration, if applicable. If defined in the action plan, the City of Fargo manually enters any data added to the Legacy System after final data extract into the Tyler system.

Tyler staff collaborates with the City of Fargo during Go-Live activities. The City of Fargo transitions to Tyler software for day-to day business processing.

Some training topics are better addressed following Go-Live when additional data is available in the system or based on timing of applicable business processes and will be scheduled following Go-Live per the Project Schedule.

Objectives:

- Execute day to day processing in Tyler software.
- City of Fargo data available in Production environment.

STAGE 5	Go-Live																
	Tyler							City of Fargo									
<p>RACI MATRIX KEY:                      R = Responsible                      A = Accountable                      C = Consulted                      I = Informed</p>	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Provide final source data extract, if applicable			C		C						A						R



Final source data pushed into production environment, if applicable			A	C	R					I	C		C				C
Proof final converted data, if applicable			C	C	C					A	R		C				
Complete Go-Live activities as defined in the Go-Live action plan			C	C	C				A	R	C	I	C				
Provide Go-Live assistance			A	R	C	C		I		C	C	I	C			I	C

Inputs	Comprehensive Action Plan for Go-Live
	Final source data (if applicable)

Outputs / Deliverables		<b>Acceptance Criteria [only] for Deliverables</b>
	Data is available in production environment	City of Fargo confirms data is available in production environment

**Work package assumptions:**

- The City of Fargo and Tyler will each complete activities documented in the action plan for Go-Live as scheduled.
- External stakeholders will be available to assist in supporting the interfaces associated with the Go-Live live process.
- The City of Fargo business processes required for Go-Live are fully documented and tested.
- The City of Fargo Project team and subject matter experts are the primary point of contact for the end users when reporting issues during Go-Live.
- The City of Fargo Project Team and Power User’s provide business process context to the end users during Go-Live.
- The Tyler Go-Live support resources are available to consult with the City of Fargo teams as necessary.
- The Tyler Technical Services team provides standard functionality responses, which may not be tailored to the local business processes.

**6.5.2 Transition to Client Services**

This work package signals the conclusion of implementation activities for the Phase or Project with the exception of agreed-upon post Go-Live activities. The Tyler project manager(s) schedules a formal transition of the City of Fargo onto the Tyler Client Services team, who provides the City of Fargo with assistance following Go-Live, officially transitioning the City of Fargo to operations and maintenance.

**Objectives:**

- Ensure no critical issues remain for the project teams to resolve.
- Confirm proper knowledge transfer to the City of Fargo teams for key processes and subject areas.

<b>STAGE 5</b>	<b>Transition to Client Services</b>
----------------	--------------------------------------



	Tyler							City of Fargo									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Transfer City of Fargo to Client Services and review issue reporting and resolution processes	I	I	A	I	I			R	I	I	C	C		C			
Review long term maintenance and continuous improvement			A					R			C	C		C			

Inputs	Open item/issues List
--------	-----------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Client Services Support Document	

**Work package assumptions:**

- No material project issues remain without assignment and plan.

**6.5.3 Post Go-Live Activities**

Some implementation activities are provided post-production due to the timing of business processes, the requirement of actual production data to complete the activities, or the requirement of the system being used in a live production state.

**Objectives:**

- Schedule activities that are planned for after Go-Live.
- Ensure issues have been resolved or are planned for resolution before phase or project close.

STAGE 5	Post Go-Live Activities	
	Tyler	City of Fargo



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Schedule contracted activities that are planned for delivery after go-live		A	R	C	C	C	C	I			C	C	I	C			C
Determine resolution plan in preparation for phase or project close out		A	R	C	C	C		I			C	C	I	C			

Inputs	List of post Go-Live activities
--------	---------------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated issues log	

**Work package assumptions:**

- System is being used in a live production state.

**6.5.4 Control Point 5: Production Stage Acceptance**

Acceptance criteria for this Stage includes completion of all criteria listed below:

- Advancement to the Close stage is not dependent upon Tyler’s receipt of this Stage Acceptance.
- Converted data is available in production environment.

Production Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live activities defined in the Go-Live action plan completed.
- The Tyler Software is being used in a production environment as the primary software application to support the needed functional areas.
- Post-live services, if applicable, have been scheduled.
- Client services support document is provided.

**6.6 Close**

The Close stage signifies full implementation of all products purchased and encompassed in the Phase or Project. The City of Fargo transitions to the next cycle of their relationship with Tyler (next Phase of implementation or long-term relationship with Tyler Client Services).





### 6.6.1 Phase Closeout

This work package represents Phase completion and signals the conclusion of implementation activities for the Phase. The Tyler Client Services team will assume ongoing support of the City of Fargo for systems implemented in the Phase.

**Objectives:**

- Agreement from Tyler and the City of Fargo teams that activities within this phase are complete.

STAGE 6	Phase Close Out																
	Tyler							City of Fargo									
<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Reconcile project budget and status of contract Deliverables	I	A	R						I	I	C						
Hold post phase review meeting		A	R	C	C	C	C				C	C	C	C			C
Release phase-dependent Tyler project resources	A	R	I								I						

Participants	Tyler	City of Fargo
	Project Leadership	Project Manager
	Project Manager	Project Sponsor(s)
	Implementation Consultants	Functional Leads, Power Users, Technical Leads
	Technical Consultants (Conversion, Deployment, Development)	
	Client Services	

Inputs	
	Contract
	Statement of Work
	Project artifacts

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
Final action plan (for outstanding items)	City of Fargo acceptance of completed action plan detailing any outstanding items or post-live services
Reconciliation Report	City of Fargo acceptance of completed reconciliation report detailing that all project



	Deliverables, Control Points, and Milestones have been completed and approved, and full budget reconciliation documented by Tyler
Post Phase Review	Post Phase Review meeting facilitated by Tyler with the City of Fargo attendance

**Work package assumptions:**

- Tyler deliverables for the phase have been completed.

**6.6.2 Project Closeout**

Completion of this work package signifies final acceptance and formal closing of the Project.

At this time the City of Fargo may choose to begin working with Client Services to look at continuous improvement Projects, building on the completed solution.

**Objectives:**

- Confirm no critical issues remain for the project teams to resolve.
- Determine proper knowledge transfer to the City of Fargo teams for key processes and subject areas has occurred.
- Verify all deliverables included in the Agreement are delivered.

STAGE 6	Project Close Out																	
	Tyler							City of Fargo										
<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads	
	Conduct post project review		A	R	C	C	C	C				C	C	C	C			C
	Deliver post project report to City of Fargo and Tyler leadership	I	A	R						I	I	C						
	Release Tyler project resources	A	R	I								I						

Inputs	Contract
	Statement of Work

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
------------------------	---



	Post Project Report	City of Fargo acceptance; Completed report indicating all project Deliverables and milestones have been completed
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**Work package assumptions:**

- All project implementation activities have been completed and approved.
- No critical project issues remain that have not been documented and assigned.
- Final project budget has been reconciled and invoiced.
- All Tyler deliverables have been completed.

### 6.6.3 Control Point 6: Close Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

**Close Stage Deliverables:**

- Post Project Report.

**Close Stage Acceptance Criteria:**

- Completed report indicating all Project deliverables and milestones have been completed.

## 7. General Assumptions

Tyler and the City of Fargo will use this SOW as a guide for managing the implementation of the Tyler Project as provided and described in the Agreement. There are a few assumptions which, when acknowledged and adhered to, will support a successful implementation. Assumptions related to specific work packages are documented throughout the SOW. Included here are general assumptions which should be considered throughout the overall implementation process.

### 7.1 Project

- Project activities will begin after the Agreement has been fully executed.
- Each Team will complete their necessary assignments in a mutually agreed upon timeframe to meet the scheduled go-live date, as outlined in the Project Schedule.
- Sessions will be scheduled and conducted at a mutually agreeable time.
- Additional services, software modules and modifications not described in the SOW or Agreement will be considered a change to this Project and will require a Change Request Form as previously referenced in the definition of the Change Control Process.
- Tyler will provide a written agenda and notice of any prerequisites to the City of Fargo project manager(s) ten (10) business days or as otherwise mutually agreed upon time frame prior to any scheduled on-site or remote sessions, as applicable.
- Tyler Implementation Consultants will distribute notes within 5 business days of the end of scheduled meetings or sessions, unless otherwise agreed upon by the Project Managers. Site Reports must include all action items discussed, responsible organization and person, and a target date for completion of each action item.



- Tyler will provide guidance for configuration and processing options available within the Tyler software. If multiple options are presented by Tyler, the City of Fargo is responsible for making decisions based on the options available and as presented by Tyler resources.
- Implementation of new software may require changes to existing processes, both business and technical, requiring the City of Fargo to make reasonable process changes.
- The City of Fargo is responsible for defining, documenting, and implementing their policies that result from any business process changes.
- Tyler resources shall use the Tyler-provided SharePoint Online project site as a central repository solution for project document sharing and Tyler's SFTP site (currently Kiteworks) for the secure exchange of sensitive City of Fargo data with the Tyler project team.

## 7.2 Organizational Change Management

Unless otherwise contracted by Tyler, City of Fargo is responsible for managing Organizational Change. Impacted City of Fargo resources will need consistent coaching and reassurance from their leadership team to embrace and accept the changes being imposed by the move to new software. An important part of change is working to ensure that impacted City of Fargo resources understand the value of the change, and why they are being asked to change.

## 7.3 Resources and Scheduling

- City of Fargo resources will participate in scheduled activities as assigned in the Project Schedule.
- The City of Fargo team will complete prerequisites prior to applicable scheduled activities. Failure to do so may affect the schedule.
- Tyler and the City of Fargo will provide resources to support the efforts to complete the Project as scheduled and within the constraints of the Project budget.
- Abbreviated timelines and overlapped Phases require sufficient resources to complete all required work as scheduled.
- Changes to the Project Schedule, availability of resources or changes in Scope will be requested through a Change Request. Impacts to the triple constraints (scope, budget, and schedule) will be assessed and documented as part of the change control process.
- The City of Fargo will work to ensure assigned resources will follow the change control process.
- The City of Fargo will endeavor to align resources that possess the required business knowledge to complete their assigned tasks successfully. Should there be a change in resources, the replacement resource should have a comparable level of availability, change control process buy-in, and knowledge.
- The City of Fargo makes timely Project related decisions in alignment with the agreed-upon project schedule in order to achieve scheduled due dates on tasks and prepare for subsequent training sessions. Tyler resources will timely perform and act on any required follow-up items stemming from meetings or sessions in order to facilitate the City of Fargo resources being able to meet their assigned due dates. Failure to do so by either party may affect the schedule, as each analysis and implementation session is dependent on the decisions made in prior sessions.
- Each party will respond to information requests in a comprehensive and timely manner, in accordance with the Project Schedule.
- The City of Fargo will provide adequate meeting space or facilities, including appropriate system connectivity, to the project teams including Tyler team members.
- For on-site visits, Tyler will identify a travel schedule that balances the needs of the project and the employee.



