

FARGO CITY COMMISSION AGENDA
Monday, November 27, 2023 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, November 13, 2023).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Letter of Support for the Precision Plumbing project to the ND Opportunity Fund.
- 2. Receive and file an Ordinance Enacting Section 8-0610 of Article 8-06 of Chapter 8 of the Fargo Municipal Code Relating to Rotary Traffic Islands.
- 3. Receive and file an Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 4. 2nd reading and final adoption 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; 1st reading, 11/13/23.
- 5. 2nd reading and final adoption 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; 1st reading, 11/13/23.
- 6. Applications for Games of Chance:
 - a. El Zagal for a raffle on 2/17/23.
 - b. Friends of the Children Fargo-Moorhead for bingo on 12/2/23.
 - c. St. John Paul II Catholic Schools for a raffle on 12/2/23.
 - d. St. John Paul II Catholic Schools for a raffle on 1/30/24.
 - e. Benefit for Sgt. Tyrell Fauske for a raffle on 12/28/23; Public Spirited Resolution.
- 7. Extension of a Class “A-8” Alcoholic Beverage License for BFG, Inc. d/b/a Borrowed Bucks Roadhouse until 6/30/24.
- 8. Contract and bond for Project No. SN-23-A.
- 9. Memorandum of Understanding Regarding Construction and Maintenance with the Park District of the City of Fargo for the Bison Village Shared Use Path (Project No. SN-23-A1).
- 10. Memorandum of Understanding - Construction of 45th Street North with the City of Reile’s Acres.

11. Memorandum of Understanding Regarding Construction and Maintenance with the Park District of the City of Fargo for the River Drive Trail Shared Use Path (Project No. SN-23-B0).
12. Change Order No. 1 in the amount of \$475.00 and a time extension to the Substantial and Final Completion dates of 12/22/23 and 1/22/24 for Project No. NR-23-B1.
13. Final Balancing Change Order No. 1 in the amount of \$32,996.95 for Project No. PR-22-B1.
14. Negative Final Balancing Change Order No. 3 in the amount of -\$10,051.57 for Project No. UR-23-A1.
15. Change Order No. 1 in the amount of \$20,310.44 for Improvement District No. PN-23-A1.
16. Change Order No. 2 in the amount of \$30,757.41 and a 14-day time extension for Improvement District No. BR-23-B1.
17. Create Improvement District No. BR-23-G.
18. Bid award and Contract with Automated Maintenance Services, Inc. in the amount of \$70,080.00 for cleaning services at the Public Works West Building (RFP23208).
19. Master Services Agreements for Engineering/Architectural Services (RFP24010 and RFP24011).
20. Piggyback purchase through ND State Contract No. 110 with High Point Networks LLC in the amount of \$23,504.00 for indoor access points (PBC23226).
21. Allocation of remaining ARPA funding to the 2023 General Fund, as presented.
22. Change Orders for Fire Station No. 8 Construction:
 - a. No. 1 in the amount of \$2,160.00.
 - b. No. 4 in the amount of \$5,880.00.
 - c. No. 5 in the amount of -\$19,310.00.
23. Task Order No. 3 with KLJ Engineering LLC in the amount of \$19,400.00 for Fire Station No. 5.
24. Agreement with Richland County Family Planning.
25. Contract with the ND Department of Health and Human Services for surge staffing/supplies.
26. Purchase of Service Agreement with the ND Department of Health and Human Services, Behavioral Health Division for addressing opioid stimulant misuse.
27. Purchase of Service Agreement with the ND Department of Health and Human Services, Behavioral Health Division for substance abuse prevention.
28. Purchase of Service Agreement with Center Point Tactical LLC.
29. Agreement for Services with Clay County Public Health.
30. Resolution Approving Plat of Laverne's Third Addition.

31. Resolution Approving Plat of Larkin Second Addition.
32. Award Acceptance from the Back the Blue Grant in the amount of \$264,000.00 to the Fargo Police Department and related budget adjustments (HB 1307).
33. COPS Hiring Program Grant Award for 2024 and 2025 in the total amount of \$188,539.00 and related budget adjustments (CFDA #16.710).
34. COPS Hiring Program Grant Award FY23 in the amount of \$750,000.00 for employing six Police Officers and related budget adjustments (CFDA #16.710).
35. Amendment No. 2 with Transdev to extend the contract through 12/31/24.
36. Second Addendum to Agreement with the Fargo Park District and Cass Rural Water Users District.
37. Fourth Amendment to Memorandum of Understanding with Cass Rural Water Users District and Tharaldson Ethanol Plant I, LLC.
38. Amendment No. 1 to Wastewater Consulting Task Order No. 3 with AE2S in the amount of \$15,000.00 for the FEMA Building Resilient Infrastructure in Communities (BRIC) Grant reapplication for improvements associated with the West Side Interceptor (Project No. WW1905).
39. Resolution Prescribing Rates and Charges for Solid Waste Services (Amended 1/1/24).
40. Bid award for the Water Reclamation Utility Chemical Bids for 2024, as presented (ITB24009).
41. Bid award for the Water Treatment Facility Utility Chemicals Bids for 2024, as presented (ITB24007).
42. Task Order No. 28 with AE2S in the amount of \$247,575.00 for the design and bidding of a rehabilitation project in the 1997 Lime Softening Water Treatment Plant.
43. Amendment No. 1 to Task Order No. 9 with AE2S for a no cost change in scope for Project No. WA1865.
44. Change Orders for Project No. WA1863:
 - a. No. 4 in the amount of \$8,944.85 (general construction).
 - b. No. 4 in the amount of \$3,148.17 (electrical construction).
45. Task Order No. 29 with AE2S in the amount of \$197,685.00 for the design and bidding of the Pretreatment Bypass Infrastructure for the Lime Softening Water Treatment Plant.
46. Bills.

REGULAR AGENDA:

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

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

48. **PUBLIC HEARING** - Appeal of a Board of Adjustment decision regarding a Land Management Permit at 338 9th Avenue South; continued from the 11/13/23 Regular Meeting.
49. **PUBLIC HEARING** – Ekman Addition (1728 42nd Street South); approval recommended by the Planning Commission on 11/7/23:
 - a. Zoning Change from GC, General Commercial to MR-3, Multi-Dwelling.
 - b. 1st reading of rezoning Ordinance.
50. **PUBLIC HEARING** – Urban Plains by Brandt Seventh Addition (2907, 2915, 2949, 2975, 3037 and 3151 Seter Parkway South); approval recommended by the Planning Commission on 10/3/23:
 - a. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of Urban Plains by Brandt Seventh Addition.
51. **PUBLIC HEARING** – Timber Parkway Eighth Addition (5056 Charles Way South); approval recommended by the Planning Commission on 11/7/23:
 - a. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
52. **PUBLIC HEARING** – Timber Parkway Tenth Addition (5107 and 5161 Charles Way South); approval recommended by the Planning Commission on 11/7/23:
 - a. Zoning Change to repeal and re-establish a C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.
53. Presentation and recommendation to approve the City of Fargo Purchasing Policy and Procedure Manual.
54. Recommendations for the City's priority projects to apply for Federal Highway Administration funds.
55. 2nd reading and final adoption 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; 1st reading, 11/13/23.
56. Applications for Property Tax Exemptions for Improvements Made to Buildings:
 - a. Travis and Anne Marie Christensen, 105 Meadowlark Lane North (5 years).
 - b. Aaron and Jessica Franke, 2314 Victoria Rose Lane (5 years).
 - c. Jean Corbett, 2619 26th Street South (5 years).
 - d. Nathan and Kimberly Rorvig, 1906 9th Street North (5 years).
 - e. Susan Nelson, 3707 Kennedy Street South (5 years).
 - f. Wayne and Cherie Gadberry, 505 Broadway North Unit 303 (5 years).
 - g. Michael Gillund and Melissa Mozley, 4726 Rose Creek Parkway South (5 years).
 - h. Patrick and Katherine McIntyre, 3225 Longfellow Road North (5 years).
57. Recommendation for appointments to the following Boards and Commissions:
 - a. Historic Preservation Commission.
 - b. Planning Commission.

58. Liaison Commissioner Assignment Updates.

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

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




①

City Administration
225 4th Street North
Fargo, ND 58102

MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: November 17, 2023

SUBJECT: Letter of Support for Precision Plumbing

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

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

Precision Plumbing is outgrowing their space in West Fargo and planning to acquire a shop condo for a second location to serve south Fargo. The holding company for the property will be JDH Investments. The business has requested a letter of support from the City of Fargo.

Recommended Motion

Provide a letter in support for the Precision Plumbing project to the North Dakota Opportunity Fund providing match of the Bank of ND interest buy down program.

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

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

②

November 22, 2023

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

RE: Ordinance Enactment – Rotary Traffic Islands - Fargo Municipal Code § 8-0610

Dear Mayor Mahoney and Commissioners,

I am enclosing for your consideration an enactment to the Fargo Municipal Code, § 8-0610 - Rotary Traffic Islands. The State of North Dakota has a statute which requires drivers to only travel to the right when entering a rotary traffic island a/k/a "roundabout," and recently amended the statute to require the driver to also signal when exiting (NDCC § 39-10-16). This ordinance is recommended to ensure consistency with state law. A fine of \$40 is recommended, an amount consistent with other signaling violations found in Fargo Municipal Code Article 8-06.

Suggested Motion: I move to receive and file an ordinance enacting Fargo Municipal Code § 8-0610 of Article 8-06 of Chapter 8, relating to Rotary Traffic Islands and to place the ordinance on for first reading at the next regularly-scheduled meeting of the Board of City Commissioners.

Sincerely,

William B. Wischer

William B. Wischer

WBW/imw

Enclosure

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE ENACTING SECTION 8-0610 OF ARTICLE 8-06 OF
CHAPTER 8 OF THE FARGO MUNICIPAL CODE
RELATING TO ROTARY TRAFFIC ISLANDS

1
2 WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in
3 accordance with Chapter 40-05.1 of the North Dakota Century Code; and

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

7
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
10 conflict therewith and shall be liberally construed for such purpose; and

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

14 NOW, THEREFORE,

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

16 Section 1. Enactment.

17 Section 8-0610 of Article 8-06 of Chapter 8 of the Fargo Municipal Code is hereby enacted
18 as follows:

19 8-0610 – Rotary Traffic Islands

- 20
21
22
23
1. A vehicle passing around a rotary traffic island must be driven only to the right of such island.
 2. After a vehicle enters a rotary traffic island, the vehicle may not exit from any position within the rotary traffic island without first giving a signal of intention to exit the rotary traffic island.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Penalty.

A person who violates Fargo Municipal Code section 8-0610 shall be deemed to have committed a non-criminal offense and shall pay a fee of \$40 as provided in Section 1-0305 of the Fargo Municipal Code, as may be amended from time to time.

Section 3. Effective Date.

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

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

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading and Final Passage:
Publication:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

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

③
November 22, 2023

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

RE: Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code relating to Alcoholic Beverages

Mayor and Commissioners,

Presented for your consideration is an ordinance amendment, detailing the parameters for liquor license holders to utilize self-serve dispensers for beer and wine. As you may recall, Crafty Taps, located in the West Acres Mall, sought approval for the use of this new technology when it applied for a license. Because there was no ordinance, the City and the licensee entered into an agreement as to how a self-serve dispenser may be utilized. Licensee further agreed that should the City later adopt an ordinance addressing self-serve dispensary requirements, the ordinance terms would apply. Given that the device has now been in use for some time, and others have expressed an interest in utilizing the same technology, the attached ordinance is being recommended. You will note that the ordinance limits the types of alcohol that may be dispensed to beer and wine, and limits the amount of alcohol that will be permitted on the tap card. Initial issuance and reloads of the tap card must be done by a server trained employee, and the tap card may not be transferred by a patron.

SUGGESTED MOTION: I move to receive and file the following Ordinance Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to the Self-serve Dispenser Utilization (Beer and Wine only) and to place the ordinance on for first reading at the next regularly-scheduled city commission meeting.

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

Sincerely,



Nancy J. Morris

Enclosure

cc: Steve Sprague

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

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:

* * *

L. Self-Serve Dispenser Utilization (Beer and Wine only). An establishment holding an on-sale license that allows for the sale of beer and wine only may utilize a self-serve dispenser, provided all of the requirements for self-serve dispenser utilization are met:

1. Only draft beer and wine may be dispensed from the self-serve dispenser; no spirits or mixed drinks may be dispensed; and
2. All alcohol dispensed must be consumed on the licensed premises; and

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- 1 3. The self-serve dispenser shall require access controlled by the licensee as to the method
2 and amount of the alcohol accessible to the patron. Controlled access may be by any
3 technology or device so long as the liquor cannot be drawn or obtained by a patron
4 without being first approved for access to the dispenser by the licensee, and each
5 approved access restricts the amount of liquor that may be dispensed by the patron as
6 required under this section; and
- 7 4. Each access transaction provided by the licensee to the patron shall be deemed as and
8 constitutes a sale or the service of liquor to the patron as is otherwise regulated by Fargo
9 Municipal Code Chapter 25-15; and
- 10 5. Each access transaction for a patron to the self-serve liquor dispenser shall limit the
11 patron access to no more than 32 fluid ounces of beer and 10 liquid ounces of wine. No
12 patron shall have or be provided at any one time with access to more than the restricted
13 amount; and
- 14 6. Certified server trained employees shall be required for all self-serve liquor access
15 transactions; and
- 16 7. Subsequent access transactions shall be closely monitored, and access provided in lesser
17 amounts as appropriate; and
- 18 8. Prior to approving or reapproving any dispenser transaction, the patron's age shall be
19 verified to ensure the patron is age 21 or older; and
- 20 9. No persons under the age of 21 shall be permitted in the licensed premises; and
- 21 10. All access transaction authorizations shall terminate or be disabled prior to the patron
22 leaving the licensed premises; and
- 23 11. No patron shall transfer or share any access transaction device or passcode to another
person or remove the access device from the licensed premises; and
12. The licensed premises must be attended by the licensee at all times while the self-serve
dispensary is operational and patrons are present in the licensed premises.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Penalty.

1 A person who willfully violates this ordinance is guilty of an infraction. Every person,
2 firm or corporation violating an ordinance which is punishable as an infraction shall be punished
3 by a fine not to exceed \$1,500; the court to have power to suspend said sentence and to revoke
the suspension thereof.

4 * * * *

Section 3. Effective Date.

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

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

12 Attest:

13 _____
14 Steven Sprague, City Auditor

15 First Reading:
16 Second Reading:
17 Final Passage:
18 Publication:

4

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.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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 2nd 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.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

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

2

3

4

Timothy J. Mahoney, Mayor

5

Attest:

6

7

8

Steven Sprague, City Auditor

9

First Reading:
Second Reading:
Final Passage:

10

11

(SEAL)

12

13

14

15

16

17

18

19

20

21

22

23

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

5

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING SECTION 1-0305(A)(1)
2 OF ARTICLE 1-03 OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE
3 RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

4 WHEREAS, the electorate of the City of Fargo has adopted a home rule charter in accordance
5 with Chapter 40-05.1 of the North Dakota Century 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 home
9 rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith
10 and shall be liberally construed for such purpose; and

11 WHEREAS, the Board of City Commissioners deems it necessary and appropriate to
12 implement such authority by the adoption of this ordinance to increase the penalty for massage
13 therapy establishment violations from an Infraction to a Class B misdemeanor;

14 NOW, THEREFORE,

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

16 Section 1. Amendment.

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

19 1-0305. Classification of ordinance violations.—

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

- 22 1. Section 1-0306(D) (failure to appear or post bond on a non-criminal, non-traffic
23 offense), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending
registration plates), section 8-0308 (reproducing operator's or driver's license or permit),
section 8-0309 (driving under suspension), section 8-0310 (driving under the influence),

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 section 8-0314 (reckless driving), section 8-0320(D) (failure to deliver plates) section 8-
2 0803 (accidents involving damage to vehicle), section 8-0804 (duty to give information
3 and render aid), section 8-0805 (duty upon striking fixture or other property), section 8-
4 0809 (false reports), section 10-0104 (curfew), section 10-0201 (indecent exposure),
5 section 10-0301 (disorderly conduct), section 10-0201 (indecent exposure), section 10-
6 0301 (disorderly conduct), section 10-0317 (resisting police officer), section 10-0319
7 (incendiary devices), section 10-0320 (registration in schools), section 10-0321 (criminal
8 mischief), section 10-0321.1 (criminal mischief-hate crime), section 10-0322 (harassment),
9 section 10-0322.1 (harassment-hate crime), section 10-0323 (simple assault), section 10-
10 0323.1 (simple assault-hate crime), section 10-0324 (aiding and abetting), section 10-0601
11 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703
12 (tenant/owner cooperation required), section 10-1202(2) ($\geq \frac{1}{2}$ oz. marijuana) and 10-
13 1202(3) (under 21 in possession of marijuana), section 12-0117(C) and 12-0117(G)
14 (potentially dangerous and dangerous dogs), section 13-0511 (removal of wastes), section
15 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article
16 13-13 (drug lab cleanup), article 13-18 (massage therapy establishments), chapter 17
17 (sewers and sewerage), article 18-09 (excavation code), section 25-0412 (unlicensed
18 taxicab or vehicle for hire), section 25-1509(A) (selling alcoholic beverage to minor),
19 section 25-1518(C) (minor misrepresenting age), and section 25-1518(D) (delivery of
20 alcoholic beverage to minor), article 25-33 (tattoos, body art and body piercing), article 25-
21 36 (tanning facilities).

12 * * *

13
14 Section 2. Effective Date.

15 This ordinance shall be in full force and effect from and after its passage and approval.
16
17

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

19 (SEAL)

20 Attest:

First Reading:
Second Reading:
Final Passage:

APPROVED BY THE BOARD
OF CITY COMMISSIONERS

Rec'd & Filed 10-30-23

53

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: GRANT LARSON *GL*
DIRECTOR OF ENVIRONMENTAL HEALTH

DATE: OCTOBER 26, 2023

RE: MASSAGE THERAPY ESTABLISHMENT PROGRAM UPDATE

Staff at Fargo Cass Public Health and the Fargo Police Department request the opportunity to provide an update on the Massage Therapy Establishment Program associated with Chapter 13-18 of the Fargo Municipal Code.

Along with the presentation, and enclosed for your consideration and approval is an Ordinance amending Sections 13-1801, 13-1802, and 13-1806 of Article 13-18 of Chapter 13 of the Fargo Municipal Code, 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, along with a Resolution establishing Massage Therapy Establishment Requirements (hereinafter "Requirements") and an associated license fee for such establishments.

Sections 13-1802 and 13-1805 of the Fargo Municipal Code authorize the Board of City Commissioners to adopt certain regulations creating minimum standards for massage therapy establishments as well as the amount of an initial license fee. At its October 2, 2023, meeting, the Board of City Commissioners directed the City Attorneys to work with the Environmental Health Division of Fargo Cass Public Health to review and update Article 13-18. As such, these items are presented to you for your consideration and approval after the presentation and program update.

If you have any questions, please contact me at 241-1380.

Suggested Motions:

1. I move to receive and file an Ordinance amending Sections 13-1801, 13-1802, and 13-1806 of Article 13-18 of Chapter 13 of the Fargo Municipal Code relating to Massage Therapy Establishments and to place the Ordinance on for first reading at the next regularly scheduled City Commission meeting.
2. I move to receive and file 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 and to place the Ordinance on for first reading at the next regularly scheduled City Commission meeting.
3. I move to receive, approve, and file the Resolution relating to Massage Therapy Establishments, which adopts certain requirements and sets the annual license fee.

GL

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION

WHEREAS, the Board of City Commissioners of the city of Fargo have deemed it necessary and appropriate to approve and adopt an ordinance regulating massage therapy establishments, codified in Article 13-18 of the Fargo Municipal Code; and

WHEREAS, Sections 13-1802 and 13-1805 of the Fargo Municipal Code authorize the Board of City Commissioners to adopt certain regulations creating minimum standards for massage therapy establishments as well as the amount of an initial license fee; and

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

1. The attached Massage Therapy Establishment Requirements are hereby adopted by reference and fully incorporated herein; and
2. The Massage Therapy Establishment Fee shall be in the amount of \$50.00 per year.

Dated this ____ day of _____, 2023.

Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steven Sprague, City Auditor

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



Requirements for Massage Therapy Establishments

**Fargo Cass Public Health
1240 25th Street South
Fargo, ND 58103-2367**

CITY OF FARGO REQUIREMENTS FOR MASSAGE THERAPY ESTABLISHMENTS

A. Purpose.

The purpose of the following requirements for massage therapy establishments is to ensure facilities are sanitary and well-maintained, and to protect the health, safety, and general welfare of the community pursuant to Article 13-18 of the Fargo Municipal Code relating to massage therapy establishments. The following requirements in this document are not exclusive. Please refer to Article 13-18 of the Fargo Municipal Code for further applicable rules and regulations.

B. Background.

The City of Fargo determined the need to implement requirements and licensing for massage therapy establishments based on the following:

- (1) North Dakota Administrative Code 49-03 defines the requirements for massage therapy establishments, located in North Dakota, but the governing body, the North Dakota Board of Massage Therapy (NDBMT), does not license individual massage therapy establishments;
- (2) The NDBMT directs any individual(s) wishing to start their own massage practice to contact local jurisdiction for ordinances and guidelines associated with a new massage therapy establishment;
- (3) Local implementation of these requirements will fulfill the “gap” in licensing requirements specifically for massage therapy establishments as well as provide a means to conduct annual sanitation inspections;
- (4) The NDBMT only has the ability to take action against licensed individuals, not establishments, and has limited jurisdiction or authority over unlicensed individuals;
- (5) Individual massage therapists licensed by the NDBMT have received standardized training in massage therapy, health, and hygiene, and are equipped to provide a legitimate service to the public;
- (6) Health and sanitation requirements governing massage therapy establishments are meant to reduce the possible spread of communicable diseases and promote overall health and sanitation; and
- (7) Communities who have implemented requirements for massage therapy establishments have addressed illicit activity through their licensing procedures.

C. Definitions.

The following terms used within these requirements shall be defined as follows:

- (1) “Massage” means the practice of massage therapy by the manual application of a system of structured touch to the soft tissues of the human body, including:
 - a. Assessment, evaluation, or treatment;
 - b. Pressure, friction, stroking, rocking, gliding, kneading, percussion, or vibration;
 - c. Active or passive stretching of the body within the normal anatomical range of movement;
 - d. Use of manual methods or mechanical or electrical devices or tools that mimic or enhance the action of human touch;
 - e. Use of topical applications such as lubricants, scrubs, or herbal preparations; and
 - f. Use of hot or cold applications.

Except as provided in this chapter, “massage” does not include diagnosis or other services that require a license to practice medicine or surgery, osteopathic medicine, chiropractic, occupational therapy, physical therapy, or podiatry and does not include services provided by professionals who act under their state-issued professional license, certification, or registration.

- (2) “Massage therapy establishment” means any person as defined in this article, holding itself out as providing massage therapy services to the public for a fee or other form of remuneration. The term shall not include the following activities:
 - a. Any individual who provides massage therapy in the dwelling unit in which the individual resides, provided that all of the following conditions are met:
 - i. no more than 25 percent of the floor area of the dwelling unit is used as a place of work;
 - ii. no employees of the resident come to the dwelling unit site;
 - iii. no more than four (4) customers per day or more than twelve (12) customers per week come to the dwelling unit site;
 - iv. massage therapy services are limited to hours of 7:00 a.m. to 9:00 p.m.; and
 - v. no more than one (1) customer is permitted on the dwelling unit site at any given time.
 - b. Schools that furnish massage services to their student athletes;

- c. Any student of a school of massage who is practicing massage in the course of fulfilling a required massage therapy practicum under the direct supervision of a licensed massage therapist or in the course of participating in a school-supervised student massage clinic under the direct supervision of a licensed massage therapist, a school may charge a fee and students may accept tips under a policy set by the school. Students may practice homework unsupervised on other students, family or friends, but no fee or tip may be charged or accepted. These massages may only be performed at the school or at the residence of the student, family member, or friend;
 - d. Any individual who is engaged in a profession or occupation for which the individual is licensed by this state, as long as the individual's activities are performed in the course of a bona fide practice of the individual's profession or occupation and as long as the individual does not represent to the public that the individual is a massage therapist or is engaged in the practice of massage and does not perform massage while working in a massage therapy establishment;
 - e. A health spa or similar business to the extent the spa or business is performing superficial applications used for beautification or health of the skin, including salt glows and contouring;
 - f. Any individual instructor demonstrating massage techniques as a component of a board-approved seminar; and
 - g. Any individual practicing healing by manipulating the energy field or the flow of energy of the human body by means other than the manipulation of the soft tissues of the body, provided that the individual's services are not designated or implied to be massage or massage therapy. For purposes of this subsection, a light touch or tap is not a manipulation of the soft tissues of the human body.
- (3) "Person" means any individual, partnership, corporation or limited liability company or other lawful business entity.
 - (4) "Massage therapist" means an individual licensed to practice massage by the board.
 - (5) "Board" means the North Dakota Board of Massage Therapy.
 - (6) "Public health department" means Fargo Cass Public Health or any representative or designee thereof.

D. Licensure Qualifications.

The following are licensing requirements pursuant to Article 13-18 of the Fargo Municipal Code:

- (1) Massage therapy establishment license – No person shall operate a massage therapy establishment without first applying for and obtaining a license issued by the public health department. The applicant does not need to be licensed as a massage therapist if they do not administer massage services to the public.
- (2) Massage therapist license - It shall be unlawful for any massage therapy establishment to employ anyone other than a duly-licensed massage therapist to administer one or more massages on the licensed premises. It shall be the responsibility of the massage therapy establishment to provide proof of each massage therapist's licensure from the Board, upon request.

E. Application for Massage Therapy Establishment License.

A massage therapy establishment shall submit an application for a license to the public health department on a form provided by the public health department, along with payment of a required license fee.

F. Issuance of Massage Therapy Establishment License.

- (1) License Periodicity – The license hereof shall be issued annually, January 1, by the director of public health. All licenses issued under Article 13-18 of the Fargo Municipal Code, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance.
- (2) License Fee – There will be a fee associated with the massage therapy establishment license. License fees and fees for renewal thereof shall be established by resolution of the board of city commissioners.
- (3) License Display – A license issued pursuant to Article 13-18 of the Fargo Municipal Code shall be displayed in a conspicuous location in the massage therapy establishment for which the license is issued.
- (4) Non-transferrable – Each license will only be issued to the approved applicant and is non-transferrable.
- (5) Inability to reapply for licensure after revocation – If the holder of a massage therapy establishment license has the license revoked under Section 13-1806 of the Fargo Municipal Code, they are not eligible to apply for a new license.

G. General License Restrictions.

Each license issued pursuant to Article 13-18 of the Fargo Municipal Code will include the following restrictions:

- (1) Prohibited massages – A massage therapist must not intentionally massage or offer to massage the penis, scrotum, mon veneris, vulva, or vaginal area of an individual.
- (2) Advertising – Any advertising by a licensee, or representative of the licensee, displaying potentially unlawful, misleading, sexually explicit, obscene, or erotic conduct associated with the massage therapy establishment shall be prohibited.
- (3) Responsible for conduct – A licensee shall be responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

H. Individuals Ineligible for Massage Therapy Establishment Licensure.

Applicants for a massage therapy establishment license may be denied a license based on any of the following circumstances:

- (1) The applicant is not 18 years of age or older;
- (2) The applicant has been convicted of a crime directly related to the occupation;
- (3) The applicant was the previous holder of a massage therapy establishment license which was revoked;
- (4) The applicant is not a citizen of the United States or resident alien, or is legally prohibited from working in the United States;
- (5) The facility described in the application does not meet the definition of a massage therapy establishment as defined in these requirements and Article 13-18 of the Fargo Municipal Code;
- (6) The location and proposed use of the massage therapy establishment is in conflict with the City of Fargo's Land Development Code;
- (7) The proposed use of the massage therapy establishment is in conflict with the Fargo Municipal Code or the laws of North Dakota;
- (8) The applicant is the spouse or close relative of a person whose massage-related license has been denied, suspended or revoked at any time;

- (9) The applicant has allowed a massage therapy establishment license to expire or has surrendered a massage therapy establishment license. In that case, the application shall be treated the same, at the sole discretion of the director of public health as an application for a new license, subject to all ordinance regulations and review processes.

I. Inspections of Massage Therapy Establishments.

The director of public health, chief of police, or any officer of the health or police department may, at any time, enter upon any licensed premises for the purpose of a health inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city. Any attempt to restrict or refuse access to the director of public health, chief of police, or any officer of the health or police department from conducting an inspection may lead to suspension, revocation, or a nonrenewal of said license in addition to criminal penalties provided by law. Inspections and/or investigations may be conducted in a manner authorized by law, when necessary, to determine if the applicant or licensee meets the qualifications pursuant to Article 13-18 of the Fargo Municipal Code. Massage therapy establishments must comply with the following requirements:

- (1) The massage therapy establishment must be in a safe, clean, and sanitary condition;
- (2) A valid massage therapy establishment license, issued by the public health department, shall be prominently displayed in the facility;
- (3) The massage therapy establishment licensee shall identify themselves, along with each massage therapist offering procedures within the facility, by providing a current and valid ID, upon request;
- (4) A valid and current license for each massage therapist shall be located on-site and available for review at any time;
- (5) Massage therapists are responsible for maintaining all equipment and supplies in good working order in accordance with the manufacturer's instruction;
- (6) Furniture, equipment, and tools utilized for massage must be properly stored, cleaned, and sanitized after each client;
- (7) Restrooms must include hot and cold running water, hand soap, hand drying provisions, and a covered waste receptacle.
- (8) Sanitizing agents shall be made available and used properly according to the manufacturer's guidelines.