## 7.4 Data

- Data will be converted as provided and Tyler will not create data that does not exist.
- The City of Fargo is responsible for the quality of legacy data and for cleaning or scrubbing erroneous legacy data.
- Tyler will work closely with the City of Fargo representatives to identify business rules before writing the conversion. The City of Fargo must confirm that all known data mapping from source to target have been identified and documented before Tyler writes the conversion.
- All in-scope source data is in data extract(s).
- Each legacy system data file submitted for conversion includes all associated records in a single approved file layout.
- The City of Fargo will provide the legacy system data extract in the same format for each iteration unless changes are mutually agreed upon in advance. If not, negative impacts to the schedule, budget and resource availability may occur and/or data in the new system may be incorrect.
- The City of Fargo Project Team is responsible for reviewing the converted data and reporting issues during each iteration, with assistance from Tyler.
- The City of Fargo is responsible for providing or entering test data (e.g., data for training, testing interfaces, etc.)

## 7.5 Facilities

- The City of Fargo will provide dedicated space for Tyler staff to work with City of Fargo resources for both on-site and remote sessions. If Phases overlap, City of Fargo will provide multiple training facilities to allow for independent sessions scheduling without conflict.
- The City of Fargo will provide staff with a location to practice what they have learned without distraction.



## 8. Glossary

Word or Term	Definition
Acceptance	Confirming that the output or deliverable is suitable and conforms to the agreed upon criteria.
Accountable	The one who ultimately ensures a task or deliverable is completed; the one who ensures the prerequisites of the task are met and who delegates the work to those responsible. [Also see RACI]
Application	A computer program designed to perform a group of coordinated functions, tasks, or activities for the benefit of the user.
Application Programming Interface (API)	A defined set of tools/methods to pass data to and received data from Tyler software products
Agreement	This executed legal contract that defines the products and services to be implemented or performed.
Business Process	The practices, policy, procedure, guidelines, or functionality that the client uses to complete a specific job function.
Business Requirements Document	A specification document used to describe Client requirements for contracted software modifications.
Change Request	A form used as part of the Change Control process whereby changes in the scope of work, timeline, resources, and/or budget are documented and agreed upon by participating parties.
Change Management	Guides how we prepare, equip and support individuals to successfully adopt change in order to drive organizational success & outcomes
Code Mapping [where applicable]	An activity that occurs during the data conversion process whereby users equate data (field level) values from the old system to the values available in the new system. These may be one to one or many to one. Example: Old System [Field = eye color] [values = BL, Blu, Blue] maps to New Tyler System [Field = Eye Color] [value = Blue].
Consulted	Those whose opinions are sought, typically subject matter experts, and with whom there is two-way communication. [Also see RACI]
Control Point	This activity occurs at the end of each stage and serves as a formal and intentional opportunity to review stage deliverables and required acceptance criteria for the stage have been met.
Data Mapping [where applicable]	The activity determining and documenting where data from the legacy system will be placed in the new system; this typically involves prior data analysis to understand how the data is currently used in the legacy system and how it will be used in the new system.
Deliverable	A verifiable document or service produced as part of the Project, as defined in the work packages.
Go-Live	The point in time when the Client is using the Tyler software to conduct daily operations in Production.
Informed	Those who are kept up-to-date on progress, often only on completion of the task or deliverable, and with whom there is just one-way communication. [Also see RACI]



<b>Infrastructure</b>	The composite hardware, network resources and services required for the existence, operation, and management of the Tyler software.
<b>Interface</b>	A connection to and potential exchange of data with an external system or application. Interfaces may be one way, with data leaving the Tyler system to another system or data entering Tyler from another system, or they may be bi-directional with data both leaving and entering Tyler and another system.
<b>Integration</b>	A standard exchange or sharing of common data within the Tyler system or between Tyler applications
<b>Legacy System</b>	The software from which a client is converting.
<b>Modification</b>	Custom enhancement of Tyler's existing software to provide features or functions to meet individual client requirements documented within the scope of the Agreement.
<b>On-site</b>	Indicates the work location is at one or more of the client's physical office or work environments.
<b>Organizational Change</b>	The process of changing an organization's strategies, processes, procedures, technologies, and culture, as well as the effect of such changes on the organization.
<b>Output</b>	A product, result or service generated by a process.
<b>Peripheral devices</b>	An auxiliary device that connects to and works with the computer in some way. Some examples: scanner, digital camera, printer.
<b>Phase</b>	A portion of the Project in which specific set of related applications are typically implemented. Phases each have an independent start, Go-Live and closure dates but use the same Implementation Plans as other Phases of the Project. Phases may overlap or be sequential and may have different Tyler resources assigned.
<b>Project</b>	The delivery of the software and services per the agreement and the Statement of Work. A Project may be broken down into multiple Phases.
<b>RACI</b>	A matrix describing the level of participation by various roles in completing tasks or Deliverables for a Project or process. Individuals or groups are assigned one and only one of the following roles for a given task: Responsible (R), Accountable (A), Consulted (C), or Informed (I).
<b>Remote</b>	Indicates the work location is at one or more of Tyler's physical offices or work environments.
<b>Responsible</b>	Those who ensure a task is completed, either by themselves or delegating to another resource. [Also see RACI]
<b>Scope</b>	Products and services that are included in the Agreement.



<b>Solution</b>	The implementation of the contracted software product(s) resulting in the connected system allowing users to meet Project goals and gain anticipated efficiencies.
<b>Stage</b>	The top-level components of the WBS. Each Stage is repeated for individual Phases of the Project.
<b>Standard</b>	Software functionality that is included in the base software (off-the-shelf) package; is not customized or modified.
<b>Statement of Work (SOW)</b>	Document which will provide supporting detail to the Agreement defining Project-specific activities, services, and Deliverables.
<b>System</b>	The collective group of software and hardware that is used by the organization to conduct business.
<b>Test Scripts</b>	The steps or sequence of steps that will be used to validate or confirm a piece of functionality, configuration, enhancement, or Use Case Scenario.
<b>Training Plan</b>	Document(s) that indicate how and when users of the system will be trained relevant to their role in the implementation or use of the system.
<b>Validation (or to validate)</b>	The process of testing and approving that a specific Deliverable, process, program, or product is working as expected.
<b>Work Breakdown Structure (WBS)</b>	A hierarchical representation of a Project or Phase broken down into smaller, more manageable components.
<b>Work Package</b>	A group of related tasks within a project.





## Part 4: Appendices

### 9. Conversion

#### 9.1.1 Accounting

##### 9.1.1.1 Accounting - Actuals

- Summary account balances
- Up to 3 years

##### 9.1.2 Accounting - Budgets

- Original budget, budget adjustments, revised budget summaries for accounts
- Up to 3 years

##### 9.1.3 Accounts Payable

- Vendor Master file including names, addresses, SSN/FID, contacts, phone numbers
- Multiple remittance addresses
- Year-to-date 1099 amounts

##### 9.1.4 Accounts Payable - Checks

- Check header data including vendor, warrant, check number, check date, overall check amount, GL cash account and clearing information
- Check detail data including related document and invoice numbers for each check
- Up to 5 years

##### 9.1.5 Accounts Payable - Invoices

- Invoice header data containing general information for the invoice
- Invoice detail data containing line-specific information for the invoice
- Up to 5 years

##### 9.1.6 Capital Assets Master

- Asset description, status, acquisition quantity, date and amount, codes for asset class, subclass, department, custodian, flags for capitalization and depreciation, estimated life, serial number, model, model year, depreciation method, life-to-date depreciation amount, last depreciation date, disposal information (if any), purchase information, if any (vendor, PO, Invoice)

##### 9.1.7 Capital Assets - History

- Transaction history data for acquisitions, disposals, transfers, etc.

##### 9.1.8 General Billing

- Customer information



### 9.1.9 General Billing – Bills

- 5 years of open and closed invoices
- General Ledger information so open invoices can be processed in Enterprise ERP

### 9.1.10 Human Resources Management

- Payroll Employee Master data including data such as name, address, SSN, legacy employee ID, date of birth, hire date, activity status (such as active/inactive), leave/termination code and date, phone(s), e-address, marital status, gender, race, personnel status (such as full-time, part-time, etc.), highest degree, advice-delivery (print/email/both) and check location, plus primary group, job, location, and account information

### 9.1.11 Payroll – Accrual Balances

- Employee Accrual Balances including Vacation, Holiday, and other Leave balances
- Start of year balance, earned to date, used to date

### 9.1.12 Payroll – Accumulators

- YTD, QTD, MTD amounts for employee pay and deductions
- Needed for mid-calendar-year go-live
- May not be needed if converting earnings/deductions history
- Up to 5 years

### 9.1.13 Payroll – Check History

- Up to 5 years, additional years must be quoted. We convert amounts for earnings and deductions in employee check history, check number and date.

### 9.1.14 Payroll - Deductions

- Employee Deductions - including employee ID, deduction codes, tax information, and direct deposit information

### 9.1.15 Payroll – Earning/Deduction Hist.

- Up to 5 years, additional years must be quoted. Earning and deduction history broken down by individual codes (earnings and deduction) and amounts per pay period, the detail of these lines, sums the check history in opt 4.

### 9.1.16 Project Accounting

- Segments, account strings and fund string allocation table
- Requires the use of a Tyler provided (Chart of Accounts) spreadsheet for design and entry of the data to be converted

### 9.1.17 Project Grant Accounting - Actuals

- Summary project ledger string balances. If linking to GL, must be converted at the same time.
- Up to 3 years



### 9.1.18 Project Grant Accounting – Budget

- Original project ledger budget amounts. If linking to GL, must be converted at the same time.
- Up to 3 years

### 9.1.19 Purchase Orders

- Open purchase orders header data including vendor, buyer, date, accounting information, etc.
- Open purchase orders detail data including line-item descriptions, quantities, amounts, etc.
- Closed purchase orders header data including vendor, buyer, date, accounting information, etc.
- Closed purchase orders detail data including line-item descriptions, quantities, amounts, etc.