- (9) Clean linens shall be available for each client;
- (10) It is unlawful for a massage therapy establishment, unless properly licensed by the city of Fargo, to provide alcohol to a client and neither the owner, operator, massage therapist, or patrons shall be under the influence of illegal drugs; and
- (11) The massage therapy establishment shall not contain or allow the use of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses.

J. Non-renewal, Suspension, or Revocation of License, Immediate Suspension of License and Appeal Process.

Please refer to Article 13-18 of the Fargo Municipal Code for the processes associated with the non-renewal, suspension, and/or revocation of a license, immediate suspension of a license, and the appeal process.



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

(Handwritten signature/initials)



Applying for (check one)

Local Permit Restricted Event Permit*

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

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

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

ORGANIZATION INFO

Name of Organization or Group El Zagal Y		Dates of Activity (Does not include dates for the sales of tickets) February 17th, 2024	
Organization or Group Contact Person Mike Hennebry	E-mail m.f.hennebry@gmail.com	Telephone Number 701-238-3573	
Business Address 1429 4th St N	City Fargo	State ND	ZIP Code 58102
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

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

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

One event each year in February. 2024's event is 2/17/2024.

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffles (20)	Outdoor hunting, fishing & camping equipment	10,000.00
Raffle boards (8)	Outdoor hunting, fishing & camping equipment	5,000.00
Total (limit \$40,000 per year)		\$ 15,000.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Fraternal Operations El Zagal Shrine building and grounds

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

Yes No

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

Yes No

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

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

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

Yes No

Printed Name of Organization Group's Permit Organizer Mike Hennebry	Telephone Number 701-238-3573	E-mail Address m.f.hennebry@gmail.com
Signature of Organization Group's Permit Organizer <i>Mike Hennebry</i>	Title Chairman	Date 11/13/2023



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

(bb)

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

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

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

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

ORGANIZATION INFO

Name of Organization or Group Friends of the Children Fargo-Moorhead		Dates of Activity (Does not include dates for the sales of tickets) December 2nd, 2023	
Organization or Group Contact Person Connor Byer	E-mail cbyer@friendsfargomoorhead.org	Telephone Number 701-630-2225	
Business Address 5183 44th St S, Suite B	City Fargo	State ND	ZIP Code 58104
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name West Acres Mall	County Cass		
Site Physical Address 3902 13th Ave S	City Fargo	State ND	ZIP Code 58103
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) Bingo, Saturday December 2nd, 2023, One Time Event			

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

Game Type	Description of Prize	Exact Retail Value of Prize
	<i>attached</i>	
Total (limit \$40,000 per year)		\$ 3511.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Operations for funding youth program activities.

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

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

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

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

Printed Name of Organization Group's Permit Organizer Connor Byer	Telephone Number 701-630-2225	E-mail Address cbyer@friendsfargomoorhead.org
Signature of Organization Group's Permit Organizer <i>Connor Byer</i>	Title Administrative Support Manager	Date October 11th, 2023



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

Page 32 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (9-2023)

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 St. John Paul II Catholic Schools		Dates of Activity (Does not include dates for the sales of tickets) 12/2/2023	
Organization or Group Contact Person Liz Bassett	E-mail liz.bassett@jp2schools.org	Telephone Number 701-893-3242	
Business Address 5600 25th Street S	City Fargo	State ND	ZIP Code 58104
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Shanley High School	County Cass
Site Physical Address 5600 25th Street S	City Fargo
	State ND
	ZIP Code 58104

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)
Raffle 12/2/2023

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Cash Prize up to \$500	\$500
Total (limit \$40,000 per year)		\$ \$500

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
Fundraising for Shanley High School

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: **\$10,500** (This amount is part of the total prize limit for \$40,000 per fiscal year)

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

Yes No

Printed Name of Organization Group's Permit Organizer Liz Bassett	Telephone Number 701-893-3242	E-mail Address liz.bassett@jp2schools.org
Signature of Organization Group's Permit Organizer 	Title Special Events Coordinator	Date 11/16/2023



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

Page 33

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

Applying for (check one)

Local Permit Restricted Event Permit*

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

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

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

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

ORGANIZATION INFO

Name of Organization or Group St. John Paul II Catholic Schools		Dates of Activity (Does not include dates for the sales of tickets) 01/30/2024	
Organization or Group Contact Person Liz Bassett		E-mail liz.bassett@jp2schools.org	Telephone Number 701-893-3242
Business Address 5600 25th Street S		City Fargo	State ND
			ZIP Code 58104
Mailing Address (if different)		City	State
			ZIP Code

SITE INFO

Site Name Shanley High School		County Cass	
Site Physical Address 5600 25th Street S		City Fargo	State ND
			ZIP Code 58104
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) Raffle 01/30/2024			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Cash Prize up to \$500	\$500
Total (limit \$40,000 per year)		\$ \$500

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds Fundraising for Shanley High School	
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) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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) <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - Total Retail Value: \$10,500 (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.) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Printed Name of Organization Group's Permit Organizer Liz Bassett	Telephone Number 701-893-3242	E-mail Address liz.bassett@jp2schools.org
Signature of Organization Group's Permit Organizer 	Title Special Events Coordinator	Date 11/16/2023



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

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

(Handwritten initials)

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

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

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

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

ORGANIZATION INFO

Name of Organization or Group Sam Bollman Benefit for Sgt Fauske		Dates of Activity (Does not include dates for the sales of tickets) 12/28/2023	
Organization or Group Contact Person Sam Bollman	E-mail sambollman@gmail.com	Telephone Number 701-866-2038	
Business Address 3504 43rd Ave S	City Fargo	State ND	ZIP Code 58104
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Private Residence	County Cass		
Site Physical Address 3504 43rd Ave S	City Fargo	State ND	ZIP Code 58104
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) drawing 12/28/2023			

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

Game Type	Description of Prize	Exact Retail Value of Prize
50/50 Raffle	10 percent of raffle ticket sales not to exceed \$1,000	1,000.00
Total (limit \$40,000 per year)		\$ 1,000.00

Intended Uses of Gaming Proceeds

Medical bills for Tyrell Fauske's treatment for brain cancer

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

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

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

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

Name Sam Bollman	Title Organizer	Telephone Number 701-866-2038	E-mail Address sambollman@gmail.com
Signature of Organization or Group's Top Official <i>(Handwritten Signature)</i>		Title Organizer	Date 11/21/2023

①

AUDITOR'S OFFICEFargo City Hall
225 4th Street North
PO Box 2471

Fargo, ND 58108

Phone: 701.241.8108 | Fax: 701.241.8184

www.FargoND.gov**MEMORANDUM**

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Extension – Borrowed Bucks

DATE: November 22, 2023

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from BFG, Inc. d/b/a Borrowed Bucks Roadhouse until June 30, 2024

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

Please see the attached letter from the company.

Please approve an extension of 25-1512 for BFG, Inc. d/b/a Borrowed Bucks Roadhouse until June 30, 2024

Recommended Motion:

Move an extension of the requirements of 25-1512 to BFG, Inc. d/b/a Borrowed Bucks Roadhouse until June 30, 2024.



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

November 22, 2023

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

ATTN: Steve Sprague

RE: Alcoholic Beverage License #A-8

Dear Steve:

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

BFG, Inc. has entered into an Agreement for Sale and Transfer of Fargo Liquor License with Brandt Real Estate, LLC for the purchase of this license. BFG, Inc. has agreed to hold this license at its present location at 1201 Westrac Drive until Brandt Real Estate files an application with the City of Fargo at a location to be determined. Brandt Real Estate has expressed interest in our property on Westrac Drive as well, however at this time they do wish to move forward with the purchase of the license. We expect that the location will be determined and the transfer of the license will occur prior to the license expiration date of June 30, 2024.

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

Thank you.

Sincerely,

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

Randy Thorson
PRESIDENT

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

9

Project No. SN-23-A1

Type: MOU Agreement

Location: Bison Village

Date of Hearing: 11/20/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/27/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Eric Hodgson</u>

The Committee reviewed the accompanying correspondence from Project Manager, Eric Hodgson, regarding a Maintenance and Use Agreement with Fargo Parks for the Bison Village Shared Use Path.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of the MOU Agreement with Fargo Parks for the Bison Village Shared Use Path.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve the MOU Agreement with Fargo Parks for the Bison Village Shared Use Path.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A


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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u> <input checked="" type="checkbox"/> </u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Mark Williams</u>
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input 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: Eric Hodgson, Civil Engineer II
Date: November 20, 2023
Re: City Project No. SN-23-A1 Maintenance and Use Agreement
Bison Village/10th Street North Shared Use Path (32nd Ave to 36th Ave N)

Background:

The City of Fargo and Fargo Parks plan to regularly cooperate in the construction and maintenance of shared Use Paths. As such, there is a need to formalize each's role in the construction, maintenance, and use of these paths.

Attached is the MOU Agreement between Fargo Parks and the City of Fargo. It has already been reviewed by Kasey McNary from legal.

Recommended Motion:

Approve the MOU Agreement with Fargo Parks.

EBH/klb

Attachment:

- MOU Agreement for the Bison Village Shared Use Path.

MEMORANDUM OF UNDERSTANDING REGARDING CONSTRUCTION AND MAINTENANCE

This Memorandum of Understanding ("MOU" or "Agreement") is entered into between the City of Fargo, whose address is 225 4th Street North, Fargo, North Dakota 58102 ("Fargo"), and the Park District of the City of Fargo, whose address is 701 Main Avenue, Fargo, North Dakota 58103 (the "Park District").

WHEREAS, North Dakota Century Code § 40-05.1-6 and Article 3 of Fargo's Home Rule Charter authorizes Fargo to enter into contracts; and

WHEREAS, North Dakota Century Code § 40-49-04 authorizes the Park District to enter into contracts; and

WHEREAS, Fargo is planning to construct a shared use path as part of the overall City pedestrian transportation system, as shown in Exhibit "A" attached hereto; and

WHEREAS, Fargo will construct certain amenities in conjunction with the shared use path, including vegetation establishment and culverts; and

WHEREAS, the parties have agreed to share in the responsibility of construction, maintenance, inspection, and repair of the shared use path and amenities, subject to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual terms, covenants, conditions, and agreements contained herein, it is hereby agreed by and between the parties as follows:

1. Ownership. Fargo and the Park District both own parcels, and/or have been granted easements, upon which the shared use path and other amenities will be constructed, and shall retain such ownership and easement rights without regard to maintenance responsibilities.
2. Access. Fargo hereby grants Park District access to the portions of the shared use path and amenities located upon Fargo's property for ingress and egress, and for purposes of maintenance, repairs, and construction, as necessary to carry out the terms of this Agreement. Park District hereby grants unto Fargo unimpeded access to the shared use path and installed amenities, subject to any existing easements, for whatever purpose deemed necessary by Fargo, including patrol, emergency access, , and truck access, as necessary.
3. Construction.
 - a. Fargo shall be solely responsible for the construction of the shared use path and all agreed upon amenities, including but not limited to vegetation establishment, and culverts.
 - b. Fargo shall be responsible for any temporary levee construction, maintenance and reconstruction on Fargo owned property, as determined necessary in Fargo's sole discretion.

the parties will submit the matter to their respective Boards (or a committee established by the Board) to resolve the dispute.

6. Term. The term of this Agreement will be 20 years. This Agreement will automatically renew for successive periods of 20 years. If either party intends to terminate this Agreement, at least 180 days' Notice prior to expiration of the current term shall be given to the other party. The parties may agree in writing to terminate this Agreement prior to expiration of the initial term or any renewal term. This Agreement is personal as to the Park District, and may not be assigned or transferred without Fargo's written consent.

7. Release and Waiver. In consideration of the mutual promises of the parties and to the fullest extent permitted by law, each party assumes all risk of personal injury or death and property damage or loss from whatever causes arising while that party, its agents, employees or designees are conducting work pursuant to this MOU and each party releases the other party, its officers, employees, agents or designees relating to or arising out of that parties', agents, employees or designees work pursuant to this MOU, whether known or unknown, foreseen or unforeseen, liquidated, unliquidated, fixed, contingent, material or immaterial, disputed or undisputed, suspected or unsuspected, direct or indirect, at law or in equity, and each party understands and acknowledges the significance of such release and waiver and hereby assumes full responsibility for any injuries, damages or losses that it may incur as a result of its execution of this MOU.

8. Notice. Any notice or election required or permitted to be given or served by any party to this MOU upon any other will be deemed given or served in accordance with the provisions of this MOU if said notice or election is (a) delivered personally, or (b) mailed by United States certified mail, return receipt requested, postage prepaid, and in any case properly addressed as follows:

If to Fargo:	Info to the Park District:
City of Fargo	Park District of the City of Fargo
ATTN: City Auditor	ATTN: Finance Director
Fargo City Hall	701 Main Avenue
225 Fourth Street North	Fargo, ND 58103
Fargo, ND 58102	

Each such mailed notice or communication will be deemed to have been given on the date the same is deposited in the United States mail. Each such delivered notice or communication will be deemed to have been given upon the delivery. Any party may change its address for service of notice in the manner specified in this MOU.

9. Time is of the Essence. Time is of the essence of each provision of this entire MOU and of all the conditions thereof.

10. Entire Agreement. This MOU constitutes the entire and complete agreement between the parties with respect to the subject matter hereof and supersedes any prior oral or written agreements between the parties. 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 MOU and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the parties. It does not negate the parties' rights, duties and obligations under prior agreements related to the shared use path construction and operation, maintenance, and flood control system.

11. Amendments. No amendment, modification, or waiver of any condition, provision or term will 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.

12. No Forbearance. The failure or delay of any party to insist on the performance of any of the terms of this MOU, or the waiver of any breach of any of the terms of this MOU, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this MOU, or the right to enforce each and every term of this MOU.

13. Remedies. Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the parties under and pursuant to this MOU.

14. Binding Effect. All covenants, agreements, warranties and provisions of this MOU will be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns.

15. Governing Law. This MOU has been made and entered into under the laws of the State of North Dakota, and said laws will control its interpretation. Any litigation arising out of this MOU will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

16. Rules of Construction. The parties acknowledge that they have had the opportunity to review this MOU, and that they have an equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document will be operative against any party to this MOU.

17. Representation. The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this MOU, and agree they have not been influenced by any representations or statements made by any other parties.

18. Headings. Headings in this MOU are for convenience only and will not be used to interpret or construe its provisions.

(Signatures appear on the following pages)

Dated this _____ day of _____, 2023

CITY OF FARGO, NORTH DAKOTA, a
municipal corporation

By:


Dr. Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor


Dated this 14th day of November, 2023

Park District of the City of Fargo



Joe Deutsch, President

ATTEST:



Jeff Grunkelman, Clerk

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

NDDOT PROJECT NO. TAU-8-984(172)
CITY OF FARGO PROJECT NO. SN-23-A1
CASS COUNTY
BISON VILLAGE/10TH ST N
32ND AVE TO 36TH AVE N
SHARED USE PATH & INCIDENTALS

2023

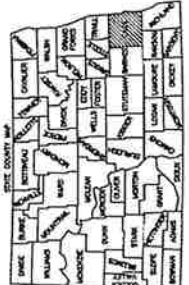
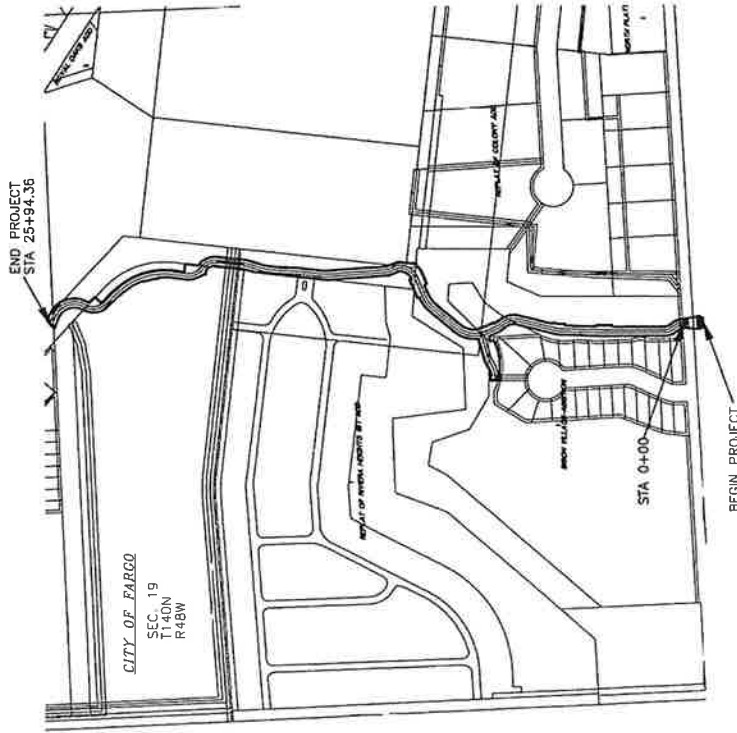


EXHIBIT A



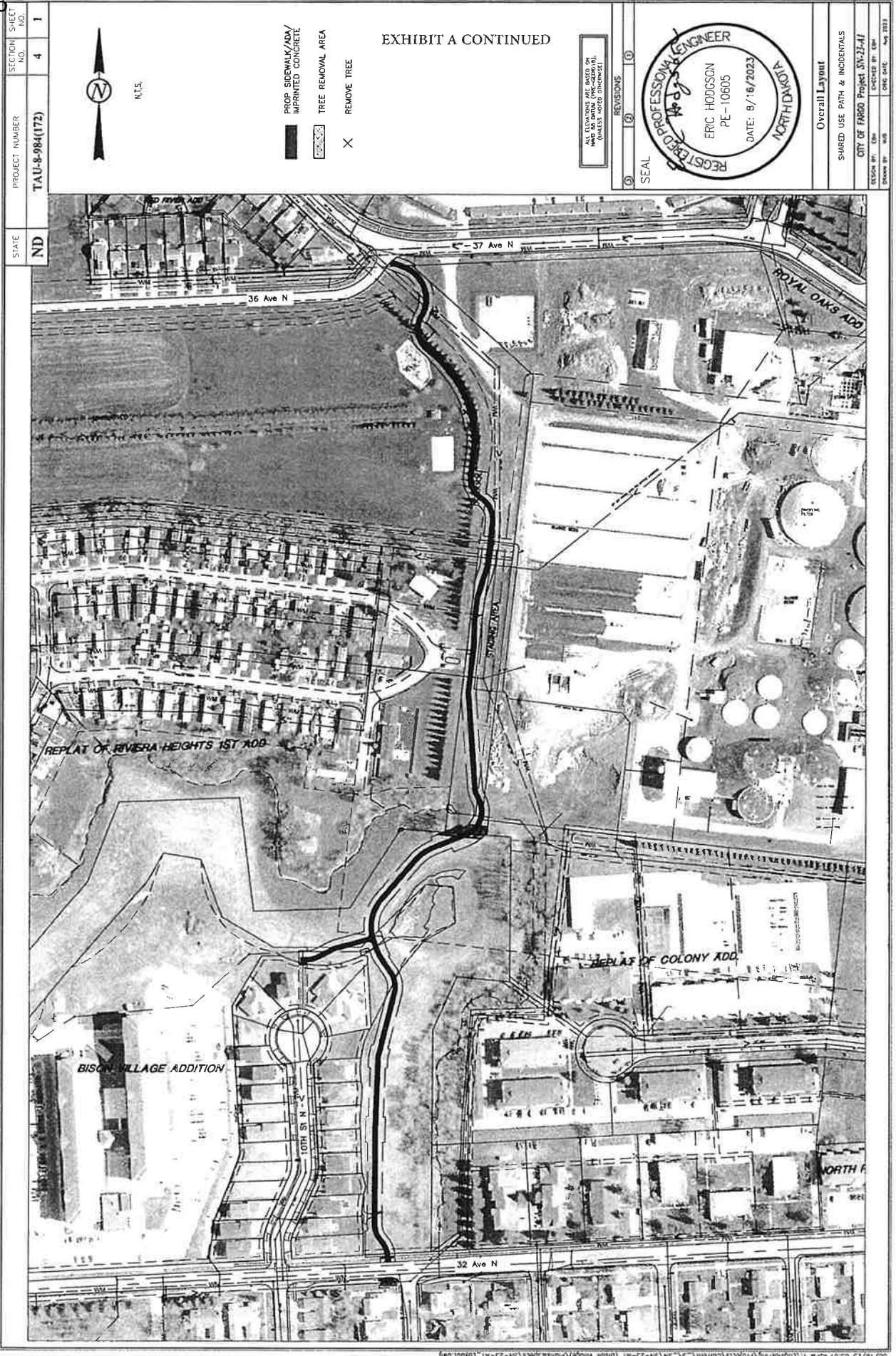
GOVERNING SPECIFICATIONS	Date Published and Adopted Department of Transportation
Standard Specifications	04/01/2023
Supplemental Specifications	NOTE
PROJECT NUMBER / DESCRIPTION TAU-8-984(172) / SHARED USE PATH	NET MILES 0.54 GROSS MILES 0.54

STATE	PROJECT NUMBER	PCN	SECTION NO.	SHEET NO.
ND	TAU-8-984(172)	23238	1	1

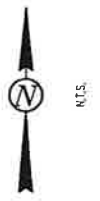
APPROVAL SIGNATURES	
City Engineer <i>[Signature]</i> Signature	Date 8/17/23
Division Engineer <i>[Signature]</i> Signature	Date 8/17/23
Project Engineer/Manager <i>[Signature]</i> Signature	Date 8/17/23
Traffic Control Engineer <i>[Signature]</i> Signature	Date 8-17-23
Erosion & Sediment Control Engineer <i>[Signature]</i> Signature	Date 8/17/23

Certification
I hereby certify that the attached plan, specification, or report was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of North Dakota.
Eric Hodgson
Signature
Date 8/16/2023

SEAL



STATE	ND
PROJECT NUMBER	TAU-8-984(172)
SECTION SHEET NO.	4
SHEET NO.	1



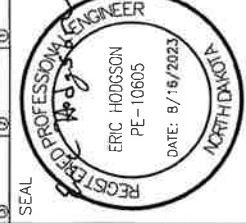
N.T.S.

- PROP. SIDEWALK/ADA IMPRINTED CONCRETE
- TREE REMOVAL AREA
- REMOVE TREE

EXHIBIT A CONTINUED

ALL DIMENSIONS ARE IN FEET AND INCHES (UNLESS NOTED OTHERWISE)

REVISIONS



Overall Layout
 SHARED USE PATH & INCIDENTALS
 CITY OF FARSD Project SW-23-11
 DESIGNED BY: EHM
 DRAWN BY: MJS
 DATE: Aug 2023

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

10

Type: Memorandum of Understanding

Location: 45th St N, 19th Ave – 32nd Ave

Date of Hearing: 11/6/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/27/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Nathan Boerboom</u>

The Committee reviewed the accompanying correspondence from Assistant City Engineer, Nathan Boerboom, regarding a Memorandum of Understanding (MOU) regarding the construction and long term maintenance responsibilities of 45th Street north with the City of Reile's Acres.

Within the 2024 Capital Improvement Projects is the improvement of 45th Street North, from 19th Avenue North to 32nd Avenue North, from a gravel rural street section to a concrete pavement urban street section. During the development of this project, staff has been coordinating with Reile's Acres since a portion of the roadway is located within their jurisdiction. Reile's Acres has indicated their desire to participate in this project. An MOU between the two cities to define the initial and long term responsibilities for each city has been drafted.

On a motion by Ben Dow, seconded by Tim Mahoney, the Committee voted to recommend approval of Memorandum of Understanding regarding the construction and long term maintenances responsibilities of 45th Street North with the City of Reile's Acres.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Memorandum of Understanding regarding the construction and long term maintenances responsibilities of 45th Street North with the City of Reile's Acres.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input 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"/>	

Tom Knakmuhs, P.E.
City Engineer

ATTEST:

C: Kristi Olson

Memorandum

To: Members of PWPEC
From: Nathan Boerboom, Division Engineer
Date: November 1, 2023
Re: Memorandum of Understanding with Reile's Acres for 45th Street North

Within the 2024 capital improvement projects is the improvement of 45th Street North, from 19th Avenue North to 32nd Avenue North, from a gravel rural street section to a concrete pavement urban street section. During the development of this project, staff has been coordinating with Reile's Acres since a portion of the roadway, western half from 30th Avenue North to 32nd Avenue North, is located within their jurisdiction. As a result of this collaboration, Reile's Acres has indicated their desire to participate in this project. Therefore, we have drafted the attached MOU between the two cities to define the initial and long term responsibilities for each city.

The following are some key responsibilities included within the MOU for each city:

- City of Fargo
 - Complete the design, bidding, inspection, and construction administration for the overall project
 - Acquire property necessary for project within Fargo's boundaries
 - Pay for construction costs and fees per Fargo's Infrastructure Funding Policy for the roadway within Fargo's boundaries
 - Complete normal maintenance, which includes snow removal, street sweeping, striping, and cleaning of storm sewer
 - Costs for items not considered normal maintenance, such as concrete spot repairs, seal coating, reconstruction, etc., shall be split per the initial construction costs splits within the MOU.
- City of Reile's Acres
 - Review and concur with the design and bid award
 - Acquire property necessary for project within Reile's Acres boundaries
 - Pay for construction costs and fees per Fargo's Infrastructure Funding Policy for the roadway within Reile's Acres boundaries

In addition to these responsibilities, the MOU also includes an agreement between the two city's that 45th Street North shall be a limited access street with access only allowed at one-eighth (1/8) mile spacing/increments.

Recommended Motion:

Approve the Memorandum of Understanding regarding the construction and long term maintenance responsibilities of 45th Street North with the City of Reile's Acres.

MEMORANDUM OF UNDERSTANDING
Construction of 45th Street North

This MEMORANDUM OF UNDERSTANDING (“Agreement”) is made and entered into by and between the City of Fargo (“Fargo”), North Dakota, a North Dakota political subdivision, 225 4th Street North, Fargo, ND 58102, and the City of Reile’s Acres (“Reile’s Acres”), a North Dakota political subdivision, 4635 35th Avenue North, Reile’s Acres, ND 58102.

WHEREAS, Fargo is constructing and improving 45th Street North, consisting of street construction, improvements, and expansion, between 19th Avenue North and 32nd Avenue North. The section of 45th Street North between 32nd Avenue North and one-quarter (1/4) mile to the south, at approximately 30th Avenue North (hereafter referred to as “30th Avenue North”), is bordered by Fargo’s municipal boundary and extraterritorial jurisdiction (east side of 45th Street) and a portion of Reile’s Acres’ municipal boundary (west side of 45th Street);

WHEREAS, Fargo and Reile’s Acres agree that coordination of the street construction, improvements, and expansion of 45th Street North between 30th Avenue North and 32nd Avenue North, along with the related maintenance and cost-sharing obligations (hereafter “Project”), will foster efficiency and may result in cost savings for both cities; and

WHEREAS, Fargo and Reile’s Acres are interested in working in a cooperative manner to undertake the Project pursuant to the terms and conditions contained in this Agreement.

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. Purpose. This Agreement is made pursuant to N.D.C.C. Ch. 54-40, which authorizes the joint and cooperative exercise of power common to the contracting parties. The intent of this Agreement is to increase efficiencies with respect to the bidding, contracting, and construction oversight of the Project, and to prevent delays with respect to the scheduling of work for the Project. This Agreement does not create a separate political subdivision.

2. Term. This Agreement shall commence on the date last signed by the parties and remain in effect until the parties mutually agree in writing to terminate the Agreement.

3. Procedures. Fargo and Reile’s Acres agree that the following procedures shall govern the bidding, contracting, oversight, and payment procedures for the Project:

A. Engineering Services. Fargo shall employ a project engineer, who will be an employee of the City of Fargo, and who will be responsible for producing an engineer’s report and a full set of plans and specifications for the Project as required by North Dakota law. The project engineer shall use best efforts to ensure that Reile’s Acres is kept advised of the Project. Fargo will be responsible for inspection, review, and observation of work performed on the Project.

B. Bidding. Fargo and Reile’s Acres shall coordinate in the preparation and drafting of the request for bids. Fargo shall advertise the bids in accordance with North

Dakota law. Fargo shall conduct the bid opening. Reile’s Acres may have a representative attend and participate in the bid opening. Fargo and Reile’s Acres must agree with awarding the contract to the apparent low bidder. If the parties do not agree for any reason, all bids will be rejected and the parties will coordinate to determine whether the project will be re-bid, modified, terminated, or continued in another manner. Once a bid has been awarded and the Contract signed, both parties will be bound by the financial obligations of the Project as set forth in this Agreement. If the parties determine to terminate the project, then this Agreement shall immediately terminate and be of no further force or effect, and the parties shall be responsible for their own costs and expenses incurred.