## 10. Additional Appendices

### 10.1 Tyler and Client Work Split Assumptions

#### 10.1.1 Increased Work Split Hours

Additional hours were purchased in this contract to increase the work split from the standard 30% Tyler work effort. Clients have different needs and there are different ways the allocation of these hours can benefit the project. We will work with the client project manager during the planning sessions and project plan development to determine the best use of these hours. Common areas additional hours are used are:

- Configuration
  - Setting and Code configuration
  - Security and Workflow Building
- Data Conversion
  - Conversion Mapping
  - Conversion Proofing
  - Conversion Testing
  - Imports in lieu of conversion
    - Formatting files
    - Building custom templates
    - Testing imports/Data validation
- Training/Documentation
  - Additional repeat process training
  - Post Live Assistance
    - Bank Reconciliation assistance for additional months
    - Month-end assistance for additional months
    - Year-end assistance for multiple years
    - W-2/1099 processing for multiple years
  - Job aides/quick reference guides
  - End user training documentation
- Testing
  - Additional parallel processing
  - Test script building
  - Integration Testing
    - Import/Export template building
    - Import testing
    - Process validation/documentation

All clients have unique needs on a project. By defining the use of these hours during project planning, we have the flexibility to determine the greatest needs of your organization and plan accordingly. At any point in the project, we can revisit the use of these hours and adjust content as needed to support the success of the project.



## 10.2 Enterprise ERP Standard 3rd Party Data Exchange & Application Programming Interfaces

### 10.2.1 Planning

An Integration is a real-time or automated exchange of data between two systems. Standard Data Exchange tools are available to fulfill Integrations with external systems by allowing clients to get data in and out of the Tyler system. Data exchange tools can take the form of Imports and Exports, and Application Programming Interfaces (APIs)\*. APIs may require additional licensing and may have some restrictions on use. Please refer to your licensing agreement for further information.

#### Imports and Exports

The City of Fargo and Tyler project manager(s) will work together to define/confirm which Imports and Exports are needed (if not outlined in the Agreement). Tyler will provide an Excel or ASCII file layouts for each Standard Data Exchange.

#### APIs\*

Additional API licensing and data sharing agreements are required for integration with third-party applications. If APIs have been purchased, Tyler may provide integration assistance to understand API services and provide necessary support to complete the integration of Tyler software to the City of Fargo internal applications. Tyler will not provide any hands-on development unless expressly specified in the Agreement. It is Tyler’s responsibility to ensure the API services operate correctly. It is the Client’s responsibility to fulfill integrations using Tyler’s API services and ensure operation of the third-party API services.

STAGE 2	Current & Future State Analysis - Data Exchange																
	Tyler							City of Fargo									
<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (SMEs)	Department Heads	End Users	Technical Leads
Review Standard or contracted Data Exchanges			A	R	I		I				C	C		I			C
Define or confirm needed Data Exchanges			I	C	C		C				A	C		C			R



### 10.2.2 Validation

Tyler provides training on Data Exchange(s) (for both Import and Export, and APIs\*) and the City of Fargo tests each Data Exchange.

STAGE 3	Process Refinement – Data Exchange Validation																
	Tyler								City of Fargo								
<b>RACI MATRIX KEY:</b> R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (SMEs)	Department Heads	End Users	Technical Leads
Train standard or contracted Data Exchange(s) processing in Tyler software			A	R	I		I				C	I		I			C
Coordinate 3 <sup>rd</sup> Party Data Exchange activities			I	I	I		I				A	C		C			R
Test all Standard 3 <sup>rd</sup> party Data Exchange(s)			I	I	I		I				A	C		R			C

\* API services, available thru Enterprise ERP OpenAPI Toolkits and Connectors, are not part of the core Enterprise ERP applications and are only applicable if included in the license agreement.





10.3 Intentionally left blank.



## 11. Project Timeline

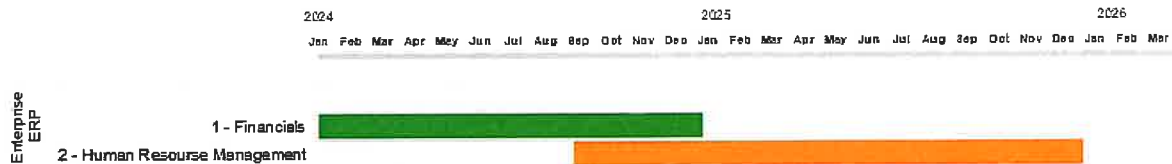
### 11.1 ERP Project Timeline

The Project Timeline establishes a target start and end date for each Phase of the Project. The timeline needs to account for resource availability, business goals, size and complexity of the Project, and task duration requirements. These will be reviewed and adjusted, if needed, during the Initiate and Plan Stage. Refer to the Project Stages section of this SOW for information on work packages associated with each stage of the implementation.

The following dates may be revised based on the date the Agreement is signed and further refined during the course of the project. Tyler requires up to forty-five (45) days to move from Agreement signing to the Initiate & Plan Stage.

Tyler takes no responsibility for, nor will perform any implementation acts of the City of Fargo’s third-party time and attendance software. Tyler understands the implementation of the City of Fargo’s third-party time and attendance software will run in parallel with the Financials and Human Resource phases.

### PROJECT TIMELINE



Phase	Functional Areas	Modules	Start Date	Go-Live Date
1	Financials	<ul style="list-style-type: none"> <li>Accounting</li> <li>Accounts Payable</li> <li>Accounts Receivable (partial)</li> <li>ACFR Statement Builder</li> <li>Bid Management</li> <li>Budgeting</li> <li>Capital Assets</li> <li>Cash Management</li> <li>Cashiering (partial)</li> <li>Contract Management</li> <li>eProcurement (Vendor Access &amp; Punch-Out)</li> <li>General Billing</li> <li>Inventory</li> <li>Inventory Mobile</li> <li>Project &amp; Grant Accounting</li> <li>Purchasing</li> </ul>	<b>Jan 2024</b> (or as defined in the Project Plan and mutually agreed upon; Phase 1 starts 30-45 days after contract is fully executed)	<b>Jan 2025</b> or as defined in the Project Plan and mutually agreed upon





Phase	Functional Areas	Modules	Start Date	Go-Live Date
		<ul style="list-style-type: none"> <li>• GIS</li> <li>• Resident Access</li> </ul>		
3	<b>Human Resource Management</b>	<ul style="list-style-type: none"> <li>• Payroll w/Employee Access</li> <li>• Human Resources &amp; Talent Management</li> <li>• Employee Expense Reimbursement</li> </ul>	Sept 2024	Jan 2026
	<b>System Wide/Other</b>	<ul style="list-style-type: none"> <li>• Enterprise Analytics &amp; Reporting with Executive Insights</li> <li>• Enterprise Forms Processing (including Common Form Set)</li> <li>• Content Manager Core</li> <li>• API Toolkit Bundle</li> <li>• Executive Insights</li> </ul>		

11.2 Intentionally left blank.





**Exhibit F**  
**Tyler's Proposal Dated January 20, 2023**

Incorporated by reference.



**Exhibit G**  
**Client's Request for Proposal**

Incorporated by reference.





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**FINANCE OFFICE**  
**PO Box 2083**  
**225 4th Street North**  
**Fargo, ND 58102**  
**Phone: 701.241.1333 | Fax: 701.476.4188**  
**[www.FargoND.gov](http://www.FargoND.gov)**

**TO:** Board of City Commissioners  
**FROM:** Tanner Smedshammer, Purchasing Manager  
**RE:** Lease Contract for Copier - RFP23131  
**DATE:** November 9, 2023

The attached contract with CapFirst Equipment Finance is in regard to a Canon Image Runner color Copier within the City of Fargo. This procurement has an approved City of Fargo contract utilizing the State of North Dakota buying contract 131.

Suggested Motion:

Move to approve the contract with CapFirst Equipment Finance.



3266 Oak Ridge Loop E  
West Fargo, ND 58078

November 10, 2023

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

RE: Lease with Option to Purchase Agreement No. 40005358

Dear Mr. Mahoney:

Enclosed please find the following documentation for this lease:

- Invoice for Advance Payment and Documentation Fee
- Lease with Option to Purchase Agreement No. 40005358
- Exhibit A - Equipment Description
- Exhibit B - Rental Payments
- Exhibit C - Certificate of Acceptance
- Exhibit D - Resolution
- Insurance Coverage Information

Please fill in the name and address of your insurance agent where indicated. It is important that you request a certificate of insurance be forwarded to our office just as soon as possible.

- Certificate of Incumbency
- 8038-GC -- We will take care of filing this form with the IRS. Please sign both originals where indicated in **blue ink**.

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

Sincerely,  
CapFirst Equipment Finance, Inc.

A handwritten signature in blue ink, appearing to read 'David Suppes', written over a horizontal line.

David Suppes  
President



3266 Oak Ridge Loop E  
West Fargo, ND 58078

# INVOICE

Advance Payment

Invoice#:

Invoice Date:

11/10/2023

**Remit To:**

**Invoice to:**

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

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

LEASE#	AMOUNT
40005358	
First Advance Payment:	\$2,596.00
Documentation Fee	\$300.00
<b>Total Amount Due:</b>	<b>\$2,896.00</b>

LEASE WITH OPTION TO PURCHASE AGREEMENT NO. 40005358

Between

CapFirst Equipment Finance, Inc.

As Lessor

and

City of Fargo, North Dakota

As Lessee

Dated as of November 10, 2023

THIS LEASE WITH OPTION TO PURCHASE AGREEMENT dated as of 11/10/2023 (the Lease), by and between CapFirst Equipment Finance, Inc., a corporation duly organized and existing under the laws of the state of North Dakota as lessor ("Lessor") whose address is 3266 Oak Ridge Loop E West Fargo, ND 58078; and City of Fargo, North Dakota a political subdivision of the state of North Dakota as lessee ("Lessee"), whose address is 225 4th Ave N, Fargo, ND 58102;

WITNESSETH:

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

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

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

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

ARTICLE I

DEFINITIONS AND EXHIBITS

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

State: The State of North Dakota.

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

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

Section 1.2. Exhibits.

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

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

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

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

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

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### ARTICLE III

#### LEASE OF EQUIPMENT

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

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

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

#### ARTICLE IV

##### TERM OF LEASE

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

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

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

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

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

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

#### ARTICLE V

##### RENTAL PAYMENTS

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

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

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

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

## ARTICLE VI

### INSURANCE AND NEGLIGENCE

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

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

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

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

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

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

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

## ARTICLE VII

### OTHER OBLIGATIONS OF LESSEE

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

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

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

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

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

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

## ARTICLE VIII

### TITLE

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

Section 8.2. Security Interest. Lessor shall have and retain a security interest under the Uniform Commercial Code in the Equipment, the proceeds thereof and all repairs, replacements, substitutions and modifications thereto or thereof made pursuant to Section 8.5, in order to secure Lessee's payment of all Rental Payments due during the Term of this Lease and the performance of all other obligations herein to be performed by Lessee. If any portion of the Equipment shall constitute a vehicle, Lessor shall have authority, upon filing the manufacturer's certificate of origin for such Equipment, to require the notation of Lessor's security interest on any applicable records and the certificate of title for such Equipment. Lessee will join with Lessor in executing such financing statements or other documents and will perform such acts as Lessor may request to establish and maintain a valid security interest in the Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment with appropriate lettering, labels or tags, and maintain such markings during the Term of this Lease, so as clearly to disclose Lessor's security interest in the Equipment.