C. Contract. Fargo shall be identified as owner with respect to any contract let for the Project (hereafter the “Contract”). The Contract shall be Fargo’s standard contract and will provide that the contractor will hold harmless and indemnify both Fargo and Reile’s Acres for the contractor’s activities arising out of or relating to the Contract. The Contract shall also require that the contractor obtain adequate insurance coverage and name Fargo and Reile’s Acres as additional insured parties prior to commencing work pursuant to the Contract.

D. Cost Share. The costs associated with the Project shall be split and apportioned between Fargo and Reile’s Acres in the following manner:

	Construction Cost (Contractor Fees)	Fees per Fargo 2023 Infrastructure Funding Policy
19th Avenue North to 30th Avenue North	100% Fargo	100% Fargo
30th Avenue North to 32nd Avenue North	50% Fargo 50% Reile’s Acres	50% Fargo 50% Reile’s Acres

E. Street Improvements. The Project design shall consist of a 38-foot wide urban roadway. The roadway will have three lanes that will include a northbound, southbound, and center shared left turn lane. The pavement surface shall be 10-inches of concrete with a 12-inch aggregate base and 4-inch drain tile along the outside edges of the roadway. The north 240-feet of the roadway will consist of a transition of the three lane roadway section to Reile’s Acres existing roadway section. Storm sewer will be installed to collect the runoff from within the roadway and directed towards the western ditch adjacent to 45th Street. This runoff will ultimately be directed into Southeast Cass Water Resource District’s Drain 40. Street lights will be located adjacent to 45th Street North.

Long term plans for this roadway include a 10-foot wide shared use path to be installed on the west side of 45th Street North. The shared use path is not part of the current Project scope of work. Each City shall be responsible for the installation of the path adjacent to its respective jurisdictional limits. The timing of installation of the shared use path shall be within the sole discretion of the installing City. Each City will remain solely responsible for the portions of the shared use path which it installs, including all costs of installation, maintenance, snow removal, repairs, and replacements, etc.

F. Additional Improvements. Fargo and Reile's Acres shall each be responsible for any of its own sanitary sewer, water, and storm sewer (beyond what is included within the initial Project scope of work) improvements not relating to the Project (the "Additional Improvements"). Fargo and Reile's Acres shall each be responsible for its own costs associated with creating any improvement district, levying and apportioning special assessments, and the issuance of municipal bonds associated with the Additional Improvements. The party undertaking any Additional Improvements shall be responsible for the inspection, review, and observation of work performed on any Additional Improvements.

G. Financing. Fargo and Reile's Acres shall each be individually responsible for obtaining financing as may be necessary for their respective shares of the Project as set forth above in subdivision D of this Section 3.

H. Construction Oversight/Inspections. Fargo shall be responsible for inspection, review, and observation of work performed on the Project.

I. Processing of Pay Requests and Change Orders. Pay requests shall be received and processed by Fargo. Fargo will notify Reile's Acres of any change orders for the Project. No additional approvals will be required from Reile's Acres for a change order as long as it is within the original scope of the Project. If any change orders, not within the original scope of work for the Project become necessary, these shall be approved by both Reile's Acres and Fargo. Fargo shall then pay for any change order, then bill Reile's Acres for its portion of the Project and related costs.

J. Final Punch List. Fargo and Reile's Acres shall coordinate with respect to developing a final punch list for the Project.

K. Disputes with Contractor. Fargo and Reile's Acres shall coordinate with respect to any disputes involving the contractor. Such coordination shall include any potential litigation regarding Contract disputes. However, each party shall be responsible for its own attorney's fees should a dispute occur with the contractor. Fargo shall not have any responsibility to defend or indemnify Reile's Acres for any dispute made by the contractor involving the Contract. Reile's Acres shall not have any responsibility to defend or indemnify Fargo for any dispute made by the contractor involving the Contract.

L. Acquisition of Property. Fargo shall be responsible for engaging in negotiations with the owners of private property needed for completion of the Project, including negotiations of the price to acquire such private property. Fargo, however, shall be responsible only for the completion of any acquisition of private property necessary for the Project within its jurisdiction/municipal boundaries. Reile's Acres shall be responsible for the completion of any acquisition of private property necessary for the Project within its extraterritorial jurisdiction. To be clear, Fargo shall have no obligation or responsibility to acquire private property not within its jurisdiction or municipal boundaries for completion of this Project. To the extent it becomes necessary for either party to acquire such private property by eminent domain, then such party shall have the sole and exclusive

discretion to decide whether to pursue eminent domain proceedings. If such party elects not to pursue eminent domain proceedings, then this Agreement shall immediately terminate and be of no further force or effect.

4. Contract Contingent upon Resolution of Necessity. Fargo and Reile's Acres agree and acknowledge that it is necessary pursuant to N.D.C.C. § 40-22-15 for each to publish a Resolution of Necessity for the Project. It is expressly agreed that this Agreement is contingent upon the Fargo City Commission and Reile's Acres City Council determining that insufficient protests have been filed to prevent either from proceeding with construction of the Project. If sufficient protests are filed to prevent the Project from moving forward in either Fargo or Reile's Acres, then this Agreement shall immediately terminate and be of no further force or effect.

5. Workers Compensation Coverage. Each party shall be responsible for any injuries or death suffered by its own personnel as a result of the Project. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each party waives the right to sue the other party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

6. Damage to Equipment. Each party shall be responsible for damages to or loss of its own equipment as a result of the Project. Each party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

7. Liability. For the purposes of N.D.C.C. § 32-12.1-03 the employees and officers of a party are deemed to be employees of that party. Under no circumstances shall a party, irrespective of whether it may have waived the limit on liability set forth in N.D.C.C. § 32-12.1-03, be required to pay on behalf of itself or the other party, any amounts in excess of the limits on liability established in N.D.C.C. § 32-12.1-03 applicable to any one party. The limits of liability for the parties may not be added together to determine the maximum amount of liability for each.

8. Continuing Obligations. Upon completion of the Project, Fargo will own and maintain the utilities and roadway. Fargo will be responsible for normal maintenance, snow removal, street sweeping, street lighting, striping, storm sewer in the roadway, and related items on 45th Street between 30th Avenue North and 32nd Avenue North. Normal maintenance, as used herein, shall not include costs for seal coating, overlaying, concrete spot repairs, reconstruction, replacement (including replacement of curb and gutter and storm sewer), addition of lanes, or any other geometric modifications ("Continuing Obligations"). Costs for these Continuing Obligations shall be shared in the future equally between Fargo and Reile's Acres for the roadway between 30th Avenue North and 32nd Avenue North. The staff of Fargo and Reile's Acres shall communicate and coordinate any such activities, with Fargo being the lead city, just as in the original construction. No cost share for these Continuing Obligations will be effective unless both parties have agreed in writing to the work to be completed.

9. Limited Access Street. Fargo and Reile's Acres agree that 45th Street North between 19th Avenue North and 32nd Avenue North shall be a limited access street and that no residential structure, unless existing at time of execution of this Agreement, shall have a driveway directly connecting to 45th Street North. The parties hereby agree that access points along 45th Street North between 19th Avenue North and 32nd Avenue North shall be allowed at one-eighth (1/8) mile spacing/increments.

10. Merger Clause. This Agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.

11. Written Amendment Required. 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. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Agreement.

12. Grammatical Construction. Whenever the singular number is used herein, the same shall include the plural where appropriate, and the words of any gender shall include any other genders where appropriate.

13. Severability Clause. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

14. Waiver of Jury Trial/Venue/Selection. FARGO AND REILE'S ACRES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING, COUNTERCLAIM OR DEFENSE BASED ON THIS CONTRACT, OR IN ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS CONTRACT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR FARGO AND REILE'S ACRES ENTERING INTO THIS CONTRACT. THE PARTIES STIPULATE AND AGREE THAT THE DISTRICT COURT OF CASS COUNTY, NORTH DAKOTA, SHALL BE THE SOLE AND EXCLUSIVE VENUE FOR ANY LAWSUIT PERTAINING TO THIS CONTRACT AND CONSENT TO THE PERSONAL JURISDICTION IN SAID COURT IN THE EVENT OF ANY SUCH LAWSUIT.

15. Force Majure. Neither party shall be liable to the other party during any period in which its performance is delayed or prevented, in whole or in part, by circumstance beyond its reasonable control. Circumstances include, but are not limited to, the following: act of God (e.g.,

flood, earthquake, wind), fire, war, act of a public enemy or terrorist, act of sabotage, strike or other labor dispute, riot, inability to secure materials and/or transportation, or a restriction imposed by legislation, an order or a rule or regulation of a governmental entity. If such a circumstance occurs, the party claiming the delay shall undertake reasonable action to notify the other party of the same.

16. Agreement Binding on Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

17. North Dakota Law Applies. This Agreement shall be controlled by the laws of the State of North Dakota, and any action brought as a result of any claim, demand, or cause of action arising under the terms of this Agreement shall be brought in an appropriate venue in the State of North Dakota.

18. Execution in Counterparts. This Agreement may be executed in counterparts with both Fargo and Reile's Acres having a fully-executed counterpart.

IN WITNESS WHEREOF, the City of Fargo has set its hand and caused this instrument to be executed this ____ day of _____, 2023.

City of Fargo, a North Dakota municipal corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steven Sprague, City Auditor

IN WITNESS WHEREOF, the City of Reile's Acres has set its hand and caused this instrument to be executed this ____ day of _____, 2023.

City of Reile's Acres, a North Dakota
municipal corporation

Shane Amundson, Mayor

ATTEST

Nic Miller, City Auditor

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

11

Project No. SN-23-B0

Type: MOU Agreement

Location: River Drive Trail

Date of Hearing: 11/20/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/27/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Eric Hodgson</u>

The Committee reviewed the accompanying correspondence from Project Manager, Eric Hodgson, regarding a Maintenance and Use Agreement with Fargo Parks for the River Drive Trail Shared Use Path.

On a motion by Mark Williams, seconded by Ben Dow, the Committee voted to recommend approval of the MOU Agreement with Fargo Parks for the River Drive Trail Shared Use Path.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve the MOU Agreement with Fargo Parks for the River Drive Trail Shared Use Path.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

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


COMMITTEE

- 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson



 Tom Knakmuhs, P.E.
 City Engineer

Memorandum

To: Members of PWPEC
From: Eric Hodgson, Civil Engineer II
Date: November 20th, 2023
Re: City Project No. SN-23-B0 Maintenance and Use Agreement
River Drive Trail (South of 35th Avenue South to Harwood Drive South)

Background:

The City of Fargo and Fargo Parks plan to regularly cooperate in the construction and maintenance of Shared Use Paths. As such, there is a need to formalize each's role in the construction, maintenance, and use of these paths.

Attached is the MOU Agreement between Fargo Parks and the City of Fargo. It has already been reviewed by Kasey McNary from legal.

Recommended Motion:

Approve the MOU Agreement with Fargo Parks.

EBH/kb

Attachment:

- MOU Agreement for the River Drive Trail Shared Use Path.

MEMORANDUM OF UNDERSTANDING REGARDING CONSTRUCTION AND
MAINTENANCE

This Memorandum of Understanding ("MOU" or "Agreement") is entered into between the City of Fargo, whose address is 225 4th Street North, Fargo, North Dakota 58102 ("Fargo"), and the Park District of the City of Fargo, whose address is 701 Main Avenue, Fargo, North Dakota 58103 (the "Park District").

WHEREAS, North Dakota Century Code § 40-05.1-6 and Article 3 of Fargo's Home Rule Charter authorizes Fargo to enter into contracts; and

WHEREAS, North Dakota Century Code § 40-49-04 authorizes the Park District to enter into contracts; and

WHEREAS, Fargo is planning to construct a shared use path as part of the overall City pedestrian transportation system, as shown in Exhibit "A" attached hereto; and

WHEREAS, Fargo will construct certain amenities in conjunction with the shared use path, including vegetation establishment, and pedestrian benches; and

WHEREAS, the parties have agreed to share in the responsibility of construction, maintenance, inspection, and repair of the shared use path and amenities, subject to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual terms, covenants, conditions, and agreements contained herein, it is hereby agreed by and between the parties as follows:

1. Ownership. Fargo and the Park District both own parcels on which the shared use path and other amenities will be constructed, and shall retain such ownership without regard to maintenance responsibilities. The parties understand and agree that the primary use of the property is for flood control, and such purpose shall not be impaired or impeded by any provisions herein.

2. Access. Fargo hereby grants Park District access to the portions of the shared use path and amenities located upon Fargo's property for ingress and egress, and for purposes of maintenance, repairs, and construction, as necessary to carry out the terms of this Agreement. Park District hereby grants unto Fargo unimpeded access to the shared use path and installed amenities for whatever purpose deemed necessary by Fargo, including patrol, emergency access, and truck access, as necessary.

3. Construction.

a. Fargo shall be solely responsible for the construction of the shared use path and all agreed upon amenities, including but not limited to vegetation establishment, and pedestrian benches.

- b. Fargo shall be responsible for any levee construction, maintenance and reconstruction, as determined necessary in Fargo's sole discretion.
- c. Park District grants Fargo permission to construct the shared use path and amenities on property owned by Park District within the project area, have access to those properties for purposes of construction, and as necessary in the future for flood patrol, emergency access, and truck access, as necessary.

4. Park District General Maintenance. Park District shall be responsible for the repair and maintenance of all amenities and improvements placed by Fargo for the proposed path and its connections as shown in Exhibit "A" attached hereto, as well as path pavement maintenance and repair (which shall not include maintenance or repair to the existing adjacent sidewalks along Hackberry Drive South), and snow and debris removal, as necessary, EXCEPT that in the event the shared use trail or vegetation constructed by Fargo are damaged as a result of Fargo's construction, maintenance or reconstruction, Fargo shall repair the same, at Fargo's cost. Park District understands and agrees that it may not construct any permanent structures on the Property, make any modifications to the levees, or plant any trees on Fargo property, or plant any trees within 15-feet of the toe of the levee, unless otherwise agreed to in writing signed by both parties. Fargo and Park District understand and agree that any work to be completed pursuant to this Agreement that may disrupt Park District use of the property shall be coordinated between the parties so as to minimize impacts, to the extent possible.

- a. Park District shall be responsible for tree and vegetation replacement following Fargo's initial installation, at Park District's sole cost.
- b. Park District shall be responsible for mowing a 10-foot buffer on each side of the proposed path and its connections, and all weed control within this area. All Fargo owned property outside this area remains the responsibility of Fargo to mow and provide weed control. All Park District owned property remains the responsibility of Park District to mow and provide weed control.
- c. Park District understands and agrees that any work completed by Park District may not impact Fargo's flood control system without prior written consent of Fargo.

5. Dispute Resolution.

- a. Fargo and the Park District will each designate a representative who will be the party's representative with respect to any matters relating to the repair and/or maintenance of the improvements and amenities identified herein, which may be in dispute or requiring agreement under the terms of this Agreement. Such representative may be changed from time to time. The representatives will be responsible for resolving any dispute between the parties concerning this Agreement and for the preparing an annual schedule of maintenance and repairs.

- b. If the designated representatives cannot agree with respect to any matter requiring agreement or with respect to any dispute concerning this Agreement, the parties will submit the matter to their respective Boards (or a committee established by the Board) to resolve the dispute.

6. Term. The term of this Agreement will be 20 years. This Agreement will automatically renew for successive periods of 20 years. If either party intends to terminate this Agreement, at least 180 days' Notice prior to expiration of the current term shall be given to the other party. The parties may agree in writing to terminate this Agreement prior to expiration of the initial term or any renewal term. This Agreement is personal as to the Park District, and may not be assigned or transferred without Fargo's written consent.

7. Release and Waiver. In consideration of the mutual promises of the parties and to the fullest extent permitted by law, each party assumes all risk of personal injury or death and property damage or loss from whatever causes arising while that party, its agents, employees or designees are conducting work pursuant to this MOU and each party releases the other party, its officers, employees, agents or designees relating to or arising out of that parties', agents, employees or designees work pursuant to this MOU, whether known or unknown, foreseen or unforeseen, liquidated, unliquidated, fixed, contingent, material or immaterial, disputed or undisputed, suspected or unsuspected, direct or indirect, at law or in equity, and each party understands and acknowledges the significance of such release and waiver and hereby assumes full responsibility for any injuries, damages or losses that it may incur as a result of its execution of this MOU.

8. Notice. Any notice or election required or permitted to be given or served by any party to this MOU upon any other will be deemed given or served in accordance with the provisions of this MOU if said notice or election is (a) delivered personally, or (b) mailed by United States certified mail, return receipt requested, postage prepaid, and in any case properly addressed as follows:

If to Fargo:

City of Fargo
ATTN: City Auditor
Fargo City Hall
225 Fourth Street North
Fargo, ND 58102

If to the Park District:

Park District of the City of Fargo
ATTN: Finance Director
701 Main Avenue
Fargo, ND 58103

Each such mailed notice or communication will be deemed to have been given on the date the same is deposited in the United States mail. Each such delivered notice or communication will be deemed to have been given upon the delivery. Any party may change its address for service of notice in the manner specified in this MOU.

9. Time is of the Essence. Time is of the essence of each provision of this entire MOU and of all the conditions thereof.

10. Entire Agreement. This MOU constitutes the entire and complete agreement between the parties with respect to the subject matter hereof and supersedes any prior oral or written agreements between the parties. 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 MOU and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the parties. It does not negate the parties' rights, duties and obligations under prior agreements related to the shared use path construction and operation, maintenance, and flood control system.

11. Amendments. No amendment, modification, or waiver of any condition, provision or term will 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.

12. No Forbearance. The failure or delay of any party to insist on the performance of any of the terms of this MOU, or the waiver of any breach of any of the terms of this MOU, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this MOU, or the right to enforce each and every term of this MOU.

13. Remedies. Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the parties under and pursuant to this MOU.

14. Binding Effect. All covenants, agreements, warranties and provisions of this MOU will be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns.

15. Governing Law. This MOU has been made and entered into under the laws of the State of North Dakota, and said laws will control its interpretation. Any litigation arising out of this MOU will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

16. Rules of Construction. The parties acknowledge that they have had the opportunity to review this MOU, and that they have an equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document will be operative against any party to this MOU.

17. Representation. The parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this MOU, and agree they have not been influenced by any representations or statements made by any other parties.

18. Headings. Headings in this MOU are for convenience only and will not be used to interpret or construe its provisions.

(Signatures appear on the following pages)

Dated this _____ day of _____, 2023

CITY OF FARGO, NORTH DAKOTA, a
municipal corporation

By:

Dr. Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor


Dated this 14th day of November, 2023

Park District of the City of Fargo



Joe Deutsch, President

ATTEST:



Jeff Gunkelman, Clerk

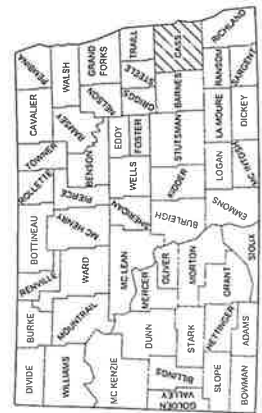
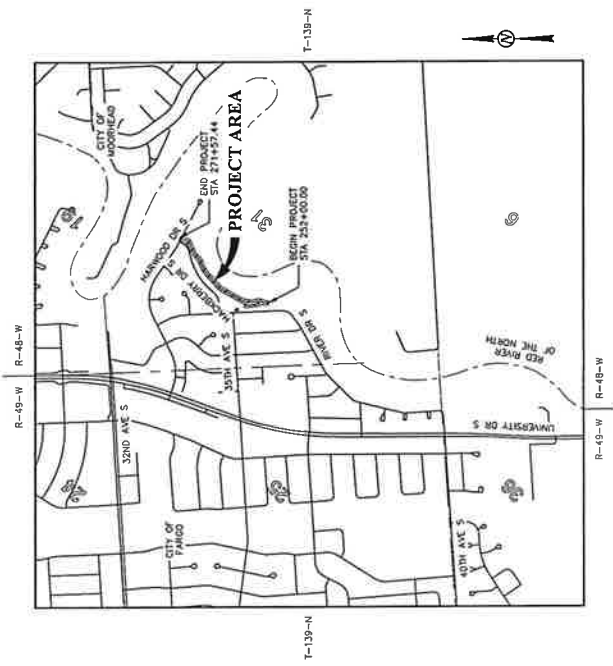
STATE	ND	PROJECT NO.	TAU-8-984(174)	PCN	23778	SECTION NO.	1
-------	----	-------------	----------------	-----	-------	-------------	---

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

GOVERNING SPECIFICATIONS	Date Published and Adopted by the North Dakota Department of Transportation
Standard Specifications	4/1/2023
Supplemental Specifications	NONE

PROJECT NUMBER DESCRIPTION NET MILES GROSS MILES
TAU-8-984(174) 0.448 0.448

TAU-8-984(174)
SN-23-B0
CASS COUNTY
RIVER DR TRAIL
SOUTH OF 35TH AVE S TO HARWOOD DR S
GRADING AND SHARED USE PATH



STATE COUNTY MAP



Proj. No. 6059-0205
Houston
Engineering Inc.
Ph: 701.237.5065

I hereby certify that the attached plans were prepared by me or under my direct supervision and that I am a duly registered professional engineer under the laws of the state of ND.

APPROVED DATE 8/9/2023
HOUSTON ENGINEERING INC



APPROVED DATE _____
FARGO CITY ENGINEER

SHARED USE PATH DESIGN DATA	
Traffic	Average Daily
Current: N/A	Pass: N/A Trucks: N/A Total: N/A
Forecast: N/A	Pass: N/A Trucks: N/A Total: N/A
Clear Zone Distances: 2 FT	Design Speed: 20 MPH
Minimum Sight Dist. for Stopping: N/A	Bridges: N/A
Sight Dist. for No Passing Zone: N/A	
Pavement Design Life: N/A	

DESIGNERS	GUNNER COWING
-----------	---------------

SECTION NO.	PROJECT NO.	SHEET NO.
4	TAU-8-984(174)	66
STATE		
ND		



- LEGEND:
- SIDEWALK CONCRETE SIN (ON 2" BASE)
 - SIDEWALK CONCRETE 6IN (ON 2" BASE)



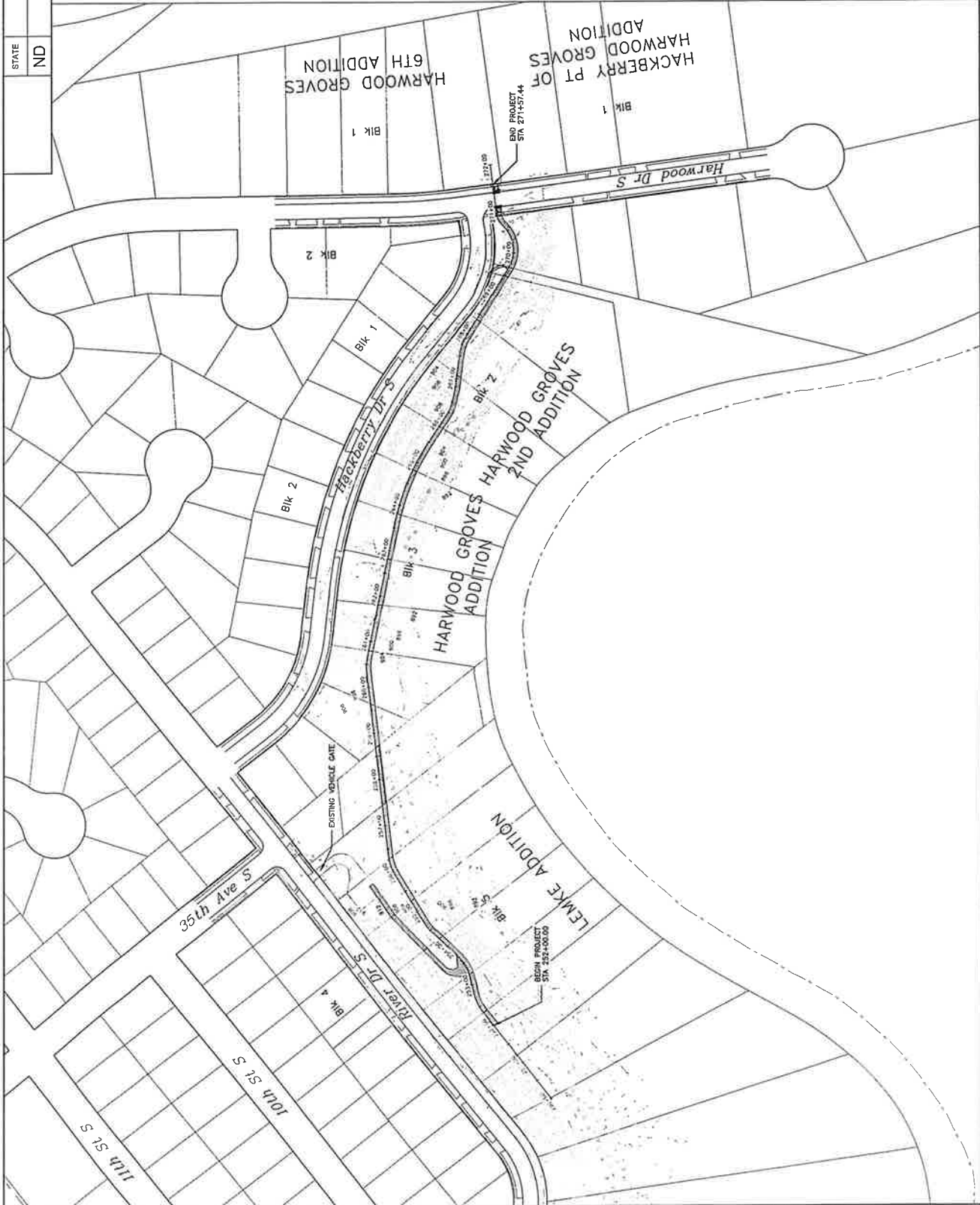
Proj. No. 6059-0205
Houston
Engineering Inc.
P.O. Box 127156
Houston, TX 77212-1565

ALL DIMENSIONS ARE BASED ON
THE U.S.C.S. SYSTEM, DATE OF 1988
UNLESS NOTED OTHERWISE



Scope of Work

River Dr-Trail



12

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. NR-23-B1 Type: Change Order #1 & Time Extension
Location: STS LS #17 & #29 Date of Hearing: 11/20/2023

Routing Date
City Commission 11/27/2023
PWPEC File X
Project File Rob Hasey

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, related to Change Order #1 in the amount of \$475.00 to install a cover to protect the generator wiring and a time extension to the Substantial and Final Completion Dates due to delays in receiving lighting for Lift Station #17.

The time extension request revises the Substantial Completion Date from November 15, 2023 to December 22, 2023 and the Final Completion Date from December 15, 2023 to January 22, 2024.

Staff is recommending approval of Change Order #1 in the amount of \$475.00 and time extension as described above.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #1 and time extension to Sun Electric.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #1 in the amount of \$475.00, bringing the total contract amount to \$142,475.00 and the time extension to the Substantial and Final Completion Dates adjusting them to December 22, 2023 and January 22, 2024 to Sun Electric.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Storm Sewer Utility Fund

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

COMMITTEE

Table with 4 columns: Name, Present, Yes, No, Unanimous. Rows include Tim Mahoney, Mayor; Nicole Crutchfield, Director of Planning; Steve Dirksen, Fire Chief; Brenda Derrig, Assistant City Administrator; Ben Dow, Director of Operations; Steve Sprague, City Auditor; Tom Knakmuhs, City Engineer; Susan Thompson, Finance Director.

ATTEST:

C: Kristi Olson

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

Memorandum

To: Members of PWPEC
From: Rob Hasey, Project Manager
Date: November 20, 2023
Re: Project No. NR-23-B1 – Change Order #1 & Time Extension

Background:

Project No. NR-23-B1 is for the modification of the electrical systems at STS LS #17 & #29 to include SCADA communication at each lift station.

A permanent generator that was previously located on City owned property was relocated to Storm Lift Station #17 (Main Avenue & University Drive underpass) in 2022. Project NR-23-B1 will connect the generator to the lift station controls. The cover to protect the wiring from the generator to the lift station is missing and we need to install a new cover. Sun Electric will furnish & install a piece of metal painted black at a cost of \$475.



The Contractor is requesting a time extension to the substantial and final completion dates due to delays in receiving lighting for Lift Station #17. They are requesting the Substantial Completion Date be modified to 12/22/2023 and the Final Completion Date be modified to 01/22/2024.

Recommended Motion:

Approve Change Order #1 in the amount of \$475 to install a cover to protect the generator wiring. Revise the Substantial Completion Date from 11/15/2023 to 12/22/2023 and the Final Completion Date from 12/15/2023 to 01/22/2024.

Source of funding: 100% Storm Sewer Utility Fund 524

RJH
Attachments

Summary.

Source Of Funding

Net Amount Change Order # 1 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Storm Sewer Utility Fund 524

\$475.00

\$0.00

\$142,000.00

\$142,475.00

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

11/15/2023

Additional Days Substantial Completion

37

New Substantial Completion Date

12/22/2023

Current Final Completion Date

12/15/2023

Additional Days Final Completion

38

New Final Completion Date

1/22/2024

Interim Completion Dates

APPROVED
For Contractor
Title

Sulu Electric Inc.
Project Manager

APPROVED DATE
Department Head
Mayor
Attest

T. Cole



Industrial - Commercial

November 13, 2023

Robert Hasey
City of Fargo
NR-23-B1

Change Order Request #1:

Scope:

- Provide and install (1) new 53"X36" steel panel for the East side of generator base,
 - Prep and paint to match existing generator base.
 - Provide gasket around steel plate to prevent snow and moisture.
- Change the Substantial Completion date to 12/22/2023 and final completion date to 1/22/2024 due to lighting manufacturers estimated ship date of 11/30/23 on the lighting fixtures.
- All fees and tax included.

Proposed Price Change: ADD \$475.00

Let me know if you have any questions,

Sincerely,

Ryan Tougas

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

13

Project No. PR-22-B1

Type: Final Balancing Change Order #1

Location: Citywide

Date of Hearing: 11/20/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/27/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Engquist</u>

The Committee reviewed the accompanying correspondence from Project Manager, Jeremy Engquist, related to Final Balancing Change Order #1 in the amount of \$32,996.95, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Final Balancing Change Order #1 in the amount of \$32,996.95, bringing the total contract amount to \$877,360.45.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Final Balancing Change Order #1 in the amount of \$32,996.95 to Dakota Underground.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Final Balancing Change Order #1 in the amount of \$32,996.95, bringing the total contract amount to \$877,360.45 to Dakota Underground.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Sales Tax


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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u> X </u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


Tom Knakmuhs, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Jeremy Engquist, Project Engineer
Date: November 13, 2023
Re: Project No. PR-22-B1 – Final Balancing Change Order #1

Background:

Project No. PR-22-B1 is for concrete pavement repairs and incidentals on streets in various areas in the City.

Dakota Underground is the Prime Contractor on this project.

Attached is the Final Balancing Change Order in the amount of \$32,996.95. The stretch of warmer temperatures this summer caused the concrete to expand excessively, thus causing the concrete pavement to buckle in two locations and requiring immediate repairs. The one location was on 45th Street North, just south of the 12th Avenue North and the second location was on 12th Avenue North, just west of 41st Street North. The Street Department requested Engineering to assist in completing the repairs so staff elected to change order the repairs to this project. The overrun amount of \$32,996.95 on attached Change Order was for completing these repairs.

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:	\$ 844,363.50
Change Order #1 (FBCO)	\$ 32,996.95
Total Contract:	\$ 877,360.45

Recommended Motion:

Approve Final Balancing Change Order #1 in the amount of \$32,996.95 for Project No. PR-22-B1.

JJE/klb
Attachment



**CHANGE ORDER REPORT
CONCRETE SPOT REPAIR
PROJECT NO. PR-22-B1
VARIOUS LOCATIONS - CITY WIDE**

Change Order No 1 **Change Order Date** 11/6/2023
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 # 1

Final Balancing Change Order - The stretch of warmer temperatures this summer caused the concrete to expand excessively, thus causing the concrete pavement to buckle in two locations and requiring immediate repairs. The one location was on 45th Street North, just south of the 12th Avenue North and the second location was on 12th Avenue North, just west of 41st Street North. The Street Department requested Engineering to assist in completing the repairs so staff elected to change order the repairs to this project. The overrun amount of \$32,921.75 on attached Change Order was for completing these repairs.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Paving	1	Mobilization	LS	1		1	0.12	1.12	\$139,000.00	\$16,680.00
	2	Remove Pavement All Thicknesses All Types	SY	1750		1750	673	2423	\$35.00	\$23,555.00
	4	Clean & Seal Concrete Joints	LF	2450		2450	-2275	175	\$2.25	-\$5,118.75
	5	F&I Curb & Gutter Standard (Type II)	LF	600		600	174	774	\$54.00	\$9,396.00
	6	Remove Curb & Gutter	LF	600		600	178	778	\$20.00	\$3,560.00
	7	Repair Pavement - Partial Depth Conc	SF	50		50	-18	32	\$120.00	-\$2,160.00
	8	F&I Pavement 9" Thick Doweled Conc	SY	200		200	70	270	\$170.00	\$11,900.00
	9	F&I Pavement 10" Thick Doweled Conc	SY	1550		1550	605	2155	\$182.00	\$110,110.00

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 (\$)
	10	Rem & Repl Pavement 7" Thick Reinf Conc	SY	30		30	-11.8	18.2	\$160.00	-\$1,888.00
	11	F&I Median Nose Conc	SY	10		10	-3.5	6.5	\$175.00	-\$612.50
	12	F&I Sidewalk Curb	LF	30		30	-30	0	\$55.00	-\$1,650.00
	13	F&I Sidewalk 4" Thick Reinf Conc	SY	60		60	-29.1	30.9	\$108.00	-\$3,142.80
	14	F&I Sidewalk 6" Thick Reinf Conc	SY	60		60	-31	29	\$121.00	-\$3,751.00
	15	Remove Sidewalk All Thicknesses All Types	SY	220		220	-124.5	95.5	\$29.00	-\$3,610.50
	16	F&I Impressed 6" Thick Reinf Conc	SY	160		160	-71	89	\$182.00	-\$12,922.00
	17	F&I Det Warn Panels Cast Iron	SF	60		60	-20	40	\$72.00	-\$1,440.00
	18	F&I Casting - Inlet	EA	8		8	-6	2	\$1,600.00	-\$9,600.00
	19	F&I Casting - Std Manhole	EA	2		2	-1	1	\$500.00	-\$500.00
	20	F&I Casting - Floating Manhole	EA	6		6	-2	4	\$1,500.00	-\$3,000.00
	21	Casting to Grade - w/Conc	EA	14		14	-1	13	\$350.00	-\$350.00
	22	GV Box to Grade - w/Conc	EA	1		1	1	2	\$1,200.00	\$1,200.00
	23	Mill / Grind Conc Pvrmt	SY	3000		3000	-2460	540	\$21.00	-\$51,660.00
	24	Mulching Type 1 Hydro	SY	1000		1000	-580	420	\$6.05	-\$3,509.00
	25	Seeding Type C	SY	1000		1000	-580	420	\$6.05	-\$3,509.00
	27	Inlet Protection - Existing Inlet	EA	36		36	-12	24	\$200.00	-\$2,400.00
	28	Traffic Control - Type 1	LS	10		10	1	11	\$1,500.00	\$1,500.00
	29	Traffic Control - Type 2	LS	2		2	1	3	\$6,200.00	\$6,200.00
	30	Construction Signing	SF	60		60	-60	0	\$16.50	-\$990.00

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 (\$)
Signing	31	Flagging	MHR	150		150	-133.5	16.5	\$55.00	-\$7,342.50
	32	Relocate Sign Assembly	EA	4		4	-4	0	\$272.25	-\$1,089.00
	33	F&I Flexible Delineator	EA	6		6	-6	0	\$132.00	-\$792.00
								Signing Sub Total		-\$1,881.00
Pavement Marking	34	Obliterate Pavement Markings	SF	500		500	-500	0	\$111.00	-\$5,500.00
	35	F&I Grooved Plastic Film Message	SF	140		140	-92	48	\$66.00	-\$6,072.00
	37	F&I Grooved Plastic Film 6" Wide	LF	100		100	-100	0	\$13.20	-\$1,320.00
	38	F&I Grooved Plastic Film 8" Wide	LF	100		100	-42	58	\$17.00	-\$714.00
	39	F&I Grooved Plastic Film 16" Wide	LF	80		80	-80	0	\$31.00	-\$2,480.00
	40	F&I Grooved Plastic Film 24" Wide	LF	200		200	-200	0	\$57.00	-\$11,400.00
	41	F&I Grooved Contrast Film 7" Wide	LF	450		450	-297	153	\$18.00	-\$5,346.00
	42	F&I Grooved Contrast Film 11" Wide	LF	300		300	-243	57	\$25.00	-\$6,075.00
	43	Paint Epoxy Message	SF	30		30	-30	0	\$28.00	-\$840.00
									Pavement Marking Sub Total	
Traffic Signals	44	F&I Detection Performed Loop	EA	2		2	4	6	\$2,420.00	\$9,680.00
									Traffic Signals Sub Total	

Summary.

Source Of Funding

Net Amount Change Order # 1 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Street Sales Tax Funds

\$32,996.95

\$0.00

\$844,363.50

\$877,360.45

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

APPROVED

For Contractor

Title

Bob Johnson 11/13/2023
Dakota Underground Company
Project Manager

APPROVED DATE

Department Head

Mayor

Attest

T-CEE

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

14

Project No. UR-23-A1

Type: Negative Final Balancing Change Order #3

Location: Citywide

Date of Hearing: 11/20/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11/27/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Roger Kluck</u>

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, regarding Negative Final Balancing Change Order #3 in the amount of \$-10,051.57, 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 #3 in the amount of \$-10,051.57, bringing the total contract amount to \$404,449.48.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Negative Final Balancing Change Order #3 to SJ Louis Construction, Inc.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #3 in the amount of \$-10,051.57, bringing the total contract amount to \$404,449.48 to SJ Louis Construction, Inc.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Storm Sewer Utility & 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>✓</u>
Tim Mahoney, Mayor	<u>☐</u>	<u>☐</u>	<u>☐</u>	
Nicole Crutchfield, Director of Planning	<u>☑</u>	<u>☑</u>	<u>☐</u>	<u>Mark Williams</u>
Steve Dirksen, Fire Chief	<u>☑</u>	<u>☑</u>	<u>☐</u>	
Brenda Derrig, Assistant City Administrator	<u>☑</u>	<u>☑</u>	<u>☐</u>	
Ben Dow, Director of Operations	<u>☐</u>	<u>☐</u>	<u>☐</u>	
Steve Sprague, City Auditor	<u>☑</u>	<u>☑</u>	<u>☐</u>	
Tom Knakmuhs, City Engineer	<u>☑</u>	<u>☑</u>	<u>☐</u>	
Susan Thompson, Finance Director	<u>☑</u>	<u>☑</u>	<u>☐</u>	

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, P.E.
 City Engineer

Memorandum

To: Members of PWPEC
From: Roger Kluck, PE, CFM Civil Engineer II Storm Sewer & Floodplain
CC: Jody Bertrand, Division Engineer; Nathan Boerboom, Asst. City Engineer
Date: November 16, 2023
Re: Project No. UR-23-A1 – Final Balancing Change Order #3

The project was bid in June 2023 and was awarded to SJ Louis Construction, Inc. The storm sewer lining project and manhole rehab was completed on schedule.

Change Order #1: This change order covered the added costs due to actual pipe sizing for lining was different from the pipe sizes shown in GIS. The approved cost was \$29,108.91

Change Order #2: This change order covered the repair of 6 pipe sections that was severely deteriorated and would not allow the camera and lining to go through. The approved cost was \$26,718.14

Original Contract cost: \$358,724.00

Final Contract as a result of change orders: \$414,551.05

Final Pay Estimate: \$404,499.48

The Final Balancing Change Order #3 in the amount of \$-10,051.57 reconciles the estimated quantities in the contract with the final quantities as measured in the field. All work on the Contract has been completed.

Recommended Motion:

Approve Final Balancing Change Order #3 in the amount of \$-10,051.57.

Attachments

CHANGE ORDER REPORT
UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. UR-23-A1

Final Balancing
Change Order

AREA 1 KIRSTEN LANE AREA FROM 25TH ST S TO 27 ST S. AREA 2A 14 AVE S 14
1/2 ST S TO 15 ST S AND 14 1/2 ST S FROM 14 AVE S AND NORTH 1/2 BLOCK. AREA
2B 14 AVE S FROM 15 ST S TO 16 ST S AND 15 ST S FROM 14 AVE S AND NORTH
1/2 BLOCK.

Change Order No 3 **Change Order Date** 11/16/2023
Contractor SJ Louis Construction, 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
FBCO

Section	Line No	Item Description	Unit	Orig Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Site 1		Inlet Protection - Existing Inlet	EA	7	7	7	-7	0	\$162.00	-\$1,134.00
Site 2A & 2B		Inlet Protection - Existing Inlet	EA	12	12	12	-12	0	\$162.00	-\$1,944.00
		Topsoil - Strip & Spread	LS	1	1	1	-1	0	\$2,156.00	-\$2,156.00
								Site 2A & 2B Sub Total		-\$4,100.00
Site 1	4	F&I Pipe Liner 36" Dia Gravity CIPP	LF	420	0	420	-5	415	\$230.00	-\$1,150.00
	5	F&I Pipe Liner 24" Dia Gravity CIPP	LF	230	0	230	-4	226	\$177.00	-\$708.00
	6	Repair Inlet Floor & Invert	EA	7	0	7	-3	4	\$1,078.00	-\$3,234.00
	7	Seeding Type B	SY	190	905	905	40	945	\$8.00	\$320.00
	8	Mulching Type 1 Hydro	SY	150	0	150	40	190	\$8.00	\$320.00
								Site 1 Sub Total		-\$4,452.00

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 (\$)
Site 2A & 2B	11	F&I Pipe Liner 12" Dia Gravity CIPP	LF	400	0	400	-5	395	\$75.00	-\$375.00
	12	F&I Pipe Liner 15" Dia Gravity CIPP	LF	967	0	1050	-15	1035	\$65.00	-\$975.00
	14	Seeding Type B	SY	-645	905	150	-40	110	\$8.00	-\$320.00
	15	Mulching Type 1 Hydro	SY	150	0	150	-40	110	\$8.00	-\$320.00
				Site 2A & 2B Sub Total						-\$1,990.00
Change Order 1	16	F&I Pipe Liner 10" Dia 6 mm CIPP	LF	0	0	9.1	0.9	10	\$625.00	\$562.50
	17	F&I Pipe Liner 15" Dia Gravity CIPP	LF	15	0	79.4	3.6	83	\$294.98	\$1,061.93
			Change Order 1 Sub Total							\$1,624.43

Summary

Source Of Funding

Special assessments and storm sewer utility	
	-\$10,051.57
	\$55,827.05
	\$358,724.00
	\$404,499.48

Net Amount Change Order # 3 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

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

APPROVED

Jennifer Meyers

APPROVED DATE

T-10-22

For Contractor

Department Head

Title

Mayor

Project Manager

Attest

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

15

Improvement District No. PN-23-A1 Type: Change Order #1
Location: Citywide Date of Hearing: 11/20/2023

Routing Date
City Commission 11/27/2023
PWPEC File X
Project File Jason Hoogland

The Committee reviewed the accompanying correspondence from Project Manager, Jason Hoogland, related to Change Order #1 in the amount of \$20,310.44 for additional work.

Staff is recommending approval of Change Order #1 in the amount of \$20,310.44, which brings the total contract amount to \$1,637,284.49.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #1 in the amount of \$20,310.44 to FM Asphalt, LLC.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #1 in the amount of \$20,310.44, bringing the total contract amount to \$1,637,284.49 to FM Asphalt, LLC.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Special Assessments

Developer meets City policy for payment of delinquent specials
Agreement for payment of specials required of developer
Letter of Credit required (per policy approved 5-28-13)

Yes No
N/A
N/A
N/A

COMMITTEE

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

Table with 4 columns: Present, Yes, No, Unanimous. Rows for committee members with checkboxes and names.

ATTEST:

C: Kristi Olson

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

Memorandum

To: Members of PWPEC
From: Jason Hoogland, Project Manager
Date: November 15, 2023
Re: Improvement Dist. No. PN-23-A1 – Change Order #1

Background:

Improvement Dist. No. PN-23-A1 is a project to install the asphalt wear course on streets and avenues in areas of the City of Fargo.

FM Asphalt is the Prime Contractor.

Change Order #1 is for the cost to do work that Engineering has ordered on the project as follows:

- Remove & replace Sidewalk in section 4.
- Remove & replace castings (3) in section 6.
- Install additional riser rings to manhole castings to get them to grade. Sections 1, 2, 4, 5 & 6.

The Contractor has given us a price of \$20,310.44 to do the work. This change order will raise the contract price from \$1,616,974.05 to \$1,637,284.49 (1.26%).

This project is 100% funded by Special Assessments.

Recommended Motion:

Staff recommends approval of Change Order #1 in the amount of \$20,310.44 for Improvement Dist. No. PN-23-A1.

JMH/klb
Attachments

CHANGE ORDER REPORT
ASPHALT WEAR COURSE

IMPROVEMENT DISTRICT NO. PN-23-A1

SECTION 1 - WEST 29 ADDITION, SECTION 2 - URBAN PLAINS AREA, SECTION 3 - WOODHURST ADDITION, SECTION 4 - SILVERLEAF ADDITION, SECTION 5 - GOLDEN VALLEY ADDITION, SECTION 6 - CROFTON COVES ADDITION.

Change Order No 1 FM Asphalt LLC Change Order Date 10/27/2023 Contractor

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

EXPLANATION OF CHANGE Change Order # 1

Replacement of manhole casting in section 6. Remove and Replace sidewalk in section 4 Extra manhole adjustment rings. (paid under special item A)

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	82	Rem & Repl Sidewalk 6" Thick Reinf Conc	SY	0	0	0	3.08	3.08	\$118.00	\$363.44
	84	F&I Det Warn Panels Cast Iron	SF	0	0	0	8	8	\$64.00	\$512.00
	85	Rem & Repl Casting - Self Leveling	EA	0	0	0	3	3	\$2,225.00	\$6,675.00
	86	Special Bid Item A	LS	0	0	0	1	1	\$220.00	\$220.00
	87	Special Bid Item A	LS	0	0	0	1	1	\$2,860.00	\$2,860.00
	88	Special Bid Item A	LS	0	0	0	1	1	\$1,760.00	\$1,760.00
	89	Special Bid Item A	LS	0	0	0	1	1	\$1,980.00	\$1,980.00
	90	Special Bid Item A	LS	0	0	0	1	1	\$5,940.00	\$5,940.00
Change Order 1 Sub Total										\$20,310.44

Summary

Source Of Funding

Net Amount Change Order # 1 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Special Assessments

\$20,310.44

\$0.00

\$1,616,974.05

\$1,637,284.49

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

APPROVED

For Contractor

Title


President

APPROVED DATE

Department Head

Mayor

Attest



Robert was able to go through all 6 sections of our Wearing Course Project and get a count of the extra riser rings that were used on it.

Section #1	1
Section #2	13
Section #3	0
Section #4	8
Section #5	9
Section #6	26

Total extra riser rings used is 57. Our price for these rings is \$220.00 each for a total of \$12,540.00.

He also found 1 floating gate valve on Section #2 and 1 on Section #4 that you don't have recorded on your last estimate.

And as I emailed previously, we have 14.08 more tons of asphalt on Section #2 than you have on your last estimate.

The only other item I noticed that are missing is sod and striping quantities as we discussed previously.

Let us know if you have any questions or need anything else.

Thanks,

Mark

Mark Pieterick

FM Asphalt LLC

Box 857

Moorhead, MN 56561

Cell 701-866-4673

Fax 218-443-8783

--

Mark Pieterick

FM Asphalt LLC

Box 857

Moorhead, MN 56561

Cell 701-866-4673

Fax 218-443-8783

--

Mark Pieterick

FM Asphalt LLC

Box 857

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

16

Improvement District No. BR-23-B1 Type: Change Order #2 & Time Extension
 Location: 8th St N, 7th Ave – 10th Ave; Date of Hearing: 11/20/2023
 8th Ave N, 9th St – 7th St;
 10th Ave N, 9th St – 7th St

Routing Date
 City Commission 11/27/2023
 PWPEC File X
 Project File Aaron Edgar

The Committee reviewed the accompanying correspondence from Project Manager, Aaron Edgar, related to Change Order #2 in the amount of \$30,757.41 for additional work and the associated time extension as shown below:

Original Completion Dates	Revised Previously	Revised This Memo
Phase 1 Interim – August 8, 2023	-	Phase 1 Interim- August 11, 2023
Phase 2 Interim- September 26, 2023	-	Phase 2 Interim- September 28, 2023
Phase 3 Interim- November 7, 2023	-	Phase 3 Interim- November 16, 2023
Substantial – October 6, 2023	-	Substantial – October 20, 2023
Final – November 5, 2023	-	Final – November 19, 2023

Staff is recommending approval of Change Order #2 in the amount of \$30,757.41, bringing the total contract amount to \$2,724,767.01 and the associated time extension.

On a motion by Steve Sprague, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #2 in the amount of \$30,757.41 and the associated time extension to Master Construction.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #2 in the amount of \$30,757.41, bringing the total contract amount to \$2,724,767.01 and the associated 14-day time extension to Master Construction.

PROJECT FINANCING INFORMATION:

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

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

COMMITTEE

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

Present	Yes	No	Unanimous
			<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<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: Aaron Edgar, Project Manager
Date: November 13, 2023
Re: Improvement District No. BR-23-B1 – Change Order #2 & Time Extension

Background:

Improvement District No. BR-23-B1 is for the Paving and Utility Rehab/Reconstruction of 8th Street North from 7th Avenue to 10th Avenue, on 8th Avenue North from 9th Street to 7th Street, and on 10th Avenue North from 9th Street to 7th Street.

Master Construction Co. is the Prime Contractor for this project.

The attached Change Order in the amount of \$30,757.41 (1.16% of the original contract), which increases the total contract amount to \$2,724,767.01, is for additional work as shown on Change Order #2.

Change Order #2:

- 1.) The existing street light power lines at 8th Street North and 8th Avenue, at 8th Street North and 10th Avenue, and at 7th Street North and 10th Avenue was in our subbase. The Contractor had to lower the existing street light power lines. The Contractor is requesting \$6,421.26 and a 3-day time extension for the interim, substantial and final completion dates for this additional work.
- 2.) In order to meet the Department of Health's pipe separation requirement, the Contractor had to lower the water main below the new storm sewer. The Contractor is requesting \$4,600.00 and a 1-day time extension for the interim, substantial and final completion dates for this additional work.
- 3.) Four of the existing sanitary sewer services, on the north side of 10th Avenue North, went through the existing 30" storm sewer pipe. The Contractor lowered the sanitary sewer services below the existing 30" storm sewer pipe. The Contractor then had to repair and in some cases replace a portion of the existing 30" storm sewer pipe. The Contractor is requesting \$14,455.00 and a 4-day time extension for the interim, substantial and final completion dates for this additional work.
- 4.) An existing sanitary sewer service was not in the location as shown on the plans. The sewer service line had multiply bends in it and ran around a large tree. The Contractor lost time trying to locate the existing sewer service for replacement. The Contractor is requesting \$1,581.25 and a 1-day time extension for the interim, substantial and final completion dates for the time lost while searching for the sewer service.

- 5.) The Contractor installed a storm sewer stub out for the properties that are being redeveloped at 10th Avenue North and 7th Street. The Contractor is requesting \$3,699.90 and a 1-day time extension for the interim, substantial and final completion dates for this additional work.

- 6.) The Contractor installed an additional two sewer services and two water services. Two of the services were added due to the redevelopment-taking place at 10th Avenue North and 7th Street. The other two services where added due to an apartment building that had more than one active service. This extra work is covered under existing bid items. The Contractor is requesting a 4-day time extension for the interim, substantial and final completion dates for this additional work.

Master Construction is requesting a change in the Interim, Substantial and Final Completion Dates due to extra work listed on Change Order #2. Master Construction is requesting a total of 14 additional days.

Recommended Motion:

Approve Change Order #2 in the amount of \$30,757.41 and the associated time extensions for the Completion Dates as shown below:

Original Completion Dates	Revised Previously	Revised This Memo
Phase 1 Interim – August 8, 2023	-	Phase 1 Interim- August 11, 2023
Phase 2 Interim- September 26, 2023	-	Phase 2 Interim- September 28, 2023
Phase 3 Interim- November 7, 2023	-	Phase 3 Interim- November 16, 2023
Substantial – October 6, 2023	-	Substantial – October 20, 2023
Final – November 5, 2023	-	Final – November 19, 2023

ADE/klb

Attachment



CHANGE ORDER REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-B1
8 ST N FROM 7 AVE N TO 10 AVE N; 8 AVE N FROM 9 ST N TO 7 ST N; 10 AVE N
FROM 9 ST N TO 7 ST N.

Change Order No 2 **Change Order Date** 11/9/2023
Contractor Master Construction Co Inc

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

EXPLANATION OF CHANGE Change Order # 2

This change order is for the exploratory digging for a sanitary sewer service, a water main lowering, the removal of 4 sanitary sewer service crossing chambers, the installation of a storm sewer stub out to a property that is getting re-developed at the SW corner of 10th Avenue North and 7th Street, the lowering of 3 street light power lines and a 14 day time extension. The time extension will add 3 days onto the phase1 interim completion date, 2 days onto the phase 2 interim completion date, and 9 days onto the phase 3 interim completion date. The time extension will also change the substantial completion date from October 6, 2023 to October 20, 2023 and the final completion date from November 5, 2023 to November 19, 2023.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Change Order 2	84	Spot Repair Pipe w/GB	EA	0	0	0	1	1	\$1,581.25	\$1,581.25
	85	Relocate Water Main 12" Dia	EA	0	0	0	1	1	\$4,600.00	\$4,600.00
	86	Repair Pipe 30" Dia	EA	0	0	0	4	4	\$3,613.75	\$14,455.00
	87	F&I Pipe 12" Dia PVC	LF	0	0	0	30	30	\$123.33	\$3,699.90
	88	Relocate Street Light	EA	0	0	0	3	3	\$2,140.42	\$6,421.26
Change Order 2 Sub Total										\$30,757.41

Summary

Source Of Funding	Wastewater Utility, Water Utility, Infrastructure Sales Tax, and Special Assessments
Net Amount Change Order # 2 (\$)	\$30,757.41
Previous Change Orders (\$)	\$52,250.00
Original Contract Amount (\$)	\$2,641,759.60
Total Contract Amount (\$)	\$2,724,767.01

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	10/6/2023	Current Final Completion Date	11/5/2023
Additional Days Substantial Completion	14	Additional Days Final Completion	14
New Substantial Completion Date	10/20/2023	New Final Completion Date	11/19/2023

Interim Completion Dates

APPROVED
For Contractor
Title


Mike Anthony
Controller

APPROVED DATE
Department Head
Mayor
Attest



(17)

COVER SHEET
CITY OF FARGO PROJECTS

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

Exact, full name of Improvement District as it will appear in the Contract:

Paving and Utility Rehab/Reconstruction

Improvement District No. BR-23-G

Call For Bids November 27, 2023

Advertise Dates December 6 & 13, 2023

Bid Opening Date January 26 (NDDOT), 2024

Substantial Completion Date October 14, 2024

Final Completion Date November 1, 2024

N/A PWPEC Report (Part of 2024 CIP)

X Engineer's Report (Attach Copy)

N/A Direct City Auditor to Advertise for Bids (to be bid by NDDOT)

N/A Bid Quantities (Attach Copy for Auditor's Office Only)

X Notice to Property Owners (Dan Eberhardt)

N/A Supplemental Funding Language Included

Project Engineer Eric Hodgson

Phone No. 701-241-8582

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

X Create District (Attach Copy of Legal Description)

X Order Plans & Specifications

X Approve Plans & Specifications

X Adopt Resolution of Necessity

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

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

ENGINEER'S REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-G

Nature & Scope

The project is on 32nd Avenue South from 22nd Street South to 15nd Street South.

This project will upgrade the existing infrastructure by replacing the existing concrete roadway, curb and gutter, intersection crossings improvements, sidewalk and incidentals. Portions of the existing water distribution system, sanitary sewer system, and storm sewer system will be replaced or rehabilitated. A new storm sewer mainline will be added adjacent to the existing system to increase the system's capacity and reduce street flooding.

Purpose

This project is necessary because the existing corridor's infrastructure is deteriorating and/or inadequate for current use. This project will repair, replace, and install necessary infrastructure along the corridor to better serve the operations of the City. The finished product will update portions of the water distribution network, will increase the storm drainage capacity to reduce flooding events, will repair the existing sanitary sewer that has deteriorated to a substandard level, will provide new roadway and pedestrian facilities for continued use, and improve overall safety and functionality of the corridor.

The project will be funded by a combination of Federal Funds, Street Sales Tax Funds, Storm Utility Funds, Waste Water Utility Funds, Water Utility Funds, Traffic Signal/Street Light Utility, and Special Assessments to the benefitting properties. Special Assessments will be applied per City policy.