Section 8.3. Liens. During the Term of this Lease, Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Equipment, other than the respective rights of Lessor and Lessee as herein provided and Permitted Encumbrances. Except as expressly provided in Section 7.3 and this Article, Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. Lessee shall reimburse Lessor for any expense incurred by Lessor in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 8.4. Installation of Lessee's Equipment. Lessee may at any time and from time to time, in its sole discretion and at its own expense, install other items of equipment in or upon the Equipment, which items shall be identified by tags or other symbols affixed thereto as property of Lessee. All such items so identified shall remain the sole property of Lessee, in which Lessor shall have no interest, and may be modified or removed by Lessee at any time provided that Lessee shall repair and restore any and all damage to the Equipment resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent Lessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease with option to purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Equipment.

Section 8.5. Modification of Equipment. Lessee shall, at its own expense, have the right to make repairs to the Equipment, and to make repairs, replacements, substitutions and modifications to all or any of the parts thereof. All such work and any part or component used or installed to make a repair or as a replacement, substitution or modification, shall thereafter comprise part of the Equipment and be subject to the provisions of this Lease. Such work shall not in any way damage the Equipment or cause it to be used for purposes other than those authorized under the provisions of State and Federal Law or those contemplated by this Lease; and the Equipment, upon completion of any such work shall be of a value which is not less than the value of the Equipment immediately prior to the commencement of such work. Any property for which a replacement or substitution is made pursuant to this Section may be disposed of by Lessee in such manner and on such terms as are determined by Lessee. Lessee will not permit any mechanic's or other lien to be established or remain against the Equipment for labor or materials furnished in connection with any repair, replacement, substitution or modification made by Lessee pursuant to this Section; provided that if any such lien is established and Lessee shall first notify Lessor of Lessee's intention to do so, Lessee may in good faith contest any lien filed or established against the Equipment, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such item the interest of Lessor in the Equipment will be materially endangered or the Equipment or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide Lessor with full security against any such loss or forfeiture, in form satisfactory to Lessor. Lessor will cooperate fully with Lessee in any such contest, upon the request and at the expense of Lessee.

Section 8.6. Personal Property. The Equipment is and shall at all times be and remain personal property notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner affixed or attached to or embedded in or permanently rested upon real property or any building thereon or attached in any manner to what is permanent by means of cement, plaster, nails, bolts, screws or otherwise.

## ARTICLE IX

### WARRANTIES

Section 9.1. Selection of Equipment. The Equipment and the Contractor have been selected by Lessee, and Lessor shall have no responsibility in connection with the selection of the Equipment, its suitability for the use intended by Lessee, the acceptance by the Contractor or its sales representative of the order submitted, or any delay or failure by the Contractor or its sales representative to manufacture, deliver or install the Equipment for use by Lessee. Lessee authorizes Lessor to add the serial number of the Equipment to Exhibit A when available.

Section 9.2. Installation and Maintenance of Equipment. Lessor shall have no obligation to install, erect, test, inspect, service or maintain the Equipment under any circumstances, but such actions shall be the obligation of Lessee or the Contractor.

Section 9.3. Contractor's Warranties. Lessor hereby assigns to Lessee for and during the Term of this Lease, all of its interest in all Contractor's warranties and guarantees, express or implied, issued on or applicable to the Equipment, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense.

Section 9.4. Patent Infringement. Lessor hereby assigns to Lessee for and during the Term of this Lease all of its interest in patent indemnity protection provided by any Contractor with respect to the Equipment.

Such assignment of patent indemnity protection by Lessor to Lessee shall constitute the entire liability of Lessor for any patent infringement by Equipment furnished pursuant to this Lease.

Section 9.5. Disclaimer of Warranties. THE EQUIPMENT IS DELIVERED AS IS, AND LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE OF THE EQUIPMENT, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT.

#### ARTICLE X

##### OPTION TO PURCHASE

Section 10.1. When Available. Lessee shall have the option to purchase Lessor's interest in the Equipment on any Payment Date for the then applicable Purchase Option Price set forth in Exhibit B, but only if Lessee is not in default under this Lease, and only in the manner provided in this Article.

Section 10.2. Exercise of Option. Lessee shall give notice to Lessor of its intention to exercise its option not less than thirty (30) days prior to the Payment Date on which the option is to be exercised and shall deposit with Lessor on the date of exercise an amount equal to all Rental Payments and any other amounts then due or past due (including the Rental Payment due on the Payment Date on which the option is to be exercised) and the applicable Purchase Option Price set forth in Exhibit B. The closing shall be on the Payment Date on which the option is to be exercised at the office of Lessor.

Section 10.3. Release of Lessor's Interest. Upon exercise of the purchase option by Lessee, Lessor shall convey or release to Lessee, all of its right, title and/or interest in and to the Equipment by delivering to Lessee such documents as Lessee deems necessary for this purpose.

#### ARTICLE XI

##### ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 11.1. Assignment by Lessor. Lessor shall not assign its obligations under this Lease, and no purported assignment thereof shall be effective. All of Lessor's right, title and/or interest in and to this Lease, the Rental Payments and other amounts due hereunder and the Equipment may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor at any time, without the consent of Lessee. No such assignment shall be effective as against Lessee unless and until the assignor shall have filed with Lessee a copy or written notice thereof identifying the assignee. Lessee shall pay all Rental Payments due hereunder to or at the direction of Lessor or the assignee named in the most recent assignment or notice of assignment filed with Lessee. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments. In the event Lessor assigns participations in its right, title and/or interest in and to this Lease, the Rental Payments and other amounts due hereunder and the Equipment, such participants shall be considered to be Lessor with respect to their participated shares thereof.

Section 11.2. Assignment and Subleasing by Lessee. Neither this Lease nor Lessee's interest in the Equipment may be assigned by Lessee without the written consent of Lessor. However, the Equipment may be subleased by Lessee, in whole or in part, without the consent of Lessor, subject, however, to each of the following conditions:

(i) This Lease and the obligation of Lessee to make Rental Payments hereunder, shall remain obligations of Lessee.

(ii) The sublessee shall assume the obligations of Lessee hereunder to the extent of the interest subleased.

(iii) Lessee shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to Lessor a true and complete copy of such sublease.



(iv) No sublease by Lessee shall cause the Equipment to be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State.

(v) No sublease shall cause the Interest component of the Rental Payments due with respect to the Equipment to become includible in gross income of the recipient for federal income tax purposes.

Section 11.3. Restriction on Mortgage or Sale of Equipment by Lessee. Except as provided in Section 11.2, Lessee will not mortgage, sell, assign, transfer or convey the Equipment or any portion thereof during the Term of this Lease, or remove any Equipment not constituting a vehicle from its boundaries, without the written consent of Lessor. Lessee shall not, without the written permission of Lessor, store or house any Equipment constituting a vehicle outside the corporate boundaries of Lessee.

## ARTICLE XII

### EVENTS OF DEFAULT AND REMEDIES

Section 12.1. Events of Default Defined. The following shall be "events of default" under this Lease and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, with respect to the Equipment, any one or more of the following events:

(i) Failure by Lessee to pay any Rental Payment or other payment required to be paid under this Lease at the time specified herein and the continuation of said failure for a period of three (3) days after telephonic or telegraphic notice given by Lessor that the payment referred to in such notice has not been received, such telephonic or telegraphic notice to be subsequently confirmed in writing, or after written notice.

(ii) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Clause (i) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(iii) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its governmental function or adjudication of Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

The provisions of this Section 12.1 and Section 12.2 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to carry out its obligations under this Lease with respect to the Equipment, other than its obligation to pay Rental Payments with respect thereto which shall be paid when due notwithstanding the provisions of this paragraph, Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State or their respective departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee and not resulting from its negligence. Lessee agrees, however, to remedy with all reasonable dispatch the cause or causes preventing Lessee from carrying out its obligations under this Lease; provided that the settlement of strikes, lockouts and other labor disturbances shall be entirely within the discretion of Lessee and Lessee shall not be required to make settlement of strikes, lockouts and other labor disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of Lessee unfavorable to Lessee.

Section 12.2. Remedies on Default. Whenever any event of default referred to in Section 12.1 hereof shall have happened and be continuing with respect to the Equipment, Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(i) Lessor, with or without terminating this Lease may declare all Rental Payments due or to become due during the Fiscal Year in effect when the default occurs to be immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable.

(ii) Lessor, with or without terminating this Lease, may repossess the Equipment by giving Lessee written notice to deliver the Equipment to Lessor, whereupon Lessee shall do so in the manner provided in Section 12.3; or in the event Lessee fails to do so within ten (10) days after receipt of such notice, Lessor may enter upon Lessee's premises where the Equipment is kept and take possession of the Equipment and charge Lessee for costs incurred in repossessing the Equipment, including reasonable attorneys' fees. Lessee hereby expressly waives any damages occasioned by such repossession. If the Equipment or any portion of it has been destroyed or damaged beyond repair, Lessee shall pay the applicable Purchase Option Price of the Equipment, as set forth in Exhibit B (less credit for Net Proceeds), to Lessor. Notwithstanding the fact that Lessor has taken possession of the Equipment, Lessee shall continue to be responsible for the Rental Payments due during the Fiscal Year then in effect. If this Lease has not been terminated, Lessor shall return the Equipment to Lessee at Lessee's expense when the event of default is cured.

(iii) If Lessor terminates this Lease and takes possession of the Equipment, Lessor shall within thirty (30) days thereafter use its best efforts to sell the Equipment or any portion thereof in a commercially reasonable manner at public or private sale in accordance with applicable State laws. Lessor shall apply the proceeds of such sale to pay the following items in the following order: (a) all costs incurred in securing possession of the Equipment; (b) all expenses incurred in completing the sale; (c) the applicable Purchase Option Price of the Equipment; and (d) the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect. Any sale proceeds remaining after the requirements of Clauses (a), (b), (c) and (d) have been met may be retained by Lessor.

(iv) If the proceeds of sale of the Equipment are not sufficient to pay the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect, Lessor may take any other remedy available at law or in equity to require Lessee to perform any of its obligations hereunder.

Section 12.3. Return of Equipment. Upon the expiration or termination of this Lease prior to the payment of all Rental Payments in accordance with Exhibit B, Lessee shall return the Equipment to Lessor in the condition, repair, appearance and working order required in Section 7.2, in the following manner as may be specified by Lessor: (i) by delivering the Equipment at Lessee's cost and expense to such place within the State as Lessor shall specify; or (ii) by loading such portions of the Equipment as are considered movable at Lessee's cost and expense, on board such carrier as Lessor shall specify and shipping the same, freight prepaid, to the place specified by Lessor. If Lessee refuses to return the Equipment in the manner designated, Lessor may repossess the Equipment and charge to Lessee the costs of such repossession or pursue any remedy described in Section 12.2.

Section 12.4. No Remedy Exclusive. No remedy conferred upon or reserved to Lessor by this Article is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by Lessor or its assignee.

Section 12.5. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys and/or incur other expenses for the collection of moneys or for the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fee of such attorneys and/or such other reasonable expenses so incurred by the nondefaulting party. In the event that legal proceedings relating to this Lease (but not evidencing an action by a nondefaulting party against a defaulting party) are commenced in any court or before any other tribunal of competent jurisdiction, the legal fees and other reasonable costs and expenses of the prevailing party shall be paid by the nonprevailing party on demand of the prevailing party.

Section 12.6. Late Charge. Whenever any event of default referred to in Section 12.1, Clause (i) hereof shall have happened and be continuing with respect to the Equipment, Lessor shall have the right, at its option and without any further demand or notice, to require a late payment charge for each thirty (30) day period or part thereof during which such event of default occurs equal to four percent (4%) of the delinquent amount, and Lessee shall be obligated to pay the same immediately upon receipt of Lessor's written invoice therefor; provided, however, that this Section 12.6 shall not be applicable if or to the extent that the application thereof would affect the validity of this Lease.

## ARTICLE XIII

### ADMINISTRATIVE PROVISIONS

Section 13.1. Notices. All notices, certificates, legal opinions or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered form with postage fully prepaid to the addresses specified on the first page hereof; provided that Lessor and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates, legal opinions or other communications will be sent.

Section 13.2. Financial Information. During the Term of this Lease, Lessee annually will provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of Lessee to continue this Lease as may be requested by Lessor or its assignee.

Section 13.3. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.4. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.5. Amendments, Changes and Modifications. This Lease may be amended or any of its terms modified only by written document duly authorized, executed and delivered by Lessor and Lessee.

Section 13.6. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles, Sections or Clauses of this Lease.

Section 13.7. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease.

Section 13.8. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.9. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

IN WITNESS WHEREOF, Lessor has caused this Lease to be executed in its corporate name by its duly authorized officer; and Lessee has caused this Lease to be executed in its name by its duly authorized officer, as of the date first above written.

**LESSOR:**  
**CAPFIRST EQUIPMENT FINANCE, INC.**

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

Title: \_\_\_\_\_

Date: 11/10/2023

**LESSEE:**  
**City of Fargo, North Dakota**

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

Name/Title: Tim Mahoney / Mayor

Date: 11/10/2023

**ATTEST:**

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

Name/Title: Steven Sprague / City Auditor

EXHIBIT A  
EQUIPMENT

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

Date of Lease: 11/10/2023  
Lease #: 40005358

The Equipment which is the subject of the attached Lease with Option to Purchase Agreement is as follows:

Location Site: 2401 3<sup>rd</sup> Ave N, Fargo, North Dakota 58102

QTY.	SERIAL NO.	DESCRIPTION
1	3GB06568	Canon DX C5850i Color Imagerunner Copier with related accessories

Description of Financed Amount:

Cost of above Equipment	\$11,531.85
Cost of related charges:	
Transportation	
Physical Modifications (specify)	
Warranty	
Add: Sales or other tax, if applicable	
Less: Trade - In, if applicable	
Down Payment	
Net Financed Amount:	\$11,531.85

EXHIBIT B  
SCHEDULE OF RENTAL PAYMENTS

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

Date of Lease: 11/10/2023  
Lease #: 40005358

**RENTAL PAYMENTS**

<b>Rental Payment Date</b>	<b>Rental Payment</b>	<b>Interest</b>	<b>Principal</b>	<b>Purchase Option Price*</b>
11/15/2023	\$2,596.00	\$10.00	\$2,586.00	\$9,205.00
11/15/2024	\$2,596.00	\$558.37	\$2,037.63	\$7,070.00
11/15/2025	\$2,596.00	\$431.19	\$2,164.81	\$4,827.00
11/15/2026	\$2,596.00	\$296.07	\$2,299.93	\$2,472.00
11/15/2027	\$2,596.00	\$152.52	\$2,443.48	\$0.00

\*After payment of Rental Payment due on such date.

EXHIBIT C

CERTIFICATE OF ACCEPTANCE

I, the undersigned, hereby certify that I am the duly qualified and acting Mayor of the City of Fargo, North Dakota (Lessee); and, with respect to the Lease with Option to Purchase Agreement dated November 10, 2023 (Lease), by and between Lessee and CapFirst Equipment Finance, Inc. (Lessor), that:

1. The equipment described in the Lease (the Equipment) has been delivered and installed in accordance with Lessee's Specifications (as that term is defined in the Lease) and has been accepted by Lessee.

2. The rental payments provided for on Exhibit B to the Lease (the Rental Payments) shall commence and be due and payable on 11/15/2023 and continue thereafter, on the dates and in the amounts shown on Exhibit B to the Lease.

3. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Lease during the current fiscal year of Lessee, and such moneys will be applied in payment of all Rental Payments due and payable during such current fiscal year.

4. Lessee has obtained from a reputable insurance company qualified to do business in the state of North Dakota insurance with respect to, all risks required to be covered thereby pursuant to Article VI of the Lease.

5. Lessee is exempt from all personal property taxes, and is exempt from sales and/or use taxes with respect to the Equipment and the Rental Payments.

6. During the Lease Term (as defined in the Lease) the Equipment will be used by Lessee to perform essential governmental functions.

7. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of Lessee or its officers or its employees to enter into the Lease; the proper authorization, approval and execution of the Lease and other documents contemplated thereby; the appropriation of moneys, or any other action taken by Lessee to provide moneys, sufficient to make Rental Payments coming due under the Lease in Lessee's current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

Dated: November 10, 2023

**City of Fargo, North Dakota**

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

Name/Title: Tim Mahoney / Mayor

**ATTEST:**

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

Name/Title: Steven Sprague / City Auditor

EXHIBIT D

RESOLUTION RELATING TO LEASE WITH OPTION  
TO PURCHASE AGREEMENT NO. 40005358

BE IT RESOLVED by the governing body of the City of Fargo, North Dakota (the Issuer), as follows:

Section 1. Recitals and Authorization. The Issuer, as lessee, has heretofore entered into a Lease with Option to Purchase Agreement No. 40005358 dated as of 11/10/2023 (the Lease), with CapFirst Equipment Finance, Inc., as lessor. It is hereby determined that it is necessary and desirable and in the best interests of the Issuer to enter into the Lease for the purposes therein specified, and the execution and delivery of the Lease by the Issuer are hereby approved, ratified and confirmed.

Section 2. Designation as Qualified Tax-Exempt Obligation. Pursuant to Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986 (the Code), the Issuer hereby specifically designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. In compliance with Section 265(b)(3)(D) of the Code, the Issuer hereby represents that the Issuer will not designate more than \$10,000,000 of obligations issued by the Issuer in the calendar year during which the Lease is executed and delivered as such "qualified tax-exempt obligations."

Section 3. Issuance Limitation. In compliance with the requirements of Section 265(b)(3)(C) of the Code, the Issuer hereby represents that the Issuer (including all "subordinate entities" of the Issuer within the meaning of Section 265(b)(3)(E) of the Code) reasonably anticipates not to issue in the calendar year during which the Lease is executed and delivered, obligations bearing interest exempt from federal income taxation under Section 103 of the Code (other than "private activity bonds" as defined in Section 141 of the Code) in an amount greater than \$10,000,000.

**City of Fargo, North Dakota**

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

Name/Title: Tim Mahoney / Mayor

**ATTEST:**

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


Name/Title: Steven Sprague / City Auditor



### INSURANCE COVERAGE REQUIREMENT

Your lease with CAPFIRST EQUIPMENT FINANCE, INC. requires you to maintain certain insurance coverage. In order to assist you with obtaining coverage from your insurance company, please provide us with the following agent information, as well as provide your insurance company with the requirements as shown below:

<b><u>INSURANCE AGENT DATA:</u></b>	
NAME OF INSURANCE AGENT:	_____
ADDRESS:	_____
PHONE #:	_____ CONTACT PERSON: _____



**Named Insured / Lessee:** City of Fargo, North Dakota

**Lease with Option to Purchase Agreement No.:** 40005358

**Coverage:**  
All Risk Personal Property and/or  
EDP, if applicable

**Certificate Holders:**  
Loss Payee(s) As Their Interests  
May Appear:

CapFirst Equipment Finance, Inc., and/or its assigns  
3266 Oak Ridge Loop E  
West Fargo, ND 58078

**Coverage:**  
General Liability

**Certificate Holders:**  
Additional Insured:

CapFirst Equipment Finance, Inc., and/or its assigns  
3266 Oak Ridge Loop E  
West Fargo, ND 58078


The Insurance Certificate should show the coverage limits and the insurance carrier's name(s) and policy number(s). Please have the Certificate of Insurance sent to CapFirst Equipment Finance, Inc. at the address above, or fax it to us at (701) 639-7031.

WE WOULD APPRECIATE YOUR AGENT INCLUDING OUR LEASE NUMBER ON THE CERTIFICATE.


**CERTIFICATE OF INCUMBENCY**

**LEASE WITH OPTION TO PURCHASE AGREEMENT NO. 40005358  
DATED AS OF 11/10/2023**

I, Steven Sprague, do hereby certify that I am the duly elected or appointed and acting City Auditor of the City of Fargo, North Dakota (the "Lessee"), a political subdivision duly organized and existing under the laws of the State of North Dakota and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

Print Name	Title	Sample Signature
<u>Tim Mahoney</u>	<u>Mayor</u>	
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such entity hereto on 11/10/2023.

\_\_\_\_\_  
Signature   
\_\_\_\_\_  
Steven Sprague / City Auditor  
Print Name / Title

(SEAL)

Form **8038-GC**  
(Rev. October 2021)  
Department of the Treasury  
Internal Revenue Service

**Information Return for Small Tax-Exempt  
Governmental Bond Issues, Leases, and Installment Sales**

▶ Under Internal Revenue Code section 149(e)  
**Caution:** If the issue price of the issue is \$100,000 or more, use Form 8038-G.  
▶ Go to [www.irs.gov/Form8038GC](http://www.irs.gov/Form8038GC) for instructions and the latest information.