Special Assessment District

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

Feasibility

The estimated cost of construction is \$ 18,775,132.10. The cost breakdown is as follows:

Paving:	\$ 7,211,715.10
Amount Federally Funded	\$ 5,836,441.03
Amount Locally Funded	\$ 1,375,274.07
Plus 4% Administration Fee:	\$ 55,010.96
Plus 3% Legal Fee:	\$ 41,258.22
Plus 4% Interest Fee:	\$ 55,010.96
Plus 10% Contingency:	\$ 137,527.41
Total Estimated Cost:	\$ 1,664,081.62
Special Assessments	\$ 1,664,081.62
Sales Tax	\$ -

Storm Sewer	\$ 5,982,005.00
Amount Federally Funded	\$ 2,871,362.40
Amount Locally Funded	\$ 3,110,642.60
Plus 4% Administration Fee:	\$ 124,425.70
Plus 3% Legal Fee:	\$ 93,319.28
Plus 4% Interest Fee:	\$ 124,425.70
Plus 10% Contingency:	\$ 311,064.26
Total Estimated Cost:	\$ 3,763,877.55
Special Assessments - Capacity Expansion	\$ 910,062.07
Special Assessments - Remaining Paving Cap	\$ 1,159,230.98
Storm Utility	\$ 1,694,584.50

Sanitary Sewer	\$ 2,248,807.32
Amount Federally Funded	\$ -
Amount Locally Funded	\$ 2,248,807.32
Plus 4% Administration Fee:	\$ 89,952.29
Plus 3% Legal Fee:	\$ 67,464.22
Plus 4% Interest Fee:	\$ 89,952.29
Plus 10% Contingency:	\$ 224,880.73
Total Estimated Cost:	\$ 2,721,056.86
Special Assessments	\$ 839,672.96
Federal	\$ -
Waste Water Utility	\$ 1,881,383.90

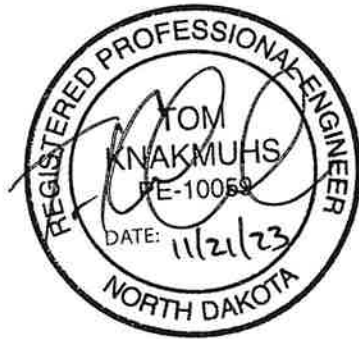
Water Main	\$ 2,440,917.68
Amount Federally Funded	\$ -
Amount Locally Funded	\$ 2,440,917.68
Plus 4% Administration Fee:	\$ 97,636.71
Plus 3% Legal Fee:	\$ 73,227.53
Plus 4% Interest Fee:	\$ 97,636.71
Plus 10% Contingency:	\$ 244,091.77
Total Estimated Cost:	\$ 2,953,510.39
Special Assessments	\$ 343,918.86
Federal	\$ -
Water Utility	\$ 2,609,591.53

Traffic Signals/Street Lights	\$ 891,687.00
Amount Federally Funded	\$ 721,642.29
Amount Locally Funded	\$ 170,044.71
Plus 4% Administration Fee:	\$ 6,801.79
Plus 3% Legal Fee:	\$ 5,101.34
Plus 4% Interest Fee:	\$ 6,801.79
Plus 10% Contingency:	\$ 17,004.47
Total Estimated Cost:	\$ 205,754.10
Special Assessments	\$ -
Federal	\$ 721,642.29
Traffic Signal/Street Light Utility	\$ 205,754.10

Miscellaneous Costs	
Right-of-Way and Easements (Estimated):	\$ 400,000.00
Utility Relocation (Estimated):	\$ 400,000.00
Outside Engineering (Estimated):	\$ 1,877,513.21
Incentive	\$ 150,000.00
Total Miscellaneous Costs:	\$ 2,827,513.21
Federal	\$ 450,554.28
Special Assessments	\$ 2,226,958.93
Traffic Utility	\$ -
Storm Utility	\$ -
Waste Water Utility	\$ -
Water Utility	\$ -
Sales Tax	\$ 150,000.00

Project Funding Summary		
Federal	41.93%	\$ 9,880,000.00
Special Assessments	30.32%	\$ 7,143,925.42
Traffic Signal/Street Light Utility	0.87%	\$ 205,754.10
Storm Utility	7.19%	\$ 1,694,584.50
Waste Water Utility	7.98%	\$ 1,881,383.90
Water Utility	11.07%	\$ 2,609,591.53
Sales Tax or Prairie Dog	0.64%	\$ 150,000.00
Total Estimated Project Cost		\$ 23,565,239.45

We believe this project to be cost effective.




 Tom Knakmuhs, P.E.
 City Engineer

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

PAVING AND UTILITY REHAB/RECONSTRUCTION

IMPROVEMENT DISTRICT NO. BR-23-G

LOCATION:

On 32nd Avenue South from 22nd Street South to 15th Street South.

COMPRISING:

Starting on the NW corner heading east. Bounded on the West by Gold Drive South, and bounded on the North by 21st Avenue South and ending at University Drive South.

Starting at 21st Avenue South heading south. Bounded on the East by University Drive South to 25th Avenue South, and then along 25th Avenue South from University Drive South to 14th Street South, and then along 14th Street South from 25th Avenue South to 15th Street South, then along 15th Street South from 14th Street South and ending at the East-West ¼ Section Line of Section 25, Township 139 N, Range 49 W, and excluding the following parcels:

Lot 1, inclusive, Block 1.
All in Oak Manor First Addition.

Lot 2, inclusive, Block 1.
Less the West 20 feet of the South 150 feet and the East 16.5 feet of the North 290 feet of Lot 3, inclusive, Block 1, all in Oak Manor First Addition.

Lots 1, 2, 3, and 4, inclusive, Block 1.
All in University South Third Addition, A Minor Subdivision being a Replat of Lot 2, Block 1, University South Second Addition.

Lots 1 and 2, inclusive, Block 1.
All in University South Addition, A Minor Subdivision being a Replat of part of Lot 1, Block 2, Oak Manor First Addition.

Starting at 15th Street South heading west. Bounded on the South by the East-West ¼ Section line of Section 25, Township 139 N, Range 49 W, ending at 22nd Street South, and the following parcels which are included:

Lots 13, inclusive, Block 6.
All in Ruby Dell Schnell Addition.

Lots 2, inclusive, Block 2.
All in S & W 4th Addition, part of East half of Section 25, T139N, R49W, Cass
County North Dakota.

And

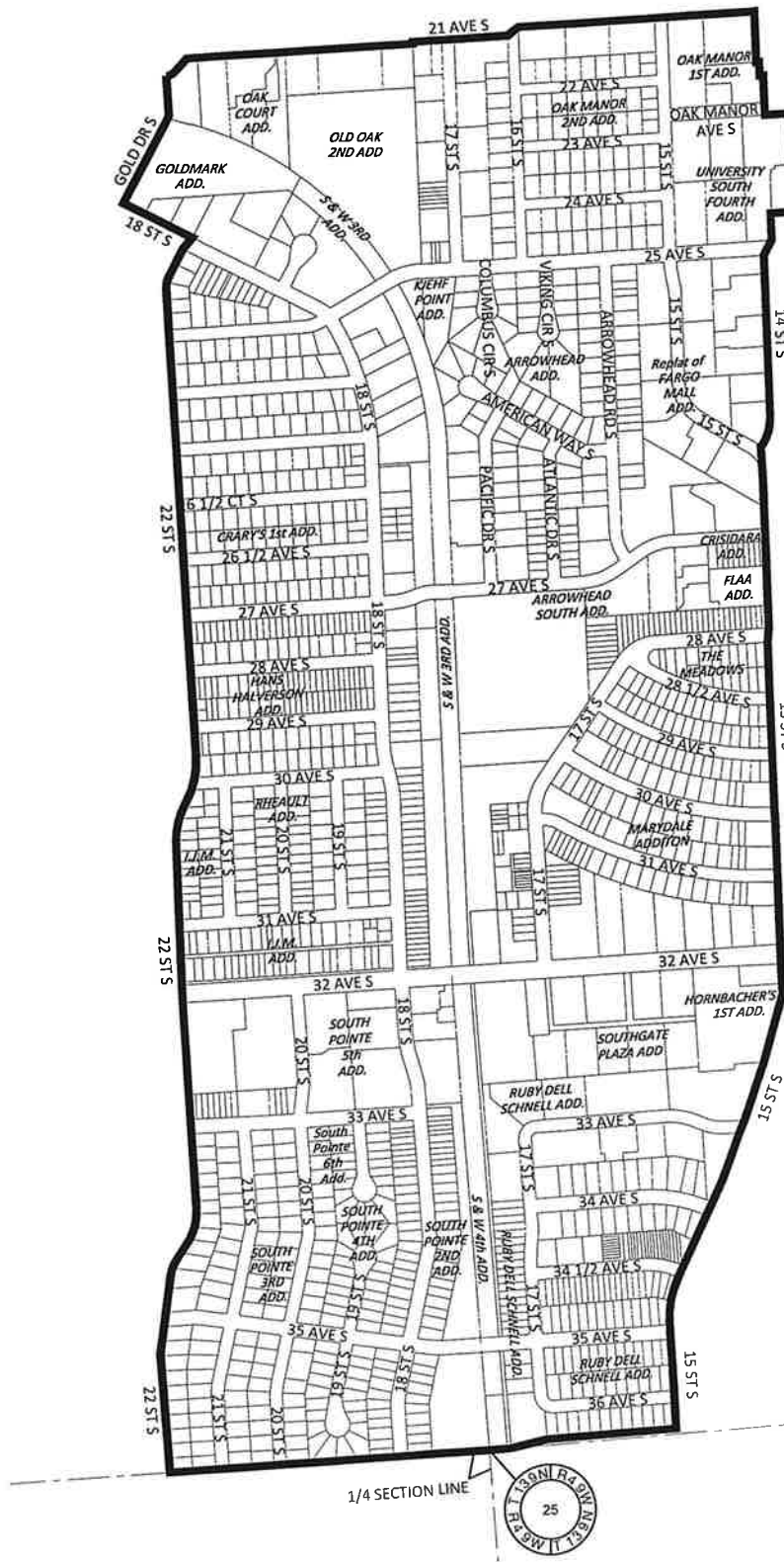
Excluding the following parcels:

Lots 26, 27, 28, 29, 30, 31, 32, and 33, inclusive, Block 6A.
All in the Replat of Lots 12 thru 21, Block 3; Lots 1 thru 18, Block 4; Lots 10 thru
18, Block 5; Lots 14 thru 28; Block 6; Lots 1 thru 6, Block 7; Ruby Dell Schnell
Addition.

Lots 29, 30, and 31, inclusive, Block 6.
All in Ruby Dell Schnell Addition.

Starting at the East-West $\frac{1}{4}$ Section Line of Section 25, Township 139 N, Range 49 W,
heading north. Bounded on the West by 22nd Street South to 18th Street South, and then
along 18th Street South from 22nd Street South to Gold Drive South, and then along Gold
Drive South from 18th Street South and ending at 21st Avenue South.

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



CITY OF FARGO ENGINEERING
DEPARTMENT
LOCATION & ASSESSMENT AREA
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-G



Memorandum

To: Board of City Commissioners
From: Bekki Majerus, Director of Facilities Management
Date: November 20, 2023
Re: Bid Award and Contract for RFP23208 – Cleaning Services for Public Works West Building

Dear Commissioners:

Proposals were received and reviewed on November 14, 2023 in response to an RFP that was issued by the Facilities Management department for cleaning services at the Public Works West building at 2401 3rd Ave N, Fargo, ND. Three proposals were received:

1. Osgood Cleaning Services, LLC
2. Design Cleaning, LLC
3. Automated Maintenance Services Inc.

The proposals were evaluated based on the following criteria:

- Qualifications and Experience
- Price
- References

After evaluation, we recommend Automated Maintenance Services Inc. as the contractor for this service in the amount of \$70,080.00 for 3 years of service starting December 1, 2023. The contract has been reviewed by the City Attorney.

Recommended Action:

Move to approve bid award and 3 year contract to Automated Maintenance Services Inc. for cleaning services at the Public Works West building.

Cleaning Services Evaluation RFP23208

Vendor	Qualifications & Experience (50)	Schedule of Fees (30)	References (20)	Total Score
Osgood Cleaning Services, LLC	45	24	19	88
Design Cleaning, LLC	48	30	16	94
Automated Maintenance Services, Inc.	50	28	19	97

**Contract Between
City of Fargo
And Automated Maintenance Services, Inc.**

This contract (the “contract,” which includes all attached schedules), effective December 1, 2023 (“Effective Date”), is entered into by and between Automated Maintenance Services, Inc. (the “Vendor”), having a principal place of business at 408 3rd St N, Fargo, ND 58102, and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date. The City of Fargo reserves the right to execute the option to automatically renew for a successive period of two (2) years. If the contract is extended, the City of Fargo reserves the right to renegotiate price and terms, provided that such negotiated price and terms fall within the original scope of work for this proposal. Such changes will be documented by amendment to the contract

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement is attached as Attachment B. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices

shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor's work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City's property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. "Conflict of Interest" means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person's ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any

vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon sixty days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured within such sixty day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Automated Maintenance Services, Inc. have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

AUTOMATED MAINTENANCE SERVICES, INC.

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Tom Green

DATE: _____

DATE: 11/16/2023

ATTEST:

BY _____
Steven Sprague, City Auditor

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the contract. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following scope of services as requested in work requests, awarded bids or awarded request for proposals from the City of Fargo.

BUILDING LOCATION, INFORMATION, AND SCHEDULE

Fargo Public Works West: 2401 3rd Ave N, Fargo ND 58102

- ~ 9,000 sq. feet, one story building
- 7,500 sq. feet of carpet
- 750 sq. feet of VCT
- 600 sq. feet of tile
- 7 offices, 27 cubicles, 2 conference rooms
- 2 bathrooms with a total of 4 sinks, 10 toilets, and 2 urinals
- Breakroom with 1 sink, 60 sq. feet of countertops
- Breezeway, Entryway, and Lobby

Business Hours: Monday through Friday 7:45AM – 5:00PM

Cleaning Hours: Between 5:00PM and 7:00AM Monday through Friday, excluding City holidays.

No Cleaning required on City holidays: New Year's Day, M.L. King Jr. Day, Presidents Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veteran's Day Thanksgiving Day, and Christmas Day.

SCOPE OF SERVICES

Daily (Monday through Friday)

All Areas

- Vacuum all carpeting/area rugs/inlaid entryways
- Sweep and Mop/disinfect all hard surface flooring
- Clean and disinfect non-restroom sinks
- Clean and sanitize drinking fountains
- Spot clean glass up to 6 feet high
- Empty all interior/exterior trash cans and place in outside dumpster, reline with appropriate liners provided by the City
- Empty all recycle containers and dispose of properly
- Bring city provided containers to designated pick up area on recycling days
- Disinfect all high traffic knobs, buttons, and surfaces
- Dust/wipe down all horizontal surfaces; *Note: Employees will be responsible for wiping down their individual workstation surfaces. However, employees may opt to clear their work surfaces entirely and leave a note for the custodial crew requesting they be cleaned*
- Clean all stairways and entryways

Lunch/Break Rooms

- Clean Floors
- Clean all counters/tabletops/chairs/sinks; *Note: If any item is left in the sink, do not clean that sink.*
- Wipe down exterior surfaces of all appliances; *Note: Contractor is not responsible for cleaning the **inside** of fridges, stoves, microwaves, coffee machines, toasters, etc.*

Restrooms

- Clean and disinfect toilets
- Clean mirrors, sinks, counters, and baby changing stations
- Clean and disinfect floors
- Wipe down partition walls
- Wipe down light switch plates/doorknobs
- Empty trash cans, diaper disposal units, and feminine napkin dispensers. Replace with appropriate liners provided by the city
- Restock/refill all products (paper towels, toilet paper, soaps, lotions, baby-change paper etc.)

Weekly

- Perform high dusting in all areas

Bi-Weekly

- Edge-clean all carpet

Monthly

- Detail Edges of hard surface flooring and coving
- Dust, clean, vacuum chairs, chair legs, table legs and bases

Quarterly

- Dust/clean/wash air vents
- Clean light fixtures within 60 feet of entryways for bugs

Semi-Annually

- Dust window treatments (blinds/shades etc.) between April and October *Note: Submit anticipated dates 14 days in advance of this service to facilities*
- Clean all glass internal and external two times per year. Once between April-May, and once between October-November. *Note: Submit anticipated dates 14 days in advance of this service to facilities*
- Shampoo all carpeting two times per year. Once between October-November, and once between April or May *Note: Submit anticipated dates 14 days in advance of this service to facilities*
- Maintain hard surface flooring according to recommendations for type of floor. Includes edging, machine scrubbing, grout cleaning, re-waxing, applying sealants, etc. *Note: Submit anticipated dates 14 days in advance of this service to facilities*
- Vacuum ceiling vents in Restrooms

Yearly

- Strip and refinish hard surface flooring in accordance with manufacturers recommendations *Note: Submit anticipated dates 14 days in advance of this service to facilities*
- Shampoo upholstered furniture. Apply a non-water-based fabric protector. April or May *Note: Submit anticipated dates 14 days in advance of this service to facilities*

As needed

- Clean chair mats and trash receptacles
- Clean desk side trash/recycle cans
- Report any lights out, non-working electrical outlets, plumbing issues, heating/cooling concerns etc. to facilities
- Notify facilities of any plumbing issues, items needing repair, or if the sharps container is full

At end of each shift, shut off designated lights, secure designated doors, and ensure no exterior windows are open.

CLEANING SUPPLIES AND EQUIPMENT

The City of Fargo will provide the following supplies:

- Hand soap
- Hand sanitizers
- Garbage liners
- Urinal screens
- Urinal mats
- Baby changing liners
- Paper products

The contractor shall provide all the necessary cleaning supplies and equipment to clean and keep clean all portions of the building.

The City of Fargo shall provide, without cost to contractor, a janitorial closet for storage of equipment and supplies.

Contractor shall maintain janitorial closets in a neat and professional manner. Keep well stocked.

Rate Sheet

Automated Maintenance Services, Inc.

Monthly price, yearly price, and a three (3) year contract total price

- Year 1 December 1 2023-November 30 2024 \$1,890.00 monthly \$22,680.00 yearly
- Year 2 December 1 2024-November 30 2025 \$1,946.00 monthly \$23,352.00 yearly
- Year 3 December 1 2025-November 30 2026 \$2,004.00 monthly \$24,048.00 yearly
- 3 year total = \$70,080.00

Billing is to be submitted monthly on the last scheduled cleaning day of that month. City of Fargo will remit payment within 30 days of receipt of invoice. Please include reference number RFP23208 on monthly invoice.

(19)

Memorandum

To: Board of City Commissioners
From: Bekki Majerus, Director of Facilities Management
Date: November 21, 2023
Re: Approve the Master Service Agreements for Engineering/Architectural Services (RFP24010, RFP24011)

Dear Commissioners:

Facilities Management published a Request for Qualifications (RFQ) for Engineering and Architectural Services on October 5, 2023. Submissions were opened November 3, 2023. The responses were rated using the criteria stated in the RFQ. Fourteen firms were selected and then approved by the Commission to proceed with Master Service Agreements (MSA).

Facilities Management is requesting the Commission's approval of the attached MSA contracts which have been received from their respective firms.

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

Recommended Action:

Move to approve the Master Service Agreements with Foss Architecture, Heyer Engineering, MBN Engineering, Michael J. Burns Architects, RLE Architects, Shultz and Associates, Stone Group Architects, Vareburg Engineering, WildCRG, Ltd., Zerr Berg Architects and KLJ Engineering.

**Master Services Agreement
Between
City of Fargo
And Michael J. Burns Architects LTD.
RFP24011**

This Master Services Agreement (the "Agreement," which includes all attached schedules), effective December 15, 2023 ("Effective Date"), is entered into by and between Michael J. Burns Architects LTD. (the "Vendor"), having a principal place of business at 2878 Lilac Lane N, Fargo, ND 58102, and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as "Services."

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City's obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Michael J. Burns Architects LTD. have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

BY _____
Dr. Timothy J. Mahoney, Mayor

DATE: _____

ATTEST:

BY _____
Steven Sprague, City Auditor

Michael J. Burns Architects LTD.

BY 

PRESIDENT

DATE: NOV. 8, 2023



Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional services:

- Design
- Bidding
- Construction Administration Services

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

STANDARD RATE SCHEDULE MICHAEL J. BURNS ARCHITECTS, LTD. Moorhead - Fargo - Grand Forks <i>Effective 01/01/2023 through 12/31/2023</i>	
Personnel Description	Billing Rate
Principal Architect - Michael J. Burns	\$220.00
Associate Architect – Kerry Peuser	\$195.00
Architect III	\$170.00
Architect II – Ryan Siggerud	\$140.00
Architect I	\$135.00
Sr. Technician III	\$135.00
Intern Architect III	\$120.00
Intern Architect II	\$105.00
Intern Architect I/CADD Technician I	\$100.00
Interior Designer	\$130.00
Student	\$80.00
Administrative	\$95.00
Reimbursable Expenses	
1. Printing - In House	
a. Black & White - 8 ½ x 11"	\$.15/each
b. Black & White - 11 x 17"	\$.20/each
c. Color - 8 ½ x 11"	\$.75/each
d. Color - 11 x 17"	\$ 1.00/each
c. Binding	\$5.00/each
d. Plots - (Black & White) 18" x 24"	\$2.00/each
e. Plots - (Black & White) 22" x 34"	\$2.25/each
f. Plots - (Black & White) 24" x 36"	\$2.50/each
g. Plots - (Black & White) 30" x 42"	\$3.50/each
h. Plots - Renderings (Color) 18" x 24"	\$3.00/each
i. Plots - Renderings (Color) 22" x 34"	\$4.50/each
j. Plots - Renderings (Color) 24" x 36"	\$5.00/each
k. Plots - Renderings (Color) 30" x 42"	\$7.00/each
2. Printing - Vendor	Actual cost + 10%
3. Mileage	\$.72/mile
5. Room & meals	Actual cost + 10%
6. Airfare	Actual cost + 10%
7. Ground transportation while on out-of-state trip	Actual cost + 10%
8. Postage/shipping	Actual cost + 10%
9. Courier services	Actual cost + 10%

Personnel Billing Rates are scheduled to rise \$5.00 per hour for each job position listed after January 1, 2024.

**Master Services Agreement
Between
City of Fargo
and Heyer Engineering
RFP24010**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between Heyer Engineering (the “Vendor”), having a principal place of business at 4180 24th Ave S, Fargo, ND 58102 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, including the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Vendor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, Vendor error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Vendor or of any subcontractor of the Vendor, or which arises out of any workmen's compensation claim of any employee of the Vendor or of any employee of any subcontractor of the Vendor. The Vendor agrees to investigate,

handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Vendor, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Vendor does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Attachment referenced herein constitute the entire understanding of the Parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both Parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other Party.

17. TERMINATION

This Agreement may be terminated by either Party upon seven days written notice should the other Party fail to perform in accordance with the terms hereof, provided such failure is not cured within such seven day period. City may terminate this Agreement for convenience at any time, in

which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Heyer Engineering have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Heyer Engineering

BY _____

BY  _____

Dr. Timothy J. Mahoney, Mayor

Eric A. Greff

DATE: _____

DATE: November 20, 2023

ATTEST:

BY _____

Steven Sprague, City Auditor

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the Vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Structural Design/Repair Services
- Construction Documents
- Construction and Contract Administration
- Drafting and Design

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this Agreement will be negotiated separately.

Rates:

Heyer Engineering 2023 Hourly Rates

Engineering

• Structural Engineer VIII	\$190.00/hr
• Structural Engineer VII	\$180.00/hr
• Structural Engineer VI	\$161.00/hr
• Structural Engineer V	\$148.00/hr
• Structural Engineer IV	\$131.00/hr
• Structural Engineer III	\$111.00/hr
• Structural Engineer II	\$100.00/hr
• Structural Engineer I	\$ 89.00/hr

Structural Design/Layout

• Structural Designer II	\$128.00/hr
• Structural Designer I	\$111.00/hr

Drafting

• REVIT/BIM Manager	\$111.00/hr
• CADD/Revit/3D Tech V	\$100.00/hr
• CADD/Revit/3D Tech IV	\$ 89.00/hr
• CADD/Revit/3D Tech III	\$ 78.00/hr
• CADD/Revit/3D Tech II	\$ 67.00/hr
• CADD/Revit/3D Tech I	\$ 57.00/hr

Administrative

• Administrative Assistant	\$ 72.00/hr
----------------------------	-------------

(Continued on next page)

Rate Sheet (Continued)

Reimbursable Expenses - 2023**A. Reproduction:**

a. Black & White (8 ½ x 11)	\$ 0.10
b. Black & White (11 x 17)	\$ 0.15
c. Color Photo (Glossy 4 x 6)	\$ 0.40
d. Color Copy (8 ½ x 11)	\$ 1.50
e. Color Copy (11 x 17)	\$ 3.00
f. Black & White Prints (24 x 36)	\$ 5.00
g. Black & White Prints (30 x 42)	\$ 6.50
h. Document Binding	\$ 7.50

B. Miscellaneous Expenses:

a. Mileage	\$ 0.67 / Mile
b. Daily Per Diem 8 – 16 Hours	\$ 35.00
c. Daily per Diem (16+ Hours)	\$ 50.00

C. The following is billed at cost:

- a. Air Fare
- b. Lodging
- c. Fees/Permits

D. The following is billed at cost with a 15% mark-up:

- a. Printing by outside service
- b. Outside consultants
- c. Delivery:
 - i. Courier
 - ii. UPS
 - iii. FedEx
 - iv. Mail

**Master Services Agreement
Between
City of Fargo
and Foss Architecture + Interiors
RFP24011**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between Foss Architecture + Interiors (the “Vendor”), having a principal place of business at 810 First Ave N, Fargo, ND 58102 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

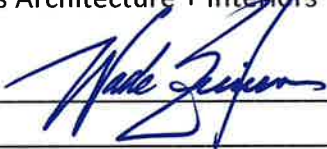
Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Foss Architecture + Interiors have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Foss Architecture + Interiors

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Wade Erickson, AIA - President

DATE: _____

DATE: 11-8-23 _____

ATTEST:

BY _____
Steven Sprague, City Auditor



Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional services:

- Design Development
- Schematic Design
- Structural Design/Repair Services*
- Bidding
- Construction Documents
- Construction and Contract Administration
- Record Drawings
- Digital Imaging
- Building Specification
- Specialty Services*
- Project Management
- Master Planning
- Drafting and Design
- Electrical Engineering*
- Mechanical Engineering*

*We engage experienced consultants to provide civil, structural, Mechanical, and electrical engineering support to the design team.

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

2023 HOURLY RATES

Principal-in-Charge/Project Manager	\$190.00
Project Architect	\$120.00
Interior Designer	\$140.00
Estimator/Specifier	\$160.00
Construction Administration	\$120.00

REIMBURSABLE EXPENSES

Printing - 8.5 x 11"	\$.20/sheet
Printing - 11 x 17"	\$.30/sheet
Printing - 24 x 36'	\$2.50/sheet
Printing - 30 x 42"	\$3.00/sheet
Printing - 24 x 36" Foam Core Presentation Board	\$150.00/Board*
*Materials & printing only - does not include time for graphics/design	
Postage and Courier	At Cost
Code Review Fees	At Cost
Travel/Mileage	\$.66/mile

**Master Services Agreement
Between
City of Fargo
and MBN Engineering
RFP24010**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between MBN Engineering (the “Vendor”), having a principal place of business at 503 7th Street N, Suite 200, Fargo, ND 58102, and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY


Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and MBN Engineering have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

MBN Engineering

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Michael A. Berger, President

DATE: _____

DATE: 11-7-2023 _____

ATTEST:

BY _____
Steven Sprague, City Auditor



Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Electrical Engineering to include Design Development, Construction Documents, Construction and Contract Administration, Record Drawings, Building Specification, Project Management, Master Planning, Drafting and Design services.
- Mechanical Engineering to include Design Development, Construction Documents, Construction and Contract Administration, Record Drawings, Building Specification, Project Management, Master Planning, Drafting and Design services.
- Specialty Services to include building commissioning, telecommunications design, lighting design and AV design.

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

2023-2024 Hourly Rate Schedule

Position	Rate Per Hour
Engineer V	\$172.00
Engineer IV	\$154.00
Engineer III	\$136.00
Engineer II	\$107.00
Engineer I	\$93.00
Engineering Technician VI	\$154.00
Engineering Technician V	\$136.00
Engineering Technician IV	\$118.00
Engineering Technician III	\$96.00
Engineering Technician II	\$80.00
Engineering Technician I	\$68.00
Right-of -Way Specialist I	\$92.00
Right-of-Way Specialist II	\$114.00
Support Staff	\$75.00
PLS-CADD	\$11.00
Mileage	current IRS rate
Subsistence	At Cost
Printing & Postage	At Cost

**Master Services Agreement
Between
City of Fargo
and R.L. Engebretson Architects Fargo LLC
RFP24011**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between R.L. Engebretson Architects Fargo LLC (the “Vendor”), having a principal place of business at 901 13th Ave E, Suite B, West Fargo, ND 58078 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and R.L. Engebretson Architects Fargo LLC have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

R.L. Engebretson Architects Fargo LLC

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Richard A Wiemken

DATE: _____

DATE: 10Nov23 _____

ATTEST:

BY _____
Steven Sprague, City Auditor



Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Design Development
- Construction Documents
- Construction & Contract Administration
- Record Drawings
- Building Specification
- Project Management
- Master Planning
- Drafting and Design
- Programming
- Schematic Design
- Specialty Services to include:
 - Building Audits
 - Property Condition Assessments
 - Visual Observation
 - Thermal Imaging
 - Forensic Evaluation Levels
 - Destructive Testing
 - Litigation Support
 - Crisis Management
 - BIM and 3-D Modeling
 - Cost Estimating & Budget Control
 - On-Site Quality Inspection
 - Interior Design
 - LEED Design & Sustainable Strategies
 - Branding
 - Logo Design
 - Web Design
 - Print Ads
 - Social Media
 - Collateral

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

Schedule of Fees

For reference, hourly fees have been provided below for 2023 rates.