OMB No. 1545-0047

<b>Part I Reporting Authority</b>		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name <b>City of Fargo, North Dakota (Public Works)</b>		2 Issuer's employer identification number (EIN) <b>45-1002069</b>	
3 Number and street (or P.O. box if mail isn't delivered to street address) <b>225 4th St N</b>		Room/suite	
4 City, town, or post office, state, and ZIP code <b>Fargo, ND 58102</b>		5 Report number (For IRS Use Only)	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information <b>Steven Sprague / City Auditor</b>		7 Telephone number of officer or legal representative <b>(701) 241-1333</b>	

<b>Part II Description of Obligations</b>		Check one box: <input checked="" type="checkbox"/> Single issue <input type="checkbox"/> Consolidated return	
8a Issue price of obligation(s) (see instructions)		8a	
b Issue date (single issue) or calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions) ▶	<b>11/10/2023</b>		
9 Amount of the reported obligation(s) on line 8a that is:		9a	
a For leases for vehicles		9b	<b>11,531.85</b>
b For leases for office equipment		9c	
c For leases for real property		9d	
d For leases for other (see instructions)		9e	
e For bank loans for vehicles		9f	
f For bank loans for office equipment		9g	
g For bank loans for real property		9h	
h For bank loans for other (see instructions)		9i	
i Used to refund prior issue(s)		9j	
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)		9k	
k Other			
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box ▶			<input type="checkbox"/>
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) ▶			<input type="checkbox"/>
12 Vendor's or bank's name: <b>CapFirst Equipment Finance, Inc.</b>			
13 Vendor's or bank's employer identification number:	<b>81-4084473</b>		

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.			
	Signature of issuer's authorized representative <b>Tim Mahoney / Mayor</b>		Date Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	Firm's name ▶	Firm's EIN ▶		
	Firm's address ▶	Phone no.		

**Future Developments**

For the latest information about developments related to Form 8038-GC and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/Form8038GC](http://www.irs.gov/Form8038GC).

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

**Who Must File**

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Bonds.

**Filing a separate return for a single issue.**

Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.

**Filing a consolidated return for multiple issues.**

For all tax-exempt governmental obligations with issue prices of less than \$100,000 that aren't reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

## When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

**Late filing.** An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

## Where To File

File Form 8038-GC and any attachments at the following address.

Department of the Treasury  
Internal Revenue Service Center  
Ogden, UT 84201

**Private delivery services (PDS).** You can use certain PDS designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These PDS include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The PDS can tell you how to get written proof of the mailing date.

## Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

## Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

## Definitions

**Obligations.** This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

**Tax-exempt obligation.** This is any obligation including a bond, installment purchase agreement, or financial lease on which the interest is excluded from income under section 103.

**Tax-exempt governmental obligation.** A tax-exempt obligation that isn't a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

**Private activity bond.** This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

**Issue.** Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

**Arbitrage rebate.** Generally, interest on a state or local bond isn't tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

**Construction issue.** This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and
2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that aren't private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

## Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

## Part I—Reporting Authority

**Amended return.** An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

**Line 1.** The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

**Line 2.** An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at [www.irs.gov/EIN](http://www.irs.gov/EIN). The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

**Lines 3 and 4.** Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

**Note:** The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

**Line 5.** This line is for IRS use only. Don't make any entries in this box.

## Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

**Line 8a.** The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

**Line 8b.** For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

**Lines 9a through 9h.** Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment

purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

**Lines 9i and 9j.** For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

**Line 9k.** Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

**Line 10.** Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

**Line 11.** Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

**Line 12.** Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

**Line 13.** Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

## Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also, write the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

**Note:** If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

## Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through [www.irs.gov/FormComments](http://www.irs.gov/FormComments). Or you can write to:

Internal Revenue Service  
Tax Forms and Publications  
1111 Constitution Ave. NW, IR-6526  
Washington, DC 20224

**Do not** send Form 8038-GC to this address. Instead, see *Where To File*, earlier.

Form **8038-GC**  
(Rev. October 2021)  
Department of the Treasury  
Internal Revenue Service

**Information Return for Small Tax-Exempt  
Governmental Bond Issues, Leases, and Installment Sales**

OMB No. 1545-0047

**Caution:** If the issue price of the issue is \$100,000 or more, use Form 8038-G.  
Go to [www.irs.gov/Form8038GC](http://www.irs.gov/Form8038GC) for instructions and the latest information.

<b>Part I Reporting Authority</b>		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name <b>City of Fargo, North Dakota (Public Works)</b>		2 Issuer's employer identification number (EIN) <b>45-1002069</b>	
3 Number and street (or P.O. box if mail isn't delivered to street address) <b>225 4th St N</b>		Room/suite	
4 City, town, or post office, state, and ZIP code <b>Fargo, ND 58102</b>		5 Report number (For IRS Use Only)	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information <b>Steven Sprague / City Auditor</b>		7 Telephone number of officer or legal representative <b>(701) 241-1333</b>	

<b>Part II Description of Obligations</b>		Check one box: <input checked="" type="checkbox"/> Single issue <input type="checkbox"/> Consolidated return	
8a Issue price of obligation(s) (see instructions)	8a		
b Issue date (single issue) or calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions) ▶ <b>11/10/2023</b>			
9 Amount of the reported obligation(s) on line 8a that is:	9a		
a For leases for vehicles	9b	<b>11,531.85</b>	
b For leases for office equipment	9c		
c For leases for real property	9d		
d For leases for other (see instructions)	9e		
e For bank loans for vehicles	9f		
f For bank loans for office equipment	9g		
g For bank loans for real property	9h		
h For bank loans for other (see instructions)	9i		
i Used to refund prior issue(s)	9j		
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9k		
k Other			
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box ▶ <input type="checkbox"/>			
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) ▶ <input type="checkbox"/>			
12 Vendor's or bank's name: <b>CapFirst Equipment Finance, Inc.</b>			
13 Vendor's or bank's employer identification number: <b>81-4084473</b>			

**Signature and Consent**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.

Signature of issuer's authorized representative: **Tim Mahoney / Mayor** Date: \_\_\_\_\_ Type or print name and title

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no.

**Future Developments**

For the latest information about developments related to Form 8038-GC and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/Form8038GC](http://www.irs.gov/Form8038GC).

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

**Who Must File**

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Bonds.

**Filing a separate return for a single issue.** Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.

**Filing a consolidated return for multiple issues.** For all tax-exempt governmental obligations with issue prices of less than \$100,000 that aren't reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

## When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

**Late filing.** An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

## Where To File

File Form 8038-GC and any attachments at the following address.

Department of the Treasury  
Internal Revenue Service Center  
Ogden, UT 84201

**Private delivery services (PDS).** You can use certain PDS designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These PDS include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The PDS can tell you how to get written proof of the mailing date.

## Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

## Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

## Definitions

**Obligations.** This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

**Tax-exempt obligation.** This is any obligation including a bond, installment purchase agreement, or financial lease on which the interest is excluded from income under section 103.

**Tax-exempt governmental obligation.** A tax-exempt obligation that isn't a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

**Private activity bond.** This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

**Issue.** Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

**Arbitrage rebate.** Generally, interest on a state or local bond isn't tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

**Construction issue.** This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and
2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that aren't private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

## Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

## Part I—Reporting Authority

**Amended return.** An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

**Line 1.** The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

**Line 2.** An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at [www.irs.gov/EIN](http://www.irs.gov/EIN). The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

**Lines 3 and 4.** Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

**Note:** The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

**Line 5.** This line is for IRS use only. Don't make any entries in this box.

## Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

**Line 8a.** The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

**Line 8b.** For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

**Lines 9a through 9h.** Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment

purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

**Lines 9i and 9j.** For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

**Line 9k.** Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

**Line 10.** Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

**Line 11.** Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

**Line 12.** Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

**Line 13.** Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

## Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also, write the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

**Note:** If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

## Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through [www.irs.gov/FormComments](http://www.irs.gov/FormComments). Or you can write to:

Internal Revenue Service  
Tax Forms and Publications  
1111 Constitution Ave. NW, IR-6526  
Washington, DC 20224

**Do not** send Form 8038-GC to this address. Instead, see *Where To File*, earlier.



**To:** Fargo City Commission  
**From:** Fargo-Moorhead Metropolitan Council of Governments:  
Jaron Capps, GIS Coordinator/Assistant Transportation Planner  
**Date:** November 13, 2023  
**Re:** **Adjusted Urbanized Area Boundary Resolution for NDDOT and FHWA Approval**

In December 2022, the United States Census Bureau released an updated Urbanized Area (UZA) boundary for the Fargo-Moorhead Metropolitan Area, with the stipulation that local communities, acting through their respective MPO, have the authority to request adjustments to the UZA to reflect certain local conditions and trends.

Metro COG used various studies (sub-area, corridor, consultant-produced, and in-house studies), comments, suggestions, and direction from Fargo technical staff, and FHWA guidance to determine the appropriate 2020 Adjusted Urbanized Boundary Area (AUZA), and on August 17, 2023, the Metro COG Policy Board approved the AUZA boundary for the Final Draft Submittal for NDDOT and FHWA.

For the City of Fargo, the entirety of the city boundary within the dry side of the FM Area Diversion was used for the determination of the AUZA. Also, if a particular roadway along the periphery of the AUZA is seen as significant to the urban area and the roadway centerline was bisected or encroached upon by the AUZA, then the entire right of way of that particular roadway was included for boundary determination.

The significance of the 2020 AUZA allows the City of Fargo to utilize federal transportation funds that are distributed to urbanized areas through a programmatic formula. Metro COG's boundary determination allows additional areas that are expected to grow within the next 10 years to have the potential to access these funds.

With the approval by the Fargo City Commission, Metro COG can forward a final submittal to NDDOT and FHWA for the finalization of the 2020 AUZA boundary.

**Requested Action: To Approve the 2020 Adjusted Urbanized Boundary Area (AUZA) for final submittal by Metro COG for approval by NDDOT and FHWA.**

**Resolution in Support of the Adjusted Fargo-Moorhead Urbanized Area Boundary**

**Whereas**, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG), as the designated Metropolitan Planning Organization (MPO) for the FM Metropolitan area, is responsible for transportation planning decisions for the FM Metropolitan area; and

**Whereas**, Metro COG maintains the metropolitan area’s transportation planning process in accordance with federal regulations; and

**Whereas**, in December of 2022, the United States Census Bureau released an updated Urbanized Area (UZA) boundary for the FM Metropolitan area, with the stipulation that local communities acting through their respective MPO have the authority to request adjustments to the UZA to reflect certain local conditions; and

**Whereas**, Metro COG has undertaken the task of making necessary technical adjustments to the Census-defined 2020 UZA reflective of local conditions with respect to the guidance from the *Urban Area Criteria for the 2020 Census – Final Criteria* (87 FR 16706) documentation; and

**Whereas**, the adjusted UZA was approved by the Metro COG Policy Board on August 17, 2023, after substantial input from local technical staff; and

**Whereas**, the adjusted UZA approved by Metro COG is ultimately submitted to the Minnesota Department of Transportation (MnDOT), North Dakota Department of Transportation (NDDOT), and the Federal Highway Administration (FHWA) for the consideration of the approval of the finalized 2020 adjusted UZA; and

**Now, Therefore Be It Resolved**, the Fargo Commission does hereby concur with the adjusted 2020 UZA for the FM Metropolitan as approved by the Metro COG Policy Board.

Approved and adopted this \_\_\_\_\_ day of **November, 2023**

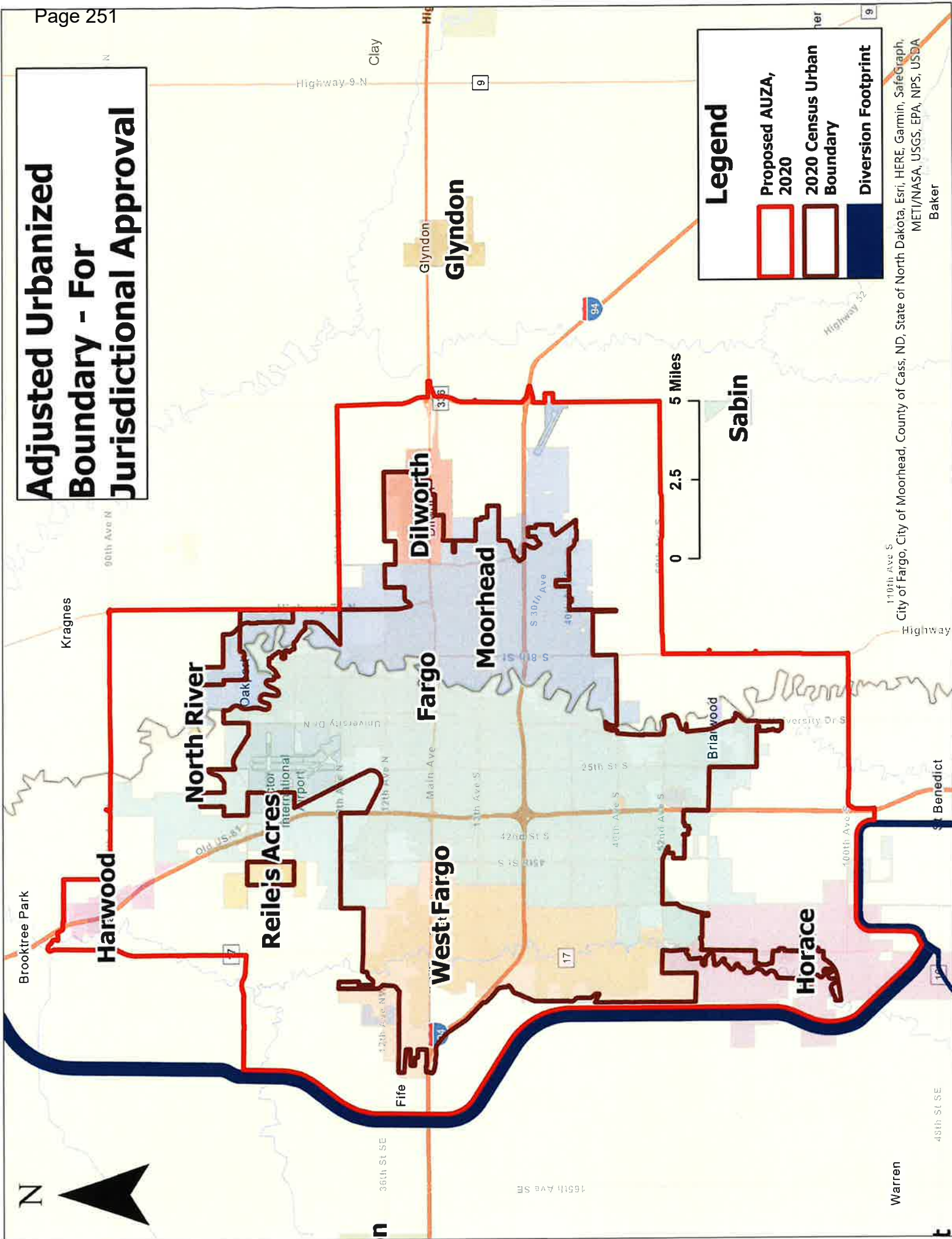
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**Timothy J. Mahoney, M.D., Mayor**

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**Steven Sprague, City Auditor**

# Adjusted Urbanized Boundary - For Jurisdictional Approval



**Legend**

- Proposed AUZA, 2020
- 2020 Census Urban Boundary
- Diversion Footprint


170th Ave S  
 City of Fargo, City of Moorhead, County of Cass, ND, State of North Dakota, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA  
 Baker

Warren

26

**Fargo Municipal Court**

**Memo**

**To:** Fargo City Commission  
**From:** Steve Dawson, Municipal Court Judge   
**Date:** November 10, 2023  
**Re:** Appointment of Alternate Municipal Court Judges

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Municipal Court Alternate Judge Scott Diamond is leaving effective November 14<sup>th</sup> in order to take a position with the District Court as the Court Referee. NDCC reads, in part, "40-18-03. Vacancy in office of municipal judge...The governing body may appoint an alternate municipal judge to serve when the municipal judge is unable to serve due to temporary absence, interest, disqualification, or disability...".

I recommend the position of Alternate Judge be filled by the appointment of Dan Phillips of the Solberg Law Office and Trent Barkhus, of the Trent Barkus Law Office. Both Dan Phillips and Trent Barkhus have typical private-attorney calendars and, individually, their availability would be challenging for Fargo Municipal Court. However, I think their combined availability would meet the scheduling needs of Municipal Court.

Trent Barkhus is the West Fargo Municipal Judge and, therefore, familiar with the Municipal Court procedures.

Dan Phillips works with the Solberg Law Office and was once an Assistant City Attorney and Fargo City Prosecutor. He, likewise, is very familiar with our procedures. "

Currently, the Alternate Judge is compensated at a rate of \$137.50 per hour and I recommend that rate of compensation remains the same. I have spoken with both Dan and Trent and both have expressed an interest in serving in this capacity.

***Recommended Motion:*** *A motion to appoint Attorney Daniel Phillips and Attorney Trent Barkhus as Alternate Municipal Court Judges effective November 15, 2023, to be compensated at the rate of \$137.50 per hour.*



**PLANNING & DEVELOPMENT**

**FARGO CITY HALL**  
225 4th Street North  
Fargo, ND 58102  
Office: 701.241.1474 | Fax: 701.241.1526  
Email: [Planning@FargoND.gov](mailto:Planning@FargoND.gov)  
[FargoND.gov](http://FargoND.gov)

(27)

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR** *NC*  
**DATE: NOVEMBER 7, 2023**  
**RE: RFP23185: AUTHORIZATION TO AWARD CONTRACT FOR SNOW REMOVAL SERVICES FOR CITY SNOW REMOVAL ASSISTANCE PROGRAM RFP WITH BOSMA ENTERPRISES, LLC**

On October 12, a total of four (4) proposals were received for the Request for Proposals for Snow Removal Services for the City's Snow Removal Assistance Program (RFP23185). This is a scheduled program annually budgeted in the City's Social Service funds.

The proposals were evaluated based on Previous Work Experience (35%), Equipment and Staffing Capacity (35%), and Price (30%). Based on scoring from the staff review committee comprised of Nicole Crutchfield, Mark Williams, Albert Gibson, and Catlyn Christie, Planning staff recommends selection of Bosma Enterprises, LLC for contract.

**Attachment:** Services Agreement

**Recommended Motion:** I/we hereby move, based on the request for proposal (RFP23185), to award contract with Bosma Enterprises, LLC for snow removal services for the City's snow removal assistance program under the terms and conditions outlined in RFP23185.



EQUAL HOUSING OPPORTUNITY

**Agreement between City of Fargo and  
Bosma Enterprises, LLC for  
Snow Removal Services**

**I. Agreement**

This Agreement (“Agreement”) is between the City of Fargo (“City”), a North Dakota municipal corporation, whose address is 225 Fourth Street North, Fargo, ND 58102, and Bosma Enterprises, LLC (“Contractor”), a North Dakota Limited Liability Company, whose address is 1120 Fourth Avenue North, Fargo, ND 58102, to provide snow removal services for the City’s Snow Removal Assistance Program. City and Contractor shall be cumulatively referred to herein as the “Parties” or individually as a “Party.” This Agreement shall commence on November 15, 2023, and expire on April 15, 2026. The term of this Agreement may be extended, if accepted and signed by Contractor and City, for two (2) additional one (1) year extensions, provided the extension is signed by both parties on or before September 15 of the contract year. Contractor performance, quality of service, price, and reliability are some, but not all, of the criteria that will be used as a basis for City to exercise an extension. The initial Agreement places no obligation on City to renew beyond the initial term of this Agreement.

**II. Scope of Services**

Contractor agrees to perform snow and ice removal services as set forth within this Agreement, and the Parties agree that it will be up to Contractor’s discretion to perform the services as weather conditions permit.

A. Location of Snow Removal

Contractor agrees to perform snow removal services at the addresses and rates provided hereto in “Exhibit A.”

B. Snow and Ice Removal Standards

Contractor agrees to remove all snowfall accumulation from all assigned properties at their public sidewalk, driveway, and one walkway to the door. Contractor agrees to use whatever method it determines, in its sole and absolute discretion, to be the most appropriate method to clear any snow accumulation. Contractor further agrees to clear the sidewalk of snow and ice to the full width of the sidewalk and clear all crosswalks and approaches onto city streets to maintain a safely passable sidewalk and crosswalk. Contractor will be responsible for removing snow from crosswalks and approaches after city plows have made snow removal passes during snow events.

Contractor shall treat icy conditions using appropriate and industry-standard chemical applications, as necessary.

Contractor further agrees that snow and ice may not be deposited or blown into the street, neighboring property, or in a place that will interfere with the vision of motorists approaching any intersection. Other than from adjacent sidewalks and driveways, no snow shall be placed upon the boulevards.

C. Timeframe

Contractor must provide snow removal services within 24 hours of a "significant snowfall." A "significant snowfall" is defined as more than two (2) inches of snow in a 24-hour period. During extreme conditions, the completion deadline may be extended. In no event will the sidewalk condition exist beyond 72 hours.

D. Obstructions

Contractor shall not be responsible for snow and ice management of areas that are obstructed and unable to be cleared of snow and ice. Contractors will, however, make a reasonable effort to clear between and around such obstructions. In the event that an obstruction requires Contractor to make additional visits to complete the snow and ice management services, City agrees to be additional billed and payment shall be made on a case-by-case basis. For complete payment, time stamped photographs may be required to prove obstructions exist.

E. Safety

Contractor agrees that all snow and ice removal services will be conducted in a safe and careful manner, with care given to the safety of the general public. This includes having all equipment outfitted with the proper lighting devices to be visible while operating.