- | | | |
|----------------------------------|-----------------------------------|---|
| • Architect I: \$110/hour | • CAD VIII: \$100/hour | • Multi-Media Designer V: \$85/hour |
| • Architect II: \$120/hour | • CAD IX: \$105/hour | • Multi-Media Designer VIII: \$100/hour |
| • Architect III: \$125/hour | • CAD X: \$110/hour | • Principal/Architect VIII: \$175/hour |
| • Architect IV: \$130/hour | • CAD XII: \$115/hour | • Principal/Architect IX: \$185/hour |
| • Architect V: \$135/hour | • CAD XIV: \$125/hour | • Principal/Architect X: \$190/hour |
| • Architect VI: \$140/hour | • CAD XV: \$130/hour | • Principal/Architect XI: \$220/hour |
| • Architect VII: \$145/hour | • Designer I: \$65/hour | • Principal/Architect XII: \$225/hour |
| • Architect VIII: \$150/hour | • Designer II: \$75/hour | • Principal/Architect XIII: \$250/hour |
| • Architect IX: \$155/hour | • Designer III: \$80/hour | • Principal/Designer VIII: \$140/hour |
| • Architect X: \$165/hour | • Designer IV: \$85/hour | • Principal/Designer IX: \$145/hour |
| • Architect XII: \$225/hour | • Designer V: \$90/hour | • Principal/Designer X: \$150/hour |
| • Building Tech V: \$135/hour | • Designer VI: \$95/hour | • Principal/Designer XIII: \$175/hour |
| • Building Tech VII: \$140/hour | • Designer VII: \$100/hour | • Project Manager IV: \$130/hour |
| • Building Tech VIII: \$145/hour | • Designer VIII: \$110/hour | • Project Manager VII: \$140/hour |
| • Building Tech IX: \$150/hour | • Designer X: \$125/hour | • Project Manager VIII: \$145/hour |
| • Building Tech X: \$165/hour | • Graphic Designer I: \$65/hour | • Project Manager IX: \$150/hour |
| • CAD I: \$65/hour | • Graphic Designer II: \$70/hour | • Project Manager X: \$165/hour |
| • CAD II: \$70/hour | • Graphic Designer III: \$75/hour | • Support III: \$70/hour |
| • CAD III: \$75/hour | • Graphic Designer IV: \$80/hour | • Support IV: \$75/hour |
| • CAD IV: \$80/hour | • Intern I: \$70/hour | • Support V: \$80/hour |
| • CAD V: \$85/hour | • Intern II: \$75/hour | • Support VI: \$85/hour |
| • CAD VI: \$90/hour | • Intern III: \$80/hour | • Support VIII: \$90/hour |
| • CAD VII: \$95/hour | • Intern IV: \$90/hour | • Tech Writer V: \$85/hour |

Reimbursable expenses:

- Client approved professional consultants (i.e.: engineers, graphic designers, specialty consultants such as environmental engineers)
- Airfare, rental vehicles
- Lodging required
- Meals required out of town
- Large format printing costs: (in excess of 11x17)
- Expediting costs (i.e.: Airborne Express, UPS, Mail, etc.)

**Master Services Agreement
Between
City of Fargo
and Shultz + Associates Architects
RFP24011**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between Shultz + Associates Architects (the “Vendor”), having a principal place of business at 612 ½ Main Ave, Fargo, ND 58103, and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

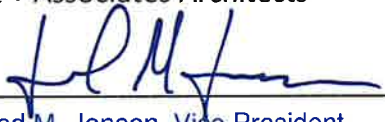
Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Shultz + Associates Architects have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Shultz + Associates Architects

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Jared M. Jensen, Vice President

DATE: _____

DATE: 11/10/2023 _____

ATTEST:

BY _____
Steven Sprague, City Auditor



Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services provided by Shultz + Associates:

- Design Development
- Construction Documents
- Construction and Contract Administration
- Record Drawings
- Building Specification
- Specialty Services
- Project management
- Master Planning
- Drafting and Design
- Change Management

Services Provided by Shultz + Associates with Consultants:

- Structural Design/Repair Services
- Electrical Engineering
- Mechanical Engineering
- Civil Engineering

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

HOURLY RATES:

Senior Principal	\$195.00
Principal	\$180.00
Architect	\$155.00
Intern Architect II	\$120.00
Intern Architect I	\$110.00
Student Intern	\$85.00
Administrative	\$85.00

**Master Services Agreement
Between
City of Fargo
and Stone Group Architects
RFP24011**

This Master Services Agreement (the "Agreement," which includes all attached schedules), effective December 15, 2023 ("Effective Date"), is entered into by and between Stone Group Architects (the "Vendor"), having a principal place of business at 1 2nd Street N, Suite 226, Fargo, ND 58102, and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as "Services."

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City's obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor's work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City's property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. "Conflict of Interest" means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person's ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Stone Group Architects have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Stone Group Architects

BY _____
Dr. Timothy J. Mahoney, Mayor

BY *[Signature]*
TODD STONE - AIA, PRESIDENT/CEO

DATE: _____

DATE: 11/8/23

ATTEST:

BY _____
Steven Sprague, City Auditor



Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional services:

- Design Development
- Construction Documents
- Construction and Contract Administration
- Record Drawings
- Building Specifications
- Specialty Services
- Master Planning
- Drafting and Design
- Specialty Services include:
 - Programming
 - Feasibility Studies
 - Interior Design
 - Planning
 - Estimating
 - Blast Proof Design
 - Sustainable Design
 - Historic Preservation
 - LEED/Energy Sustainability/Energy Modeling
 - Renderings and Animations – All Phases
 - 3D scanning and modeling of existing facilities
 - Environmental studies and mitigation
 - Submittal exchange
 - Structural Design/Repair Services*
 - Electrical Engineering*
 - Mechanical Engineering*
 - Soil borings/surveys/geological investigations*

*Denotes services we offer in conjunction with working with consultant firms

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

CURRENT FEE SCHEDULE**Hourly**

Effective 1 January 2023

Principal Architect	\$300.00/hour
Medical/VA Architect	\$200.00/hour
Senior Project Manager	\$200.00/hour
Senior Project Architect	\$190.00/hour
Project Manager/Architect	\$175.00/hour
Architectural Associate	\$110.00/hour
Specification Writer	\$150.00/hour
Estimator	\$150.00/hour
Project Designer	\$125.00/hour
Interior Designer	\$100.00/hour
Senior BIM Technician/Drafter	\$125.00/hour
Technician 2/Drafter	\$110.00/hour
Technician 1/Drafter	\$100.00/hour
Marketing Staff	\$150.00/hour
Administrative Staff	\$120.00/hour
Architectural Intern	\$80.00/hour

**Master Services Agreement
Between
City of Fargo
and Vareberg Engineering
RFP24010**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between Vareberg Engineering (the “Vendor”), having a principal place of business at 1331 32nd Ave S, Fargo, ND 58103, and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

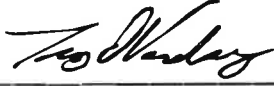
Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Vareberg Engineering have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Vareberg Engineering

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Troy D. Vareberg, PE

DATE: _____

DATE: November 8, 2023

ATTEST:

BY _____
Steven Sprague, City Auditor

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Electrical Engineering
- POWER DISTRIBUTION
 - Distribution Design
 - UPS Systems
 - Emergency Power Generation
 - Short Circuit Analysis
 - Arc Flash Hazard Analysis
 - Substation Design
 - Renewable Energy
- LIGHTING
 - Conceptual Studies
 - Lighting System Design
 - Energy Analysis/Modeling
 - Theatrical Lighting
 - Lighting Control Systems
 - Exterior Lighting
- BUILDING SYSTEMS
 - Telephone and Data Cabling
 - Telecommunications Room Design
 - Fire Detection Systems
 - Security/Access Systems
 - Nurse Call Systems
 - Intercom/Clock Systems
 - Sound Reinforcement Systems
 - Audio/Visual Systems
- OTHER
 - Building Information Modeling (BIM)
 - LEED Documentation
 - Commissioning Support
 - Industrial Controls

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

Vareberg Engineering proposes to perform all electrical services described for the currently hourly rate schedule as follows:

All work performed shall be billed as per the following Hourly Rates:

Clerical	- \$60.00
CAD Operator	- \$85.00
Designer I	- \$90.00
Designer II	- \$100.00
Engineer I	- \$120.00
Engineer II	- \$140.00
Principal	- \$175.00

**Master Services Agreement
Between
City of Fargo
and WildCRG, Ltd.
RFP24011**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between WildCRG, Ltd. (the “Vendor”), having a principal place of business at 500 2nd Ave N, Suite 514, Fargo, ND 58102, and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and WildCRG, Ltd. have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

WildCRG, Ltd.

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Michael Wild, President/Partner

DATE: _____

DATE: 11-09-23 _____

ATTEST:

BY _____
Steven Sprague, City Auditor



Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Schematic Design
- Design Development
- Construction Documents
- Construction & Contract Administration
- Construction Management
- Record Drawings
- Building Specification
- Project Management
- Drafting & Design
- Interior Design
- Project Estimating & Scheduling
- Specialty Services include:
 - Expert Witness
 - Landscape Architecture
 - Video Walk-throughs
 - Graphic Design

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

2023 Schedule of Rates

Architecture	<i>hourly rate</i>
Senior Principal Architect	\$205.00
Principal Architect	\$190.00
Project Architect III	\$180.00
Project Architect II	\$165.00
Project Architect I	\$150.00
Architectural Designer II	\$145.00
Architectural Designer I	\$130.00
Technician II	\$100.00
Technician I	\$90.00
Interior Design	
Interior Designer II	\$165.00
Interior Designer I	\$140.00
Construction Management	
Principal Construction Manager	\$190.00
Construction Manager II	\$160.00
Construction Manager I	\$150.00
Superintendent	\$100.00
Administrative Services	
Business Administration	\$155.00
Administrative Specialist	\$85.00
Additional Services	
Expert Witness	\$305.00
Landscape Architecture	\$195.00
3D Design	\$175.00
Graphic Design	\$175.00

Rate Sheet (Continued)

Reimbursable Expenses

8.5" x 11" - Prints per page	\$0.10 - black & white, \$0.60 - color		
11" x 17" - Prints per page	\$0.30 - black & white, \$1.10 - color		
24" x 36" - Prints per page	\$12.00		
30" x 42" - Prints per page	\$17.50		
Subconsultant Services	Cost plus 25%		
Mileage	Current rate	Images mounted to board	\$.50 - per sq. inch
Lodging/Per Diem	Actual cost	Any size scan to file	\$5.00 each
Aircraft	Actual cost	CD's / thumb drives	\$15.00 each
Miscellaneous	Necessary costs not covered herein		
Postage	Current USPS Rates		
Shipping	Current UPS Rates		

All applicable sales and use taxes

Reimbursable Expenses are charged at cost plus 10%

*This schedule subject to adjustment by wild | crg

**Master Services Agreement
Between
City of Fargo
and Zerr Berg Architects
RFP24011**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between Zerr Berg Architects (the “Vendor”), having a principal place of business at 510 4th Ave N, Fargo, ND 58102, and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation claim of any employee of the Consultant or of any employee of any subcontractor of the

Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured

within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and Zerr Berg Architects have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Zerr Berg Architects

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Tony Wolf, Vice President

DATE: _____

DATE: 11/08/2023

ATTEST:

BY _____
Steven Sprague, City Auditor

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services Zerr Berg:

- Programming
- Schematic Design
- Design Development
- Structural Design/Repair Services
- Construction Documents
- Construction and Contract Administration
- Record Drawings
- Building Specification
- Project Management
- Master Planning
- Drafting and Design
- Interior Design
- Cost Estimating
- Facilities Assessments
- Referendum Assistance

Professional Services with Consultants:

- Mechanical Engineering
- Electrical Engineering
- Civil Engineering
- Structural Engineering

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

Principal Architect	\$234.00/hour
Senior Architect	\$222.00/hour
Associate Architect	\$186.00/hour
Project Manager II	\$138.00/hour
Interior Designer	\$138.00/hour
Project Manager I	\$126.00/hour
Drafter	\$114.00/hour
Student Intern	\$102.00/hour
Clerical/Administration	\$108.00/hour

**Master Services Agreement
Between
City of Fargo
and KLJ
RFP24010**

This Master Services Agreement (the “Agreement,” which includes all attached schedules), effective December 15, 2023 (“Effective Date”), is entered into by and between KLJ (the “Vendor”), having a principal place of business at 300 23rd Ave E, Suite 100, West Fargo, ND 58078 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4th Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

1. TERM

The term of this Agreement will be (3) three years from the Effective Date, with (2) optional one-year extensions.

2. STATEMENT OF WORK

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this agreement are referred to as “Services.”

3. MATERIALS

Vendor shall furnish all materials, supplies, tools, equipment, and transportation required to provide services or deliverables required under Statements of Work. Vendor shall provide all available material safety data sheets for City approval prior to use of materials.

4. LIEN WAIVER

Vendor shall submit its lien waivers and obtain and submit lien waivers from all subcontractors, and material suppliers with invoices Vendor submits to City. City’s obligation to pay invoices will be contingent upon receipt of applicable lien waivers.

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by December 31 for the current Agreement year, the Rate Sheet shall carry forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to FinanceAPAR@FargoND.gov.

6. OWNERSHIP OF DOCUMENTS

Vendor’s work product reimbursed by the City, including all data, documents, results, ideas, developments and inventions that Vendor conceives or uses during the course of its performance under this Agreement shall be the City’s property, unless otherwise agreed.

7. INDEPENDENT CONTRACTOR

The relationship between the Parties shall, within the context of this Agreement, be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. The Vendor shall, at all times during the term of this Agreement, perform the duties and responsibilities herein. Neither Party is an agent of the other Party and is not authorized to make any representation contract, or contract commitment on behalf of the other Party.

8. NO CONFLICTS OF INTEREST

Vendor must disclose any actual, apparent, or potential Conflict of Interest to the City prior to execution of this Agreement if a conflict of interest arises or appear to arise during the term of this Agreement, contractor agrees to abide by any reasonable mitigation plan developed with or by the City. “Conflict of Interest” means any activity, interest, or relationship of Vendor or any of its officers, directors, affiliates, or principals that may compromise that person’s ability to render impartial assistance or advice to the City or that may give rise to legal or reputational concerns or any competitive advantage unfair to the City.

9. CONFIDENTIALITY

The Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

10. INSURANCE

a. Vendor will obtain and maintain the following insurance coverage, naming the City of Fargo as an additional insured, via commercial insurance:

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence, \$5,000,000 aggregate.

ii. Workers' Compensation (or maintenance of a legally permitted and government-approved program of self-insurance) covering Vendor Personnel pursuant to applicable state workers' compensation laws for work-related injuries suffered by Vendor's Personnel, if Vendor employs Personnel;

iii. Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

iv. Professional Liability/Errors and Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by Vendor or Vendor's Personnel in the performance of services with a liability limit of not less than U.S. \$2,000,000 per claim.

v. Automobile Liability with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, if Vendor owns any vehicles, non-owned, and hired vehicles, if Vendor brings vehicles on the City's premises or uses vehicles in the performance of services.

vi. Limits for Commercial General Liability and Automobile Liability may be provided through a combination of primary and umbrella coverage; and

b. Vendor shall provide the City with evidence of the foregoing coverage before providing any services.

c. Vendor shall notify the City 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

11. INDEMNIFICATION

Consultant agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, consultant error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Consultant or of any subcontractor of the Consultant, or which arises out of any workmen's compensation

claim of any employee of the Consultant or of any employee of any subcontractor of the Consultant. The Consultant agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Consultant does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

Neither Party shall be liable for damages or deemed in default of this Agreement and any Statement of Work hereunder to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, union activity, strikes or lock-outs, and changes in laws, statutes, regulations, or ordinances.

13. DISPUTE RESOLUTION

Vendor and the City will exercise good faith efforts to resolve disputes through a mutually acceptable Alternative Dispute Resolution process. Nothing prevents the Parties from pursuing litigation in the appropriate State or Federal court, located in Cass County, North Dakota

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state of North Dakota.

15. ENTIRE AGREEMENT

The terms and conditions set forth herein and any Exhibit referenced herein constitute the entire understanding of the parties relating to the provision of services by Vendor to City and shall be incorporated in all Statements of Work unless otherwise so stated therein. This Agreement may be amended only by a written instrument signed by both parties.

16. ASSIGNMENT

This Agreement may not be assigned by Vendor or City without the prior written consent of the other party.

17. TERMINATION

This Agreement may be terminated by either party upon seven days written notice should the other party fail to perform in accordance with the terms hereof, provided such failure is not cured within such seven day period. City may terminate this Agreement for convenience at any time, in which event Vendor shall be compensated in accordance with the terms hereof for Services performed and reimbursable expenses incurred prior to its receipt of written notice of termination from City.

18. SEVERABILITY

Should a court of law determine that any clause or section of this Agreement is invalid, all other clauses or sections shall remain in effect.

IN WITNESS WHEREOF, City and KLJ have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

KLJ

BY _____
Dr. Timothy J. Mahoney, Mayor

BY  _____
Luke LaLiberty

DATE: _____

DATE: 11/9/2023

ATTEST:

BY _____
Steven Sprague, City Auditor

Statement of Work

This Statement of Work is a summary of all services the Vendor is able to provide under the Master Services Agreement. This Statement of Work is not a commitment by the City to issue the vendor any work requests, bids or proposals.

Vendor agrees to provide any of the following Services as requested in work requests, awarded bids or awarded requests for proposals from the City.

Professional Services:

- Design Development
- Structural Design/Repair Services
- Construction Documents
- Construction and Contract Administration
- Construction Management
- Record Drawings
- Building Specifications
- Specialty Services
- Project Management
- Master Planning
- Drafting and Design

Provides the following through strategic partnerships:

- Electrical Engineering
- Mechanical Engineering

Rate Sheet

The Rates below are valid beginning December 15, 2023. Rates may be renegotiated at the request of either party annually. If new Rates are not negotiated by December 31 of the year, the Rates shall carry forward for the next year of the Agreement.

Rates for projects outside of the scope of this agreement will be negotiated separately.

Rates:

KLJ Staff Type	2023	2024	2025
	Rates	Rates	Rates
Archaeologist Technician	\$91.40	\$95.10	\$99.00
Archaeologist I	\$95.60	\$99.50	\$103.50
Archaeologist II	\$105.00	\$109.20	\$113.60
Archaeologist III	\$135.50	\$141.00	\$146.70
Archaeologist IV	\$154.40	\$160.60	\$167.10
Environmental Technician	\$92.40	\$96.10	\$100.00
Environmental Planner I	\$102.90	\$107.10	\$111.40
Environmental Planner II	\$112.40	\$116.90	\$121.60
Environmental Planner III	\$142.80	\$148.60	\$154.60
Environmental Planner IV	\$173.30	\$180.30	\$187.60
Paleontologist	\$135.50	\$141.00	\$146.70
Paleontologist Technician	\$91.40	\$95.10	\$99.00
EIT I	\$117.60	\$122.40	\$127.30
EIT II	\$135.50	\$141.00	\$146.70
Associate Engineer	\$151.20	\$157.30	\$163.60
Engineer	\$169.10	\$175.90	\$183.00
Senior Engineer	\$201.60	\$209.70	\$218.10
Principal Engineer	\$211.10	\$219.60	\$228.40
Associate Planner	\$111.30	\$115.80	\$120.50
Planner	\$147.00	\$152.90	\$159.10
Senior Planner	\$173.30	\$180.30	\$187.60
Principal Planner	\$201.60	\$209.70	\$218.10
Associate Designer	\$111.30	\$115.80	\$120.50
Designer	\$148.10	\$154.10	\$160.30
Senior Designer	\$154.40	\$160.60	\$167.10
Senior Technical Advisor	\$244.70	\$254.50	\$264.70
Associate Project Manager	\$173.30	\$180.30	\$187.60
Project Manager	\$209.00	\$217.40	\$226.10

Rate Sheet (Continued)

KLJ Staff Type	2023	2024	2025
	Rates	Rates	Rates
Senior Project Manager	\$246.80	\$256.70	\$267.00
Hydrogeological Technician	\$113.40	\$118.00	\$122.80
Hydrogeologist	\$169.10	\$175.90	\$183.00
Government Relations Specialist I	\$120.80	\$125.70	\$130.80
Government Relations Specialist II	\$123.90	\$128.90	\$134.10
Government Relations Manager	\$173.30	\$180.30	\$187.60
Document Controls	\$176.40	\$183.50	\$190.90
CAD Technician I	\$94.50	\$98.30	\$102.30
CAD Technician II	\$109.20	\$113.60	\$118.20
CAD Technician III	\$128.10	\$133.30	\$138.70
GIS Analyst I	\$110.30	\$114.80	\$119.40
GIS Analyst II	\$119.70	\$124.50	\$129.50
GIS Analyst III	\$135.50	\$141.00	\$146.70
GIS Analyst IV	\$183.80	\$191.20	\$198.90
GIS Technician	\$92.40	\$96.10	\$100.00
Engineering Technician I	\$87.20	\$90.70	\$94.40
Engineering Technician II	\$113.40	\$118.00	\$122.80
Engineering Technician III	\$150.20	\$156.30	\$162.60
Engineering Technician IV	\$161.70	\$168.20	\$175.00
Project Assistant I	\$74.60	\$77.60	\$80.80
Project Assistant II	\$111.30	\$115.80	\$120.50
Contract Administrator	\$111.30	\$115.80	\$120.50
Project Controls Specialist I	\$136.50	\$142.00	\$147.70
Project Controls Specialist II	\$173.30	\$180.30	\$187.60
Survey Tech	\$100.80	\$104.90	\$109.10
Crew Chief	\$105.00	\$109.20	\$113.60
Senior Crew Chief	\$128.10	\$133.30	\$138.70
LSIT	\$128.10	\$133.30	\$138.70
Professional Land Surveyor	\$153.30	\$159.50	\$165.90
Principal Land Surveyor	\$194.30	\$202.10	\$210.20
1 Person Survey Crew	\$176.40	\$183.50	\$190.90
2 Person Survey Crew	\$222.60	\$231.60	\$240.90
Associate ROW	\$108.20	\$112.60	\$117.20
ROW Agent	\$128.10	\$133.30	\$138.70
ROW Professional	\$142.80	\$148.60	\$154.60
Senior ROW Professional	\$162.80	\$169.40	\$176.20



20

November 20, 2023

Fargo City Commission
225 4th Street North
Fargo, ND 58102

RE: Piggyback Procurement for purchase of indoor access points, hardware license and cloud license with High Point Networks utilizing ND State Contract #110 – PBC23226

Commissioners:

The Fargo Dome Authority requests your approval of the Piggyback procurement to purchase indoor access points, along with the required licensing, from High Point Networks utilizing the ND State Contract #110. This is to increase wireless internet access near the patron entry doors on the FARGODOME concourse to assist with digital ticket downloading and scanning for event ticket checking. Now that most ticketed events at FARGODOME utilizing digital ticketing, it is necessary to increase the bandwidth and access for this action at all of the ticketing checkpoint doors.

This item was reviewed and approved by the Fargo Dome Authority at their meeting on October 31, 2023 to be funded out of the FARGODOME Permanent Fund.

Requested Motion: To approve the Piggyback procurement (PBC23226) to purchase indoor access points, along with the required hardware & software licensing from High Point Networks, in the amount of \$23,504, using the ND State Contract #110, and to fund this purchase out of the FARGODOME Permanent Fund.

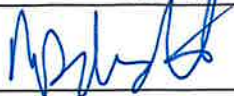
Thank you for your consideration of this matter.

Sincerely,

Rob Sobolik
General Manager, FARGODOME



PIGGYBACK PURCHASE REQUEST FORM (PBC)

Requested by:	Rob Sobolik	Department:	FargoDome
Date of Request:	11/20/23	Phone Number:	
E-mail:	rsobolik@fargodome.com		
Dept Head Signature:		Estimated Amount of Purchase:	\$ 23,504.00

Piggyback Purchase from a State or Cooperative Contract Requirement:

A contract less than \$50,000 may be awarded without competition when the purchasing manager determines in writing, that a State or Cooperative purchasing contract exists and allows municipalities to purchase from a list of approved vendors for the required supply, service, or material. Any purchase contract award greater than \$50,000 must also be approved by the Board of City Commissioners prior to a vendor award using this method. No quotes

Product or Service description:

Indoor access point, hardware license and cloud license utilizing a piggyback to the State Contract listed below.

This purchase was approved by FargoDome Authority at the October, 31, 2023 meeting along with their approval to have it funded out of the FargoDome Permanent Fund. +

Provide source of existing contract (State/Release or Contract number):

ND State Contract # 110

Vendor Name: High Point Networks LLC		
Address:		
City:	State:	Zip Code:
Contact Person: Chris Reep		Title:
Telephone: 701-282-6459		Email: chris@highpointnetworks.com
Purchasing Manager Approval:		
Piggyback (PBC) Number:		PBC23226

North Dakota | Management and Budget 

Be Legendary

- [Home](#)
- [Capitol Complex ▾](#)
- [Doing Business with the State ▾](#)
- [Team ND Careers ▾](#)

Main Menu - SPO Online

View Contract

Contract

Name: STAGEnet Network Equipment / Audio / Visual / Video

Number: 110

Initial Contract Period: 01/01/2023 Thru: 12/31/2024

Renewed/Extended Through: 12/31/2024

Remaining Renewal Options: 4

Renewal Period: 12 Months

Remaining Extension Options: Up to 12 Months

Environmentally Preferable/Biobased: N

Cooperative Purchase: Y

Mandatory: N

Contractors

Contractor	Address	City	Contact	Title
New Era Technology	3487 University Dr.	Fargo, ND 58103, ND	Scott Deutsch - CONTRACT EXPIRES 12/31/2023	Contract Rep
Anixter Inc.	2301 Patriot Blvd	Glenview, IL 60026	Dean Nelson	Contract Rep
AVI Systems	1930 East Century Ave	Bismarck, ND ND 5850	Steve Butts	Contract Rep
CompuNet, Inc.	1111 S. Silverstone Way, Suite 200	Meridian, ID 83642	Pat McGlenn	Contract Rep
Corporate Technologies	6201 Bury Drive	Eden Prairie, MN 55346	Brian Nelson	Contract Rep
High Point Networks	728 East Beaton Dr., Suite 200	West Fargo, ND 58078	Justin Fetch	Contract Rep

HIGH POINT NETWORKS

Extreme - Fargodome Ticket APs

Quote Information

Quote # 134025
 Version 1
 Delivery Date 10/13/2023
 Expiration Date 11/14/2023

Prepared for:

City of Fargo
 Attn: Matt Anderson
 225 4th Street North
 Fargo, ND 58102

Prepared by:

High Point Networks, LLC
 Chris Reep
 Direct: 701-282-6459
 chris@highpointnetworks.com



Extreme

Qty	Item	Description	Price	Ext Price
16	AP5010-WW	Indoor Tri Radio WiFi 6E AP (4x44) 2.4 GHz 5GHz 6GHz Multirate Port Internal antennas. T-Bar Incl Mt (AH-ACC-BKT-AX-TB). Domain World SKU	\$930.00	\$14,880.00
16	97000-AP5010-WW	EW TAC OS AP5010-WW [Term: 5 Year]	\$141.00	\$2,256.00
16	XIQ-PIL-S-C-EW	ExtremeCloud IQ Pilot SaaS Subscription and EW SaaS Support for one - 1 device [Term: 5 Year]	\$398.00	\$6,368.00
Subtotal:				\$23,504.00

Quote Summary

Description	Amount
Extreme	\$23,504.00
Total:	\$23,504.00

For questions related to your quotation, please contact us using the information above. Acceptance of the quote online is considered acceptance of an offer and binding. All quotes are subject to shipping costs that may not be listed on the quote. Prices quoted are valid for 30 days from Quotation Date. Limitation of Liability for Consequential Damages: High Point Networks, LLC shall not be liable for any indirect, incidental, consequential, exemplary, or punitive damages of any kind or nature. Orders will be invoiced when shipped. Orders may be partially invoiced as items ship and thus there may be multiple invoices per order. "Projects" will be invoiced in the same method. Professional services may be progress billed over the term of the project. All licensing and subscription orders will be invoiced immediately upon customer approval. Payment for all orders are due in 30 days subject to credit approval. Finance charges will be charged at the rate of 1.5% per month if not paid by the due date. If payment is not received within 45 days of the invoice date, we reserve the right to suspend or terminate your service without further notice. Credit card usage as a form of payment may be accepted on a pre-approval basis and may be subject to a convenience fee. "Optional" items on the above quote are not included in the total pricing at the bottom of the quote. This offer to sell the listed products is subject to product availability and High Point Networks standard terms and conditions and prices are subject to change without notice. Please consult your Account Representative prior to placing an order for timely, updated pricing. High Point Networks reserves the right to adjust pricing based on any error or omission.
 Note: Once product is ordered and shipped there is NO right of return and may be subject to a restocking fee. Orders can be subject to extreme product delays. Product cannot be returned if ordered in error. Product cannot be returned if next generation product has been released.