F. Property Damage

Contractor will be notified in writing by a City staff member of any property damage that occurs as a result of snow removal services. Notification will be within 48 hours of a City Assistant Planner, or other designated City staff member, becoming aware of such property damage. Property damage includes damage to homeowner turf and lawn as a result of snow and ice management services. Contractor will be solely and wholly financially liable for any damaged property, as a result of negligence on the part of Contractor. Contractor agrees to repair, to the satisfaction of the City Planning Department, any damaged property in a timely manner in the spring season.

G. Professionalism

Contractor and its employees shall work with program participants in a professional manner.

**II. TERMS AND CONDITIONS**

A. Reporting of Contractor

Contractor and City Planning Department agree to work closely with one another and further agree to cooperate and confer as necessary to ensure satisfactory work progress.

All reports, estimates, memoranda, and documents submitted by Contractor must be dated and bear Contractor's name. All reports made in connection with these services are subject to review and final approval by City.

B. Contractor's Compensation and Method of Payment

Contractor agrees to submit invoices, within fourteen (14) calendar days of service, which Contractor certifies are true and correct copies of the payments due. Each invoice must list the addresses of the property served by the date of service. Upon receipt of invoice, the City agrees to reimburse the Contractor at the quoted rate, per significant snowfall and per property for snow removal services. The Parties further agree that payment may be suspended by City in the event of non-performance by Contractor.

The Parties agree that City is not responsible for any repairs to equipment that fail or are damaged during its use under this Agreement. Contractor shall be responsible for all costs or charges incurred in the operation and maintenance of the equipment during the term of the Agreement including, but not limited to: fuel, oil, blades, equipment repairs, and communication equipment. Work that is not performed in accordance with the Fargo Municipal Code and other applicable laws and procedures defined in Section I shall be promptly re-performed after receiving notice from City. Any additional costs related to this work shall require pre-approval by City.

C. Termination of the Agreement

This Agreement may be terminable at will by either party after giving ten (10) days written notice to the other party.

Contact information for written notice:

City of Fargo Planning Department  
Email: [Planning@FargoND.gov](mailto:Planning@FargoND.gov)  
Address: 225 4 St N, Fargo, ND 58102

Bosma Enterprises, LLC  
Email: [jon@bosmaenterprises.com](mailto:jon@bosmaenterprises.com)  
Address: 1120 4 Avenue North, Fargo, ND 58102

D. Assignability

This Agreement shall not be assigned or transferred to another party without the prior written consent of City.

E. Hold Harmless and Insurance

Contractor agrees to indemnify and hold City and any of its officers, employees, contractors, consultants, representatives, agents and assigns from any and all liability, damages, penalties, judgments, or claims of whatever nature arising from the execution of services in this Agreement. This Agreement to indemnify and hold harmless will include indemnity against all costs, expenses, and liabilities, including any attorney fees, reasonably incurred in or in connection with any such claims or proceedings brought thereof. This indemnification provision will survive termination of this Agreement and any subsequent agreements of the Parties contemplated herein. Contractor agrees that all insurance (full Worker's Compensation, Comprehensive General Liability, and/or Automobile) shall be maintained at the sole expense of Contractor during the term, and any extension, of this Agreement.

F. Contractor Records

Contractor agrees to maintain accurate and updated records of all reimbursable services provided to City under the terms of this Agreement, and further agrees to record the date such services are provided. Such records shall conform to generally recognized accounting principles. City, or its authorized representatives, shall have access to any records of Contractor pertinent to the Agreement.

G. Monitoring and Evaluation



The Parties agree that City may monitor and evaluate Contractor's progress and performance to assure that the terms of this Agreement are satisfactorily met. Contractor agrees to cooperate with City relating to such monitoring and evaluation.

H. Relationship of the Parties.

This Agreement shall not constitute a partnership or joint venture by and between Contractor and City. Each party is independent of the other and although they will coordinate their efforts, neither party is assuming any obligation of the other party. Contractor is solely responsible for its operations, employees, agents, and subcontractors.

I. 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.

J. Entire Agreement

This Agreement represents the entire and complete agreement between the Parties and supersedes all prior representations, negotiations, or agreements whether written or oral. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants, and conditions set forth herein, and that no modification of this Agreement and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the Parties.

K. Effective Date

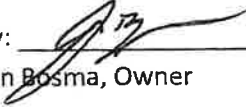
The effective date of this Agreement is the date of final signature by the undersigned entities.

*[Signature Page to Follow.]*

**IN WITNESS WHEREOF**, the undersigned enter into this Agreement.

Date: 11/8/23

Bosma Enterprises, LLC, a North Dakota  
limited liability company

By:   
Jon Bosma, Owner

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

City of Fargo, a North Dakota municipal  
corporation

By: \_\_\_\_\_  
Dr. Timothy J. Mahoney, Mayor

ATTEST:

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



Redacted	\$ 85.00	Public sidewalk, driveway, walkway
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Redacted	\$ 85.00	Public sidewalk, driveway, walkway
Redacted	\$ 85.00	Public sidewalk, driveway, walkway
<b>Total per Significant Snowfall:</b>	<b>\$ 4,845.00</b>	



**PUBLIC WORKS**

**FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMANS & HYDRANTS**

402 23rd Street North

Fargo, ND 58102

Phone: 701.241.1453 | Fax: 701.241.8100

[FargoND.gov](http://FargoND.gov)

28

November 6, 2023

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

RE: (1) Vehicle Replacement Articulated Wheel Loader with V-Plow (RFP24004)

Commissioners:

On November 2, 2023, five (5) proposals were received and read for the purchase of one (1) Vehicle Replacement Articulated Wheel Loader with V-Plow.

The results are as follows:

<u>Firm</u>	<u>Price for (1) with Trade</u>
Titan Machinery.	\$266,505.00.
RDO Equipment.	\$282,750.00.
General Equipment.	\$290,000.00.
Interstate Power Systems.	\$307,097.00
Butler Machinery Company.	\$388,525.00.

The review committee consisting of Ben Dow, Corey Houim, and Tom Ganje evaluated five (5) proposals and determined that one proposal was compliant. Titan Machinery met all required specifications and the price was within expected parameters. Funding for this project is included in the 2024 Vehicle Replacement budget.

Our recommendation is to purchase one (1) Articulated Wheel Loader with V-Plow based on the proposal from Titan Machinery.

SUGGESTED MOTION:

For RFP24004, approve the recommendation to purchase one (1) Articulated Wheel Loader with V-Plow from Titan Machinery totaling \$266,505.00.

Respectfully Submitted,

Tom Ganje  
Fleet Purchasing Manager

**2024 Vehicle Replacement Articulated Wheel Loader with V-Plow (RFP24004)**

City of Fargo

11/6/2023

	Titan Machinery	RDO Equipment	General Equipment	Interstate Power Systems	Butler Machinery Company
Make	Case	John Deere	Komatsu	Liebherr	Caterpillar
Model	921G	644P	WA380-8	L550 X Power	950
Machine Price	\$286,500.00	\$291,500.00	\$294,000.00	\$325,309.00	\$370,185.00
Trade in Equipment 610/719	\$53,000.00	\$35,000.00	\$37,500.00	\$54,928.00	\$58,125.00
14' Folding V-Plow	\$23,000.00	\$23,250.00	\$29,000.00	\$21,830.00	\$24,420.00
Extended Warranty	\$10,005.00	\$3,000.00	\$4,500.00	\$14,886.00	\$2,045.00
Delivery	120-180 Days	May-24	120 Days	200 Days	6 Months
Total Price	\$266,505.00	\$282,750.00	\$290,000.00	\$307,097.00	\$338,525.00



**PUBLIC  
WORKS**

29

**FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMANS & HYDRANTS**  
402 23rd Street North  
Fargo, ND 58102  
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November 6, 2023

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

RE: Fleet Expansion purchase of (1) one Motor Grader and Wing (RFP24005).

Commissioners:

On November 2, 2023, (2) two proposals were received and read for the Fleet Expansion purchase of (1) one Motor Grader and Wing.

The results are as follows:

<u>Firm</u>	<u>Price for (1) with Trade</u>
Butler Machinery.	\$381,660.00
RDO Equipment.	\$387,000.00

The review committee consisting of Ben Dow, Corey Houim, and Tom Ganje evaluated (2) two proposals and determined that one proposal was compliant. Butler Machinery met all required specifications and the price was within expected parameters. Funding for this project is included in the 2024 Street Department Capital Budget.

Our recommendation is to purchase (1) one Motor Grader and Wing based on the proposal from Butler Machinery.

SUGGESTED MOTION:

For RFP24005, approve the recommendation to purchase (1) one Motor Grader and Wing from Butler Machinery in the amount of \$381,660.00.

Respectfully Submitted,

Tom Ganje  
Fleet Purchasing Manager

**2024 Expansion Motor Gader and Wing  
RFP 24005  
11/6/2023**

	<b>Butler Machinery</b>	RDO Equipment
<b>Make</b>	Caterpillar	John Deere
<b>Model</b>	140 Joy AWD	672GP
<b>Warranty</b>	\$11,800.00	\$12,000.00
<b>Price</b>	\$369,860.00	\$375,000.00
<b>Total Price</b>	\$381,660.00	\$387,000.00
<b>Delivery</b>	8 months	120 Days





FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMAINS & HYDRANTS  
402 23rd Street North  
Fargo, ND 58102  
Phone: 701.241.1453 | Fax: 701.241.8100  
FargoND.gov

(30)

November 6, 2023

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

RE: Vehicle Replacement purchase of (1) one Motor Grader and Wing (RFP24006).

Commissioners:

On November 2, 2023, (2) two proposals were received and read for the Vehicle Replacement purchase of (1) one Motor Grader and Wing.

The results are as follows:

<u>Firm</u>	<u>Price for (1) with Trade</u>
Butler Machinery .	\$381,660.00
RDO Equipment.	\$387,000.00

The review committee consisting of Ben Dow, Corey Houim, and Tom Ganje evaluated (2) two proposals and determined that one proposal was compliant. Butler Machinery met all required specifications and the price was within expected parameters. Funding for this project is included in the 2024 Vehicle Replacement Budget.

Our recommendation is to purchase (1) one Motor Grader and Wing based on the proposal from Butler Machinery.

SUGGESTED MOTION:

For RFP24006, approve the recommendation to purchase (1) one Motor Grader and Wing from Butler Machinery in the amount of \$381,660.00.

Respectfully Submitted,

Tom Ganje  
Fleet Purchasing Manager

**2024 Replacement Motor Gader and Wing  
RFP 24006  
11/6/2023**

	<b>Butler Machinery</b>	RDO Equipment
Make	Caterpillar	John Deere
Model	140 Joy AWD	672GP
Warranty	\$11,800.00	\$12,000.00
Price	\$369,860.00	\$375,000.00
Total Price	\$381,660.00	\$387,000.00
Delivery	8 months	120 Days