 Signature

 Date



21

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

TO: Board of Commissioners
FROM: Susan Thompson, Director of Finance
RE: Close-Out CARES and ARPA Funding
DATE: November 20, 2023

The Finance Department requests approval of the proposed allocations and disposition of remaining City of Fargo ARPA funds.

At their November 20, 2023 meeting, the City of Fargo Finance Committee approved the recommendation.

CARES - update

The City of Fargo received \$15.9 million in CARES funding. Funding has been spent on a variety of departmental and community needs including food and rental assistance, shelter aid, housing development, business assistance, Police Department overtime for the pandemic and 2020 unrest incident, police body cameras and other protective gear, and various capital items.

As of 10/30/2023, \$3.3 million remains to be finalized for previously approved items, including Police Department media room, Food & Rental Assistance, Protective Equipment (Police and City Hall), MatBus match funds, and Pension Actuarial Contributions.

ARPA – approval requested

The City of Fargo received \$20.2 million in ARPA funding. Following guidelines from US Treasury, ARPA funds must be spent prior to 12/31/2024.

Funding has been spent on a variety of departmental and community needs including shelter aid, housing development, General Fund revenue replacement, IS equipment, ERP software, Water Treatment membrane project, and building fund support.

As of 10/30/2023, \$6.7 million remains to be finalized. \$2.7 million is for previously approved items, including the new ERP system, sheltering needs, Core Neighborhood

programming, Police protection, and various IS Items. We request the remaining \$4 million be redirected to the 2023 General Fund.

Commission Action Requested:

Redirect remaining ARPA Funds from Original Proposal to the 2023 General Fund balance:

Original proposal:

Transfer to Parking Fund	1,000,000.00
Southside fueling annex	700,000.00
Fund 402 building capital	2,000,000.00
Unallocated	88,278.00
IS Various Equipment - unspent TBD*	
Arts & Culture ^	250,000.00
	<hr/>
	4,038,278.00

** up to \$193,000 currently unspent of \$1.2 million allocation*

^ no pending projects, reevaluate as needed

Suggested Motion:

Approve allocation of remaining ARPA funding to 2023 General Fund as presented.

REPORT OF ACTION
FINANCE COMMITTEE

Location: Finance Department

Agenda Item: Finalization of CARES & APRA Funding

Presenter: Susan Thompson

Date of Hearing: November 20, 2023

Susan gave a brief overview of the \$15.9 million in CARES funding and where the money has been spent throughout a variety of departmental and community needs. Susan explained that as of 10/30/2023, \$3.3 million remains to be finalized for previously approved items.

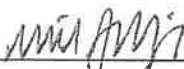
The City of Fargo also received \$20.2 million in ARPA funding with guidelines from the US Treasury that those funds must be spent prior to 12/31/2024. As of 10/30/2023, \$6.7 million remains to be finalized. Susan explained that \$2.7 million has been allocated to previously approved items and she is requesting the remaining \$4 million to be redirected to the 2023 General Fund.

MOTION:

Recommended motion was to allocate the remaining ARPA funding to the 2023 General Fund.

Steve Sprague moved to approved, second by Brenda Derrig and all members present voted in favor.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
<u>Tim Mahoney, Mayor</u>	X	X		
<u>Dave Piepkorn, City Commission</u>	X	X		
<u>Mike Redlinger, City Administrator</u>	X	X		
<u>Brenda Derrig, Assistant City Administrator</u>	X	X		
<u>Susan Thompson, Finance Director</u>	X	X		
<u>Tanner Smedshammer, Purchasing Manager</u>	X	X		
<u>Steve Sprague, City Auditor</u>	X	X		



 Michael Redlinger, City Administrator

CITY OF Fargo Fire Department

MEMORANDUM

22

TO: FARGO CITY COMMISSION
FROM: FIRE CHIEF STEVE DIRKSEN
DATE: 11/22/2023
SUBJECT: CHANGE ORDER FOR PROJECT BP0065 FIRE STATION #8

This request is for one change order for the mechanical construction of Fire Station # 8.
CO # 1. – Catch Basins for trench drains cost of \$2,160.00.

The original price of the contract for Mechanical Construction was \$1,274,500.00. The proposed changes will bring the total cost of the General Construction to \$1,276,660.

RECOMMENDED MOTION: Approve two change orders for BP0065 Fire Station #8 in the amount of \$2,160.00.

AIA® Document G701® – 2017

Change Order

PROJECT: (Name and address) Fire Station #8 6617 33rd St S Fargo, ND 58104	CONTRACT INFORMATION: Contract For: General Construction Date: May 15, 2023	CHANGE ORDER INFORMATION: Change Order Number: CO01 Date: 11/21/2023
OWNER: (Name and address) City of Fargo Fire Department 637 NP Avenue Fargo, ND 58102	ARCHITECT: (Name and address) Engineers-Architects, P.C. (herein known as EAPC Architects Engineers) 112 North Roberts Street Suite 300 Fargo, ND 58102	CONTRACTOR: (Name and address) Manning Mechanical, Inc. 4210 19th Ave N Fargo, ND 58102

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Provide Joam catch basin and required accessories at Garage 122



The original Contract Sum was	\$ 1,274,500.00
The net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 1,274,500.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 2,160.00
The new Contract Sum including this Change Order will be	\$ 1,276,660.00

The Contract Time will be increased by Zero (0) days.

The new date of Substantial Completion will be

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Engineers-Architects, P.C. (herein known as EAPC Architects Engineers) ARCHITECT (Firm name)  SIGNATURE Nicholas Naujokas, Architect PRINTED NAME AND TITLE 11/21/2023 DATE	Manning Mechanical, Inc. CONTRACTOR (Firm name)  SIGNATURE ALLAN HEMSTAD PM PRINTED NAME AND TITLE 11/21/23 DATE	City of Fargo Fire Department OWNER (Firm name) SIGNATURE PRINTED NAME AND TITLE DATE
--	---	---



4210 19th Avenue N
Fargo, ND 58102
(701) 293-9774
Fax: (701) 293-6863
www.manningmechanical.com

CHANGE-ORDER PROPOSAL

DATE: 11.13.23

To: EAPC
Attn: Nicholas Naujokas

RE: Fargo Fire Station #8

We are submitting a cost for the trench drains at the Fargo Fire Station #8 in the garage area. We have 2 options for the owner. Option #1 is with a catch basin on the drain. Option #2 is without the catch basin. *New option #1 Zurn Catch Basin, Option #2 Zurn Heavy Duty Floor Drain.*

Option #1 Dura Trench with Catch Basin:	\$ 3,146
Option #2 Dura Trench without Catch Basin:	\$ 1,937
Josam equivalent <u>New Option #2-Zurn Catch Basin only:</u>	<u>\$2,160</u>
<u>New option #2 Zurn Heavy Duty Floor Drain, no trap:</u>	<u>\$562</u>

If you have any questions, please contact our office. This proposal is valid for 30 days.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Hemstad', with a long horizontal stroke extending to the right.

Al Hemstad
Project Manager/ Estimator

CITY OF Fargo Fire Department

MEMORANDUM

TO: FARGO CITY COMMISSION

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: 11/22/2023

SUBJECT: CHANGE ORDERS FOR PROJECT BP0065 FIRE STATION #8

This request is for three change orders for the general construction of Fire Station # 8.

CO # 4. – Hand form 3 trench drains cost of \$5,880.00.

CO # 5. – Credit for change of roofing materials for a savings of \$19,310.

The original price of the contract for General Construction was \$3,504,720.00. The proposed changes will bring the total cost of the General Construction to \$3,517,588.34.

RECOMMENDED MOTION: Approve two change orders for BP0065 Fire Station #8 in the amount of -13,430.



Document G701[®] – 2017

Change Order

PROJECT: *(Name and address)*
 Fire Station #8
 6617 33rd St S
 Fargo, ND 58104

CONTRACT INFORMATION:
 Contract For: General Construction
 Date: May 15, 2023

CHANGE ORDER INFORMATION:
 Change Order Number: 04
 Date: 11/21/2023

OWNER: *(Name and address)*
 City of Fargo Fire Department

 637 NP Avenue
 Fargo, ND 58102

ARCHITECT: *(Name and address)*
 Engineers-Architects, P.C. (herein known
 as EAPC Architects Engineers)
 112 North Roberts Street
 Suite 300
 Fargo, ND 58102

CONTRACTOR: *(Name and address)*
 LedgeStone, Inc.

 22930 County Hwy 6
 Detroit Lakes, MN 56501

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Hand form (3) trench drains in aparatus bay in lieu of preformed trench drains.

The original Contract Sum was	\$ 3,504,720.00
The net change by previously authorized Change Orders	\$ 26,298.34
The Contract Sum prior to this Change Order was	\$ 3,531,018.34
The Contract Sum will be increased by this Change Order in the amount of	\$ 5,880.00
The new Contract Sum including this Change Order will be	\$ 3,536,898.34

The Contract Time will be unchanged by Zero (0) days.

The new date of Substantial Completion will be

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Engineers-Architects, P.C. (herein known
 as EAPC Architects Engineers)
 ARCHITECT *(Firm name)*

LedgeStone, Inc.

City of Fargo Fire Department

SIGNATURE

Nicholas Naujokas, Architect
 PRINTED NAME AND TITLE

11/21/2023
 DATE

CONTRACTOR *(Firm name)*

SIGNATURE

Josh Lessman President
 PRINTED NAME AND TITLE

11/21/2023
 DATE

OWNER *(Firm name)*

SIGNATURE

PRINTED NAME AND TITLE

DATE

Ledgestone Inc.
 22930 CO Hwy 6
 Detroit Lakes MN 56501

www.ledgestoneinc.com
 218-849-6140
 218-847-5013



LEDGESTONE, INC.

Change Order Request

COR Number: 04

Date: 9/19/2023

Project Number: 2301

Contract Date: 5/15/2023

To:	Project:
City of Fargo Fire Department 637 NP Avenue Fargo ND 58102	Fargo Fire Department Station #8 6617 33rd Street South Fargo ND 58104

Description of Change:

Hand form (3) trench drains in aparatus bay in lieu of preformed trench drains.

Project Original Contract Sum	3,504,720.00
Total of Previously Approved Change Orders	0.00
Contract Amount Prior to this Change Order	3,504,720.00
Proposed Contract Amount of this Change Order	5,880.00
Proposed Contract Amount Including this Change Order	3,510,600.00

Accepted By:

_____ Contractor <i>(Company Name)</i>	_____ Owner <i>(Company Name)</i>	EAPC Architects Engineers _____ Other <i>(Company Name)</i>
_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>
_____ Printed Name	_____ Printed Name	Nicholas Naujokas _____ Printed Name
_____ Date	_____ Date	11/21/2023 _____ Date
	_____ Owner's Change Order Number	

Ledgestone Inc.
 22930 CO Hwy 6
 Detroit Lakes MN 56501

www.ledgestoneinc.com
 218-849-6140
 218-847-5013



LEDGESTONE, INC.

Change Order Request

COR Number: 04

Date: 9/19/2023

To: City of Fargo Fire Department	Project: Fargo Fire Department Station #8
--	--

Item	Description	Quantity	UOM	Unit Price	Extended Price
03 - Concrete					
	Concrete forming	1.00	LS	5,600.00	5,600.00
	Profit & Overhead	0.00		0.00	280.00
Concrete Total:					5,880.00
Change Order Total:					5,880.00

Change Order

Summit Siteworks, LLC.

1551 8th Ave NW - West Fargo, ND 58078 - Phone:701-478-4101



Contractor: LedgeStone

Project: Firehall #8

Date: 9/19/2023

We hereby submit change order for:

<u>QTY</u>	<u>Units</u>	<u>Description</u>
132	LF	Hand Forming Trench in lieu of pour around manufactured trench drain

Total Change Orders: \$5,600.00

Original Bid (contract sum):	\$452,644
Net change by previously authorized change orders:	\$0
Contract sum prior to this change order:	\$452,644
Contract sum increased by this change order will be:	\$5,600
The new contract sum including this change order:	\$458,244

Total for this Change Order:

Four Hundred Fifty Eight Thousand Two Hundred Forty Four Dollars and Zero Cents

PAYMENT:

Payment is due on that portion of work completed by the end of the month, by the following 10th of the month.

Finance charges of 1.5% per month on accounts 30 days or more past due. No Retainage.

AUTHORIZED SIGNATURE : _____

NOTE: This proposal may be withdrawn by us if not accepted within 30 days. All materials are guaranteed to be as specified and for a period of one year after placement.

All work to be completed in a workman - like manner according to standard practices. Any alterations or deviation from the above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Owner is to carry fire, tornado, and any other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance. Any concrete cracking due to soil or compaction of soil is not the responsibility of Summit Siteworks LLC.. Any concrete that cracks or spalls after temperatures drop below 30% Fahrenheit is Contractor's responsibility.

Acceptance of Proposal: The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

SIGNATURE : _____ DATE OF ACCEPTANCE : _____

Please Sign and Return one copy to be put on Schedule.



AIA® Document G701® – 2017

Change Order

PROJECT: *(Name and address)*
 Fire Station #8
 6617 33rd St S
 Fargo, ND 58104

CONTRACT INFORMATION:
 Contract For: General Construction
 Date: May 15, 2023

CHANGE ORDER INFORMATION:
 Change Order Number: 05
 Date: 11/21/2023

OWNER: *(Name and address)*
 City of Fargo Fire Department

 637 NP Avenue
 Fargo, ND 58102

ARCHITECT: *(Name and address)*
 Engineers-Architects, P.C. (herein known
 as EAPC Architects Engineers)
 112 North Roberts Street
 Suite 300
 Fargo, ND 58102

CONTRACTOR: *(Name and address)*
 LedgeStone, Inc.

 22930 County Hwy 6
 Detroit Lakes, MN 56501

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Credit for ballast roof option over apparatus bay in lieu of fully adhered system.

The original Contract Sum was	\$ 3,504,720.00
The net change by previously authorized Change Orders	\$ 32,178.34
The Contract Sum prior to this Change Order was	\$ 3,536,898.34
The Contract Sum will be decreased by this Change Order in the amount of	\$ 19,310.00
The new Contract Sum including this Change Order will be	\$ 3,517,588.34

The Contract Time will be unchanged by Zero (0) days.

The new date of Substantial Completion will be

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Engineers-Architects, P.C. (herein known
 as EAPC Architects Engineers)

LedgeStone, Inc.

City of Fargo Fire Department

ARCHITECT *(Firm name)*

CONTRACTOR *(Firm name)*

OWNER *(Firm name)*

SIGNATURE

SIGNATURE

SIGNATURE

Nicholas Naujokas, Architect

Josh Lessman President

PRINTED NAME AND TITLE

PRINTED NAME AND TITLE

PRINTED NAME AND TITLE

11/21/2023

11/21/2023

DATE

DATE

DATE

Ledgestone Inc.
 22930 CO Hwy 6
 Detroit Lakes MN 56501

www.ledgestoneinc.com
 218-849-6140
 218-847-5013



Change Order Request

COR Number: 05

Date: 11/16/2023

Project Number: 2301

Contract Date: 5/15/2023

To:	Project:
City of Fargo Fire Department 637 NP Avenue Fargo ND 58102	Fargo Fire Department Station #8 6617 33rd Street South Fargo ND 58104

Description of Change:

Credit for ballast roof option over apparatus bay in lieu of fully adhered system.

Project Original Contract Sum	3,504,720.00
Total of Previously Approved Change Orders	26,298.34
Contract Amount Prior to this Change Order	3,531,018.34
Proposed Contract Amount of this Change Order	(19,310.00)
Proposed Contract Amount Including this Change Order	3,511,708.34

Accepted By:

_____ Contractor <i>(Company Name)</i>	_____ Owner <i>(Company Name)</i>	_____ EAPC Architects Engineers Other <i>(Company Name)</i>
_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>	_____ By <i>(Signature)</i>
_____ Printed Name	_____ Printed Name	_____ Nicholas Naujokas Printed Name
_____ Date	_____ Date	_____ 11/21/2023 Date
	_____ Owner's Change Order Number	

Ledgestone Inc.
22930 CO Hwy 6
Detroit Lakes MN 56501

www.ledgestoneinc.com
218-849-6140
218-847-5013



LEDGESTONE, INC.

Change Order Request

COR Number: 05

Date: 11/16/2023

To: City of Fargo Fire Department	Project: Fargo Fire Department Station #8
--	--

Item	Description	Quantity	UOM	Unit Price	Extended Price
07 - Thermal and Moisture Protection					
	Ballast roof credit	1.00-	LS	19,310.00	19,310.00-
Thermal and Moisture Protection Total:					19,310.00-
Change Order Total:					19,310.00-

CITY OF Fargo Fire Department

23

MEMORANDUM

TO: FARGO CITY COMMISSION

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: 09/27/2023

SUBJECT: ENGINEERING AND ARCHITECT CONTRACT APPROVAL

Fire Station #5 has experienced a shift in the foundation causing the South wall to tip out. A structural engineer from KLJ evaluated the building in January and found that the building was in stable condition and we should monitor for further shifting. In August additional shifting occurred and KLJ was called again to evaluate. It was then determined that the building was still in usable condition but intervention was needed correct the situation.

Since there was no project or agreement to conduct the evaluation and develop a plan, I worked with Administration, Finance, an Engineering to utilize the Engineering MSA to work with KLJ to develop a plan to fix the issues.

KLJ has provided a proposal to provide concept analysis for \$19,400. Additional funds will be required when we get to design repairs for the foundation correction and additional issues within the structure.

RECOMMENDED MOTION: Approve contract proposal from KLJ for Station #5 Concept Analysis for \$19,400.

In accordance with paragraph 1.1 of the Task Order Agreement between Owner and Engineer for Master Professional Services, dated January 11, 2023 (“Agreement”), Owner and Engineer agree as follows:

1. Specific Project Data

A. Project Title: Fire Station No. 5

B. Description: KLJ has been asked to review options to mitigate and repair a foundation wall that has settled along the south side of Fire Station No. 5 located at 930 40th Street South in Fargo, North Dakota. It is our understanding the City of Fargo would like the following options studied:

- i. Option 1: Stabilize existing foundation wall and make cosmetic repairs to the building to maintain operations.
- ii. Option 2: Stabilize existing foundation wall and renovate interior of building (excluding apparatus bay) to improve flow and function of the space.
- iii. Option 3: Demolish south half of the building and rebuild.

2. Services of Engineer

Services to be completed by the Engineer are as specified in the proposal submitted by KLJ dated November 14, 2023. Proposal is attachment A of this Task Order.

3. Owner’s Responsibilities

Owner shall have those responsibilities set forth in Master Services Agreement dated January 11, 2023.

4. Times for Rendering Services

Phase	Completion Date
Phase 1: Conceptual Analysis	4 weeks after Notice to Proceed

5. Payments to Engineer

A. Owner shall pay Engineer for services rendered as follows:

Phase	Compensation Method	Lump Sum, or Estimate of Compensation for Services
Phase 1:	Hourly Not to Exceed	\$19,400
		Total Services = \$19,400

B. The terms of payment are set forth in Article 3 of the Master Services Agreement.

6. Attachments

Attachment A – Proposal submitted by KLJ dated November 14, 2023.

Terms and Conditions: Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement, which is incorporated by this reference. Facilities is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is November 14, 2023.

Owner:	_____	Engineer:	KLJ Engineering, LLC
By:	_____	By:	_____
Name:	Steve Dirksen	Name:	_____
Title:	Fire Chief	Title:	_____

Designated Representative for Task Order:	_____	Designated Representative for Task Order:	_____
Name:	_____	Name:	Cassie McNames
Title:	_____	Title:	Client Services Manager



300 23rd Ave E, Suite 100
West Fargo, ND 58078-7820
701 232 5353
KLJENG.COM

November 14, 2023

Tim Binfet
Division Chief
637 NP Avenue
Fargo, ND 58102

Re: Fire Station No. 5 – Fargo, ND

Dear Mr. Binfet:

We would like to thank you for your interest in our engineering services for the above referenced project. We have attached our proposed scope of services and fees in Exhibits A and B respectively.

Upon acceptance of our proposal, we anticipate the city will initiate a task order for this work in conjunction with our MSA dated January 11, 2023. We can begin work once an agreement is in place.

If you have any questions regarding the information provided, please let us know. We look forward to working with you.

Sincerely,

KLJ

A handwritten signature in cursive script that reads "Cassie McNames".

Cassie McNames, PE
Senior Project Manager

Enclosure(s): (3) Exhibit A, Exhibit B, Draft Task Order

Project #: 2204-01659

cc: File

EXHIBIT A

**Engineering/Architectural Services
Concept Analysis
Fargo Fire Station No. 5
Fargo, North Dakota**

Engineering/Architectural Services

KLJ has been asked to review options to mitigate and repair a foundation wall that has settled along the south side of Fire Station No. 5 located at 930 40th Street South in Fargo, North Dakota. It is our understanding the City of Fargo would like the following options studied:

- Option 1: Stabilize existing foundation wall and make cosmetic repairs to the building to maintain operations.
- Option 2: Stabilize existing foundation wall and renovate interior of building (excluding apparatus bay) to improve flow and function of the space.
- Option 3: Demolish south half of the building and rebuild.

Our scope in analyzing the options listed above includes:

1. Concept Analysis

- a. Review of existing drawings and reports available for the fire station to become familiar with the existing construction.
- b. One site visit to document existing conditions. Only items visible during the site visit will be reviewed, such that items hidden to view will not be exposed during site visit.
- c. Prepare a memo summarizing existing conditions, evaluating three options identified above, and preparation of preliminary opinions of cost for each option.
- d. Development of conceptual architectural floor plans for options 2 and 3.
- e. One meeting with city to review findings of the study.
- f. Roles:
 - i. KLJ shall provide project management and structural engineering for the project.
 - ii. EAPC shall provide architectural, electrical, fire protection and mechanical engineering for the project.

2. Information to be provided by Client:

- a. Existing plans and reports for the building.
- b. Access to the building.

3. Anticipated Project Schedule

Task Order Execution/Notice to Proceed (NTP) November 14, 2023
Project Completion 4 weeks after NTP

4. The following services have not been included with our services:
 - a. Meetings and site visits outside of those identified above.
 - b. Design review of the original building construction other than the elements identified above.
 - c. Design of detailed repairs associated with foundation correction.
 - d. Development of plans outside of those identified above.
 - e. Preparation of construction drawings, specifications, construction estimates, bidding assistance, and construction administration for repairs.
 - f. Reproduction, plots, special handling and delivery of documents.
 - g. Renderings, models and mock-ups.

EXHIBIT B

**Engineering/Architectural Services
Concept Analysis
Fargo Fire Station No. 5
Fargo, North Dakota**

Payment for Services

I. Compensation – Standard Hourly Rates Method of Payment

1. The total compensation for services is estimated to be \$19,400.


The amounts above include compensation for engineer/architect's services. Appropriate amounts have been incorporated to account for labor, overhead, profit, and reimbursable expenses. Engineer's Standard Hourly Rates are as agreed upon in Agreement between KLJ Engineering, LLC and the City of Fargo dated January 11, 2023.



24

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: NOVEMBER 14, 2023

**RE: AGREEMENT BETWEEN RICHLAND COUNTY HEALTH
DEPARTMENT AND FARGO CASS PUBLIC HEALTH FOR
NURSE PRACTITIONER SERVICES FOR \$72.50 PER HOUR
EXPIRES: 12/31/2024**

The attached agreement is for a nurse practitioner from Fargo Cass Public Health to provide Family Planning services for the Richland County Health Department in Wahpeton, North Dakota. This contract agreement will be in effect for 2024.

If you have any questions please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement with Richland County Health Department to provide nurse practitioner services.

DF/LS
Enclosure



Public Health
Prevent. Promote. Protect.
Richland County Health Department

Richland County Health Department

413 3rd Avenue North
Wahpeton, ND 58075
Telephone (701) 642-7735 Fax (701) 642-7746
www.richlandcountyhealth.org

AGREEMENT BETWEEN
RICHLAND COUNTY FAMILY PLANNING
AND
FARGO CASS PUBLIC HEALTH

An agreement to provide nurse practitioner for family planning services is hereby made between Richland County Health Department and Fargo Cass Public Health.
The parties agree as follows:

SERVICES PROVIDED:

Fargo Cass Public Health agrees to provide nurse practitioner services for providing family planning client services on site a minimum of two times a month and telemedicine encounters as scheduling allows for Richland County Health Department. All services will be provided based on Richland County Family Planning policies, procedures and protocols.

COMPENSATION:

Compensation will be at a rate of \$72.50 per hour for client services and travel time. Mileage will be compensated at the current IRS rate per mile.

PAYMENT:

Payment shall be made to Fargo Cass Public Health upon receipt of monthly billing statement.

TERMS OF AGREEMENT:

This agreement shall take effect January 1, 2024 and shall terminate December 31, 2024. Continued services will be considered and subsequent agreement will be written if needed.

Termination of the Agreement of a date earlier than that stated may occur after given thirty (30) day notice by either Richland County Health Department or Fargo Cass Public Health.



Public Health
Prevent. Promote. Protect.
Richland County Health Department

Richland County Health Department

413 3rd Avenue North
Wahpeton, ND 58075
Telephone (701) 642-7735 Fax (701) 642-7746
www.richlandcountyhealth.org

INDEMNIFICATION:

The Richland County Health Department agrees to indemnify, hold harmless and defend Fargo Cass Public Health, its agents, servants and employees from and against all claims, actions, losses, costs and expense (including attorney's fees and litigation costs), judgments, settlement payments, and, whether or not reduced to final judgment, all liabilities, damages or fines paid, incurred or suffered by any third parties in connection with loss of life, personal injury and/or damage to property arising from, directly or indirectly, wholly or in part, (i) the actions of any nurse practitioner in the course of providing services outlined in this agreement or (ii) any violation of any law, ordinance, order, rule or regulation of governmental authorities having jurisdiction over Fargo Cass Public Health.

IN WITNESS THEREOF, the parties have executed this Agreement of the dates set out below:

11/14/2023

Date

Kayla Carlson, MPH

Kayla Carlson,
Health Services Director
Richland County Health Department
Wahpeton, ND

11/14/2023

Date

Desi Fleming

Desi Fleming
Director of Public Health
Fargo Cass Public Health
Fargo, ND

Date


Timothy J. Mahoney
Mayor, City of Fargo



25

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: NOVEMBER 7, 2023

**RE: AGREEMENT BETWEEN NORTH DAKOTA DEPARTMENT OF
HEALTH AND HUMAN SERVICES FOR SURGE
STAFFING/SUPPLIES.
EXPIRES: 06/30/2025**

The attached agreement is for North Dakota Department of Health and Human Services to allow Fargo Cass Public Health to use state personnel, equipment, medical supplies, or other resources as deemed reasonable and appropriate by the State of North Dakota.

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

Suggested Motion:

Move to approve the agreement North Dakota Department of Health and Human Services.

DF/LS
Enclosure

CONTRACT

1. PARTIES

The parties to this contract (Contract) are the state of North Dakota, acting through its Department of Health and Human Services (STATE), and Fargo Cass Public Health (FACILITY);

2. SCOPE OF WORK

The FACILITY is licensed and engaged in providing health care services. STATE operates the State Public Health system and is assisting in this public health response to provide additional staffing, equipment, medical supplies, or other resources as needed by FACILITY.

Under the terms of this Contract, STATE personnel, equipment, medical supplies, or other resources may be used in the FACILITY to address public health needs as determined by reasonable and appropriate by STATE, considering the availability and appropriateness of the requested medical supplies, equipment, and personnel.

The parties acknowledge and agree to the following:

1. While performing clinical care at the FACILITY, STATE personnel will be under the clinical control and supervision of the FACILITY. STATE personnel will also be subject to, and required to abide by, all facility rules and applicable regulations, except as specifically provided in this Contract. The parties agree that:
 - a. A STATE health care professional who has a current license in North Dakota is authorized to carry out authorized STATE duties in any location, without the need for another license. The STATE personnel carrying out activities under this MOA are currently licensed and professionally competent to carry out authorized duties.
 - b. All STATE personnel carrying out activities under this Contract have had their professional credentials validated by STATE and will, upon request, provide specific information to the FACILITY regarding such credentials.
 - c. The FACILITY will provide clinical privileges, and/or other appropriate authority, for STATE health care professionals consistent with standards generally used by the FACILITY. Procedures will be expedited to the extent feasible.
 - d. The FACILITY reserves the right to refuse acceptance of any STATE personnel or to bar any STATE personnel if it is determined that further participation would not be in the best interest of the FACILITY.
 - e. FACILITY personnel will neither engage in activities nor act in any manner creating the appearance that they are acting as agents, or on behalf of, any facility of the North Dakota Department of Health and Human Services or the State of North Dakota.
2. While working in the FACILITY, and while acting pursuant to the terms of this agreement, STATE personnel remain personnel of the North Dakota Department of Health and Human Services performing duties within the course and scope of their employment.
3. In addition to other provisions in this agreement, the FACILITY specifically agrees to:

- a. Make available to STATE personnel the clinical and related facilities needed for appropriate patient care under this Contract.
- b. Provide appropriate office, storage, dressing, or locker room space, if available, and all other administrative privileges typically enjoyed by the FACILITY's professional staff.
- c. Provide Personnel Protective Equipment (PPE) to STATE personnel necessary to perform the duties pursuant to this Contract.
- d. Ensure STATE personnel comply with all applicable FACILITY rules and instructions.

4. In addition to other provisions of this agreement, STATE specifically agrees to:

- a. Be responsible for health examinations and such other medical examinations and protective measures necessary for its personnel.
- b. Prohibit STATE personnel from publishing any materials developed as a result of activities under this Contract that have not been approved for release, in writing, by STATE and the FACILITY.

5. It is understood that STATE personnel shall abide by the FACILITY's HIPAA policies. It is understood that STATE personnel are considered part of the FACILITY's workforce for purposes of HIPAA compliance and are not business associates under HIPAA; therefore, no business associate agreement between the parties is necessary.

3. COMPENSATION-PAYMENTS

It is understood that the FACILITY will not generate any bills to patients for provider services rendered by STATE personnel, and STATE shall not charge FACILITY for personnel services, medical equipment, or other materials provided under this Contract. Nothing in this paragraph limits the FACILITY's ability to generate appropriate bills to patients for associated costs, such as supplies, overhead, and equipment, or the services of non-NDDHHS personnel involved in the provision of care to the same patient. All proceeds from these bills shall become the exclusive property of the FACILITY, and as applicable, NDDHHS shall have no right or claim to such proceeds.

FACILITY shall replace consumed disposable medical supplies obtained from the state medical cache, unless said supplies were provided through federal funding or resources.

4. TERM OF CONTRACT

This Contract term (Term or Initial Term) begins on August 1, 2023, or its effective date, and ends on June 30, 2025.

a. **No Automatic Renewal**

This Contract will not automatically renew.

b. Renewal Option

STATE may renew this Contract upon satisfactory completion of the Initial Term. STATE reserves the right to execute up to two options to renew this Contract under the same terms and conditions for a period of 24 months each (Renewal Term).

c. Extension Option

STATE reserves the right to extend this Contract for an additional period, not to exceed three months, beyond the current termination date of this Contract.

5. TERMINATION

a. Termination by State

STATE may, at any time, terminate this Contract, in whole or in part, without cause, upon 30 days' prior written notice.

b. Termination by Mutual Agreement

This Contract may be terminated by mutual consent of both Parties executed in writing.

c. Early Termination in the Public Interest

STATE is entering this Contract for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly, Agencies and Courts. If this Contract ceases to further the public policy of the State of North Dakota, STATE, in its sole discretion, by written notice to FACILITY, may terminate this Contract in whole or in part.

d. Termination for Lack of Funding or Authority

STATE by written notice to FACILITY, may terminate the whole or any part of this Contract under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for purchase of the services or goods in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services or goods are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Contract, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Contract under this subsection is without prejudice to any obligations or liabilities of either Party already accrued prior to termination.

e. Termination for Cause

STATE may terminate this Contract effective upon delivery of written notice to FACILITY, or any later date stated in the notice:

- 1) If FACILITY fails to provide services or goods required by this Contract within the time specified or any extension agreed to in writing by STATE; or
- 2) If FACILITY fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms.

The rights and remedies of STATE provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

6. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, pandemic (excluding COVID-19), acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected Party, the event is beyond the Party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default. If FACILITY is the affected Party and does not resume performance within fifteen (15) days or another period agreed between the Parties, then STATE may seek all available remedies, up to and including termination of this Contract pursuant to its Termination Section, and STATE shall be entitled to a pro-rata refund of any amounts paid for which the full value has not been realized, including amounts paid toward software subscriptions, maintenance, or licenses.

7. LIABILITY & INDEMNIFICATION

1. With respect to handling of potential tort claims arising from activities under this Contract, the parties agree that:

a. FACILITY agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (STATE), from and against claims that arise from the assignment of employees to the facility and any actions of employees within the facility but not claims that arise independent of or outside the facility. The legal defense provided by FACILITY to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. FACILITY also agrees to reimburse STATE for all costs, expenses and attorneys' fees incurred if STATE prevails in an action against FACILITY in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

b. Any notification of an actual or potential claim or suit against a party to this Contract, which names one or more personnel of another party, will be reported to all parties. All parties

will cooperate fully in the investigation of such complaints, to include making available medical records, medical material including x-rays, slides, tissue, and witness statements, and the names of potential witnesses; to the extent permitted by law. STATE will facilitate the involvement of the North Dakota Attorney General’s Office, as appropriate, to represent the interests of the STATE and its employees arising from such claims or litigation.

c. FACILITY shall not seek indemnification from the STATE personnel, for any settlement, verdict, or judgment, resulting from any claim or lawsuit, arising out of performance of STATE personnel, while acting under the supervision of the FACILITY.

8. INSURANCE

While the STATE personnel is under the clinical control and supervision of the FACILITY pursuant to this Contract, FACILITY shall carry and maintain liability insurance, including malpractice and errors and omissions insurance, on the STATE personnel as it would its own health care professionals of similar job title and licensure consistent with standards generally used by the FACILITY.

9. NOTICE

All notices or other communications required under this Contract must be given by email, registered or certified mail and are complete on the date postmarked when addressed to the Parties at the following addresses:

STATE	FACILITY
Name Dirk Wilke	Name Desi Fleming
Title Executive Director, PH Division	Title Director of Public Health
Address 600 E Boulevard Avenue	Address 1240 25 th St S
City, State, Zip Bismarck, ND 58505	City, State, Zip Fargo ND 58103
Email ddwilke@nd.gov	Email DFleming@FargoND.gov

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

10. CONFIDENTIALITY

FACILITY shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from FACILITY that FACILITY has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. CH. 44-04. The duty of STATE and FACILITY to

maintain confidentiality of information under this section continues beyond the Term of this Contract.

11. COMPLIANCE WITH PUBLIC RECORDS LAWS

Under the North Dakota public records law and subject to the Confidentiality clause of this Contract, certain records may be open to the public upon request.

Public records may include: (a) records STATE receives from FACILITY under this Contract, (b) records obtained by either Party under this Contract, and (c) records generated by either Party under this Contract.

FACILITY agrees to contact STATE immediately upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to such request.

12. INDEPENDENT ENTITY

FACILITY is an independent entity under this Contract and is not a STATE employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. FACILITY retains sole and absolute discretion in the manner and means of carrying out FACILITY's activities and responsibilities under this Contract, except to the extent specified in this Contract.

13. SPOILIATION – PRESERVATION OF EVIDENCE

FACILITY shall promptly notify STATE of all potential claims that arise or result from this Contract. FACILITY shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect such evidence, including the scene of an accident.

14. MERGER AND MODIFICATION, CONFLICT IN DOCUMENTS

This Contract, including the following documents, constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified within this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both Parties.

15. SEVERABILITY

If any term of this Contract is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this Contract did not contain that term.

16. APPLICABLE LAW AND VENUE

This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each Party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

17. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

By entering this Contract, STATE does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The Parties may enforce the rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

18. ATTORNEY FEES

In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing Party, FACILITY shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE's reasonable attorney fees and costs in connection with the lawsuit.

19. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

FACILITY agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.)

FACILITY agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums.

FACILITY shall have and keep current all licenses and permits required by law during the Term of this Contract all licenses and permits required by law.

FACILITY's failure to comply with this section may be deemed a material breach by FACILITY entitling STATE to terminate in accordance with the Termination for Cause section of this Contract.

20. STATE AUDIT


Pursuant to N.D.C.C. § 54-10-19, all records, regardless of physical form, and the accounting practices and procedures of FACILITY relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. FACILITY shall maintain these records for at least three (3) years following completion of this Contract and be able to provide them upon reasonable notice. STATE, State Auditor, or Auditor's designee shall provide reasonable notice to FACILITY prior to conducting examination.

21. COUNTERPARTS

This Contract may be executed in multiple, identical counterparts, each of which is be deemed an original, and all of which taken together shall constitute one and the same contract.

22. EFFECTIVENESS OF CONTRACT

This Contract is not effective until fully executed by both Parties. If no start date is specified in the Term of Contract, the most recent date of the signatures of the Parties shall be deemed the Effective Date.


FACILITY	STATE OF NORTH DAKOTA
Fargo Cass Public Health, City of Fargo	Acting through its Department of Health and Human Services, Public Health Division
BY: 	BY:
Desi Fleming	Dirk D. Wilke
Director of Public Health	Executive Director Public Health Division
Date: 11/07/2023	Date:
City of Fargo	
BY:	
Timothy J. Mahoney	
Mayor, City of Fargo	
Date:	



26

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: NOVEMBER 21, 2023

**RE: NOTICE OF GRANT AWARD WITH NORTH DAKOTA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
BEHAVIORAL HEALTH DIVISION FOR ADDRESSING OPIOID
STIMULANT MISUSE AND USE DISORDERS THROUGH
PREVENTION.
NO: 810-13644
FUNDS: \$277,740
EXPIRES: 09/29/2024**

Notice of grant award with North Dakota Department of Health and Human Services Behavioral Health Division for addressing opioid stimulant misuse and use disorders through prevention. There will be a budget adjustment.

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

Suggested Motion:

Move to approve the agreement North Dakota Department of Health and Human Services Behavioral Health Division.

DF/LS
Enclosure

PURCHASE OF SERVICE AGREEMENT

The state of North Dakota, acting through its North Dakota Department of Health and Human Services, Behavioral Health Division (State), has determined the services identified in the Scope of Service paragraph below should be purchased.

City of Fargo (Vendor), 1240 25th St S, Fargo, ND 58103, proposes to provide those services.

State and Vendor therefore enter into the following:

1. TERM OF THE AGREEMENT

This Agreement runs from October 1, 2023, through September 29, 2024. This Agreement will not automatically renew.

2. SCOPE OF SERVICE

Vendor shall implement evidence-based strategies addressing opioid or stimulant misuse and use disorders through prevention, harm reduction, treatment, and recovery as identified in the submitted "Invitation to Apply", which is made a part of this Agreement as Attachment A. Vendor shall provide services in a manner that are recovery-oriented, trauma-informed, and person-centered.

Vendor shall implement the following strategies:

- a. Increase access to Naloxone through Naloxone distribution with a focus on reaching individuals at high risk of experiencing an overdose.
- b. Reduce opioid overdose related deaths by providing training on the recognition of opioid overdose and appropriate use of Naloxone.
- c. Reduce stigma surrounding Opioid Use Disorder (OUD) and the use of Naloxone through the state opioid media campaign (Opioids: Fill with Care).
- d. Increase access to Naloxone by increasing awareness of where Naloxone can be obtained.

Vendor shall ensure any organization receiving funding through the State Opioid Response (SOR) perform HIV and viral hepatitis testing as clinically indicated and referral to appropriate treatment provided to those testing positive. Vaccination for hepatitis A and B should be provided or referral made for same as clinically indicated.

Vendor shall utilize third party and other revenue realized from the provision of services to the extent possible and use Substance Abuse and Mental Health Services Administration (SAMHSA) funds only for services to individuals who are not covered by public or commercial health insurance programs, individuals for whom coverage has been formally determined to be unaffordable, or for services that are not sufficiently covered by an individual's health insurance plan.

Vendor shall ensure no duplication of funding for activities being implemented. This includes, but is not limited to, the use of local and state opioid settlement funds, the use of state funds, and other funded efforts.

Vendor shall make any necessary project modifications as deemed necessary by State.

Vendor shall coordinate with all State-funded SOR sub-recipients to support collective efforts meeting the goals and objectives of the SOR program.

Vendor shall coordinate with existing community-based organizations and programs to maximize benefit, avoid duplication, and leverage, redirect, and realign resources.

Vendor shall collaborate with State-contracted SOR evaluator to ensure all state and federal required data is collected, including the designated measures under the Government Performance and Results (GPRA) Modernization Act of 2010 for approved treatment and recovery activities (pre, follow-up, and post-activities).

Vendor shall comply with reporting deadlines as required by SAMHSA.

Vendor shall submit monthly reports to State by the 10th of each month (unless otherwise directed based on SAMHSA requirements), which may include project performance, implementation status, achievement and barriers, any changes to local strategy implementation, process and outcome measures, and other measures as identified by SAMHSA or State.

Vendor shall engage in ongoing communication with State and project evaluator for monitoring of local strategy implementation and project analysis.

By September 15, 2024, Vendor shall complete a final project summary report to include the following information:

- a. Summary of progress made for each implemented strategy, including success stories.
- b. Identified barriers to implementation for each strategy and efforts made to address them.

Vendor shall participate in training and technical assistance provided by State.

Vendor shall follow all SAMHSA standard funding restrictions.

Vendor shall ensure all communication (i.e. media, partnership meetings, stakeholders, etc.) about efforts related to this project includes the following language:

This effort is associated with North Dakota's State Opioid Response Grant (SOR), funded by the federal Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA), administered through the North Dakota Department of Health and Human Services, Behavioral Health Division.

3. COMPENSATION

State, upon receipt and approval of SFN 1763 Request for Reimbursement, monthly report, and required Agreement deliverables met to date, shall pay Vendor monthly payments of \$23,145. Total payment under this Agreement may not exceed \$277,740. Vendor shall submit its request for reimbursement to State by the 10th of each month. Vendor shall submit its final payment request to State no later than 10 days after the expiration or termination of this Agreement, or upon request by State.

4. TERMINATION

a. Termination by Mutual Agreement or Notice

This Agreement may be terminated at any time by mutual consent of both parties executed in writing, or upon 30-days' written notice by either party, with or without cause.

b. Early Termination in the Public Interest

State is entering into this Agreement for the purpose of carrying out the public policy of the state of North Dakota, as determined by its Governor, Legislative Assembly, and Courts. If this Agreement ceases to further the public policy of the state of North Dakota, State, in its sole discretion, by written notice to Vendor, may terminate this Agreement in whole or in part.

c. Termination for Lack of Funding or Authority

State may terminate the whole or any part of this Agreement, effective upon delivery of written notice to Vendor or on any later date stated in the notice, under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

d. Termination for Cause

State may terminate this Agreement effective upon delivery of written notice to Vendor, or any later date stated in the notice:

- 1) If Vendor fails to provide services required by this Agreement within the time specified or any extension agreed to by State; or
- 2) If Vendor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of State provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

5. NONPERFORMANCE

Failure by Vendor to perform the terms of this Agreement constitutes a breach of contract and will result in the termination of the Agreement. If a breach by Vendor renders the Agreement impossible of performance by Vendor and is caused by circumstances beyond the control of Vendor, and through no fault of Vendor, the Agreement will be terminated and State may set off, against any liability or obligations owed to Vendor under this Agreement or otherwise, any amounts paid for individual items of work which are incomplete at the time of the breach.

6. FORCE MAJEURE

Neither party shall be held responsible for delay or default caused by fire, flood, riot, terrorism, pandemics, acts of God, or war if the event is beyond the party's reasonable control, and the affected party gives notice to the other party immediately upon occurrence of the event that caused, or is reasonably expected to cause, the delay or default.

7. VENDOR'S UNDERSTANDING OF TERM OF FUNDING

Vendor understands that this Agreement is a one-time agreement, and acknowledges that it has received no assurances that this Agreement may be extended beyond its expiration date.

8. VENDOR ASSURANCES

This Agreement will be construed according to the laws of the state of North Dakota. In connection with furnishing supplies or performing work under this Agreement, persons who contract with or receive funds to provide services to State are obligated and agree to comply with all local, state, and federal laws, regulations, and executive orders related to the performance of this Agreement, including the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the North Dakota Human Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1970, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Drug-Free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, the Pro-Children Act of 1994, Title IX of the Education Amendments of 1972, and Section 1557 of the Affordable Care Act.

By signing this Agreement Vendor certifies that neither Vendor, Subcontractor, nor their principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with the state or federal government by any department or agency of the state or federal government.

Vendor must be an approved vendor with the Office of Management and Budget within the state of North Dakota as required by North Dakota Century Code § 54-44.4-09.

9. AUTHORITY TO CONTRACT

Vendor may subcontract with qualified vendors of services, provided that any subcontract acknowledges the binding nature of this Agreement, and incorporates this Agreement, together with its attachments, as appropriate. Vendor is solely responsible for the performance of any subcontractor. Vendor may not contract for or on behalf of or incur obligations on behalf of State. Vendor may not assign or otherwise transfer or delegate any right or duty without State's express written consent.

10. INDEPENDENT ENTITY

Vendor is an independent entity under this Agreement. Vendor, its employees, agents, or representatives are not employees of State for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. No part of this Agreement may be construed to represent the creation of an employer/employee relationship between State and Vendor. Vendor retains sole and absolute discretion in the manner and means of carrying out Vendor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

11. INDEMNITY

State and Vendor each agree to assume their own liability for any and all claims of any nature, including all costs, expenses, and attorneys' fees which may in any manner result from or arise out of this Agreement.

12. INSURANCE

a. Vendor shall secure and keep in force during the term of this Agreement, from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.
- 3) Workers' compensation coverage meeting all statutory requirements.

b. The insurance coverages listed above must meet the following additional requirements:

- 1) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 2) Vendor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this Agreement.
- 3) Failure to provide insurance as required in this Agreement is a material breach of contract entitling State to terminate this Agreement immediately.
- 4) Vendor shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

13. NOTICE

Any notice or other communication required under this Agreement must be given by registered or certified mail and is complete on the date mailed when addressed to the parties at the following addresses:

City of Fargo
1240 25th St S
Fargo, ND 58103

OR

ND Department of Health and
Human Services
Behavioral Health Division
600 E Boulevard Ave, Dept. 325
Bismarck, ND 58505-0250

Notice provided under this provision does not meet the notice requirements for monetary claims against State found at North Dakota Century Code § 32-12.2-04.

14. INTEGRATION, MODIFICATION, AND CONFLICT IN DOCUMENTS

This Agreement constitutes the entire Agreement between Vendor and State. There are no understandings, agreements, or representations, oral or written, not specified within this Agreement. No alteration, amendment, or modification of this Agreement is effective unless it is reduced to writing, signed by the parties, and attached to the Agreement.

All terms and conditions contained in any end user agreements (e.g., automated click-throughs, shrink wrap, or browse wrap) are specifically excluded and null and void, and shall not alter the terms of this Agreement. Clicking shall not represent acknowledgement or agreement to any terms or conditions contained in those agreements.

If any inconsistency exists between this Agreement and other provisions of collateral contractual agreements, which are made a part of this Agreement by reference or otherwise, the provisions of this Agreement control.

15. SEVERABILITY

If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement does not contain the illegal or unenforceable term.

16. APPLICABLE LAW AND VENUE

This Agreement is governed by and construed according to the laws of the state of North Dakota. Any action to enforce this Agreement must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

17. ASSIGNMENT

Vendor may not assign this Agreement without State's express written consent, provided, however, that Vendor may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Agreement, whether by merger, reorganization, operation of law, or otherwise. Should the assignee be a business or entity with whom State is prohibited from conducting business, State shall have the right to terminate without cause. This Agreement is equally binding on the respective parties and their successors and assigns.

18. SPOILIATION – PRESERVATION OF EVIDENCE

Vendor shall promptly notify State of all potential claims that arise or result from this Agreement. Vendor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to State the opportunity to review and inspect the evidence, including the scene of an accident.

19. WORKS FOR HIRE

Vendor acknowledges that all work(s) under this Agreement is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to State all rights and interests Vendor may have in the work(s) it prepares under this Agreement, including any right to derivative use of the work(s). All software and related materials developed by Vendor in performance of this Agreement for State shall be the sole property of State, and Vendor hereby assigns and transfers all its right, title, and interest therein to State. Vendor shall execute all necessary documents to enable State to protect State's intellectual property rights under this section.

20. WORK PRODUCT, EQUIPMENT, AND MATERIALS

All work product, equipment, and materials created for State or purchased by State under this Agreement belong to State and must be delivered to State at State's request upon expiration or termination of this Agreement.

21. CONFIDENTIAL INFORMATION

Vendor shall not use or disclose any information it receives from State under this Agreement that State has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by State. State shall not disclose any information it receives from Vendor that Vendor has previously identified as confidential and that State determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law found in North Dakota Century Code chapter 44-04. The duty of State and Vendor to maintain confidentiality of information under this section continues beyond the term of this Agreement, including any extensions or renewals.

22. COMPLIANCE WITH PUBLIC RECORDS LAWS

Vendor understands that, in accordance with this Agreement's Confidential Information section, State must disclose to the public upon request any records it receives from Vendor. Vendor further understands that any records obtained or generated by Vendor under this Agreement, except for records that are confidential under this Agreement, may, under certain circumstances, be open to the public upon request under certain circumstances under the North Dakota open records law. Vendor agrees to contact State immediately upon receiving a request for information under the open records law and to comply with State's instructions on how to respond to the request.

23. ATTORNEY FEES

If a lawsuit is filed by State to obtain performance due under this Agreement, and State is the prevailing party, Vendor shall pay State's reasonable attorney fees and costs in connection with the lawsuit, except when prohibited by North Dakota Century Code § 28-26-04.

24. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

State does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. State does not waive any right to a jury trial.

25. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

Vendor shall comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.)

Vendor shall timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation, and workers' compensation premiums. Vendor also shall have and keep current at all times during the term of this Agreement all licenses and permits required by law.

Vendor is prohibited from boycotting Israel for the duration of this Agreement. (See N.D.C.C § 54-44.4-15.) Vendor represents that it does not and will not engage in a boycotting Israel during the term of this Agreement. If State receives evidence that Vendor boycotts Israel, State shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if Vendor has fewer than ten full-time employees.

Vendor's failure to comply with this section may be deemed a material breach by Vendor entitling State to terminate in accordance with the Termination for Cause section of this Agreement.

26. ACCESS TO BOOKS AND RECORDS

Vendor shall provide State, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Vendor, which are pertinent to the services provided under this Agreement, for the purpose of making an audit or examination, or for making excerpts and transcripts. All records, regardless of physical form, and the accounting practices and procedures of Vendor relevant to this Agreement are subject to examination by the North Dakota State Auditor, the Auditor's designee, or federal auditors. Vendor shall maintain all of these records for at least three years following completion of this Agreement and be able to provide them at any reasonable time. State, State Auditor, or Auditor's designee shall provide reasonable notice.

CITY OF FARGO

By _____
Timothy J. Mahoney
Its Mayor, City of Fargo

By Desi Fleming 11/21/2023
Desi Fleming DATE

Its Director of Public Health

DATE _____

45-6002069
Vendor's Federal Taxpayer Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HEALTH AND
HUMAN SERVICES

By _____ DATE
SARA STOLT
INTERIM COMMISSIONER

By _____ DATE
KYLE J. NELSON
CONTRACT OFFICER
Approved for form and content



27

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING *DF*
DIRECTOR OF PUBLIC HEALTH

DATE: NOVEMBER 21, 2023

**RE: NOTICE OF GRANT AWARD WITH NORTH DAKOTA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
BEHAVIORAL HEALTH DIVISION
NO: 810-13606
FUNDS: \$187,500
EXPIRES: 09/30/2026**

Notice of grant award with North Dakota Department of Health and Human Services Behavioral Health Division for collaborating with existing substance abuse prevention organizations and programs in order to maximize benefit. There will be a budget adjustment.

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

Suggested Motion:

Move to approve the agreement North Dakota Department of Health and Human Services Behavioral Health Division.

DF/LS
Enclosure

PURCHASE OF SERVICE AGREEMENT

The state of North Dakota, acting through its North Dakota Department of Health and Human Services, Behavioral Health Division (State), has determined the services identified in the Scope of Service paragraph below should be purchased.

City of Fargo (Vendor), 1240 25th St S, Fargo, ND 58103, proposes to provide those services.

State and Vendor therefore enter into the following:

1. TERM OF THE AGREEMENT

This Agreement runs from October 1, 2023, through September 30, 2026. This Agreement will not automatically renew.

2. SCOPE OF SERVICE

Vendor shall submit monthly reports on or before the 10th of each month to State using the designated reporting method provided by State. Vendor shall collaborate with existing substance abuse prevention organizations and programs in order to maximize benefit, avoid duplication, and leverage, redirect, and realign resources. Vendor shall participate in required Training and Technical Assistance (T/TA) opportunities provided by State, to include trainings and onsite TA visits. Vendor shall participate in quarterly meetings with the requirement of presenting accomplishments and activities. Vendor shall ensure at least one individual has completed the Substance Abuse Prevention Skills Training (SAPST), a training offered by State, within the last five years. Vendor shall not use funds for substance abuse treatment or recovery services and shall follow SAMHSA funding restrictions, provided by State.

ASSESSMENT PHASE (October 1, 2023 – November 30, 2023): Vendor shall develop and submit a written assessment and plan to State for approval by November 30, 2023, to include: review community data available describing substance use and consequences, following the state-level data priorities; underage drinking, adult binge drinking, or other, as identified by data. Identify, review, and assess data related to intervening variables and local conditions. This data will serve as a baseline assessment and be re-assessed during the Evaluation Phase. Vendor shall identify a community coalition or workgroup to serve as the local advisory/work group to the community's prevention work.

PLANNING PHASE (December 1, 2023 – December 31, 2023): Vendor shall develop and submit a written strategic plan, to include a logic model, to State for approval by December 31, 2023, to include: identify one primary strategy linked to the local condition, and multiple activities (following CADCA's Seven Strategies for Community Change) to work towards an environmental change. Vendor shall utilize the Activity Implementation Guide, which is made a part of this Agreement as Attachment A, as guidance.

IMPLEMENTATION PHASE (January 1, 2024 – July 31, 2026): Vendor shall implement activities identified in the Assessment and Planning Phases. Vendor shall implement evidence-based activities and strategies following the guidelines in Attachment A. Vendor shall collect process measures to monitor implementation and modify strategy and activity implementation, as needed. Vendor shall implement a minimum of three activities monthly as outlined in the Parents Lead Community Toolkit, which is made a part of this Agreement as Attachment B, to support general prevention efforts and increase readiness.

EVALUATION PHASE (August 1, 2026 – September 30, 2026): Vendor shall complete an evaluation of the local condition assessed during the Assessment Phase and submit to State by September 30, 2026, to include the following: detailed summary of progress made for the implemented strategy utilizing pre- and post- assessment data collected, clear summary of process measures (total people reached, number of resources disseminated, etc.), outcome measures based on identified priority areas, identification of communication points to share with local stakeholders, identified barriers to implementation for activities and possible solutions, and plans for sustaining outcomes.

3. COMPENSATION

State, upon receipt and approval of SFN 1763 Request for Reimbursement, monthly report, and required Agreement deliverables met to date, shall pay Vendor monthly payments. During the Assessment and Planning phases, no more than \$5,000 will be reimbursed per month for completion of the Assessment and Planning-specific activities, and no more than \$3,000 will be reimbursed per month for completion of previously sustained prevention activities in Attachment A. No more than \$8,000 will be reimbursed per month during the Implementation Phase based upon the completion of activities. During the Evaluation Phase, no more than \$5,000 will be reimbursed per month for completion of the Evaluation activities, and no more than \$3,000 will be reimbursed per month for completion of continued activities in Attachment A. Total payment under this Agreement may not exceed \$187,500. Vendor shall submit its request for reimbursement to State monthly. Vendor shall submit its final payment request to State no later than 30 days after the expiration or termination of this Agreement.

4. TERMINATION

a. Termination by Mutual Agreement or Notice

This Agreement may be terminated at any time by mutual consent of both parties executed in writing, or upon 30-days' written notice by either party, with or without cause.

b. Early Termination in the Public Interest

State is entering into this Agreement for the purpose of carrying out the public policy of the state of North Dakota, as determined by its Governor, Legislative Assembly, and Courts. If this Agreement ceases to further the public policy of the state of North Dakota, State, in its sole discretion, by written notice to Vendor, may terminate this Agreement in whole or in part.

c. Termination for Lack of Funding or Authority

State may terminate the whole or any part of this Agreement, effective upon delivery of written notice to Vendor or on any later date stated in the notice, under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

d. Termination for Cause

State may terminate this Agreement effective upon delivery of written notice to Vendor, or any later date stated in the notice:

- 1) If Vendor fails to provide services required by this Agreement within the time specified or any extension agreed to by State; or
- 2) If Vendor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of State provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

5. NONPERFORMANCE

Failure by Vendor to perform the terms of this Agreement constitutes a breach of contract and will result in the termination of the Agreement. If a breach by Vendor renders the Agreement impossible of performance by Vendor and is caused by circumstances beyond the control of Vendor, and through no fault of Vendor, the Agreement will be terminated and State may set off, against any liability or obligations owed to Vendor under this Agreement or otherwise, any amounts paid for individual items of work which are incomplete at the time of the breach.

6. FORCE MAJEURE

Neither party shall be held responsible for delay or default caused by fire, flood, riot, terrorism, pandemics, acts of God, or war if the event is beyond the party's reasonable control, and the affected party gives notice to the other party immediately upon occurrence of the event that caused, or is reasonably expected to cause, the delay or default.

7. VENDOR'S UNDERSTANDING OF TERM OF FUNDING

Vendor understands that this Agreement is a one-time agreement, and acknowledges that it has received no assurances that this Agreement may be extended beyond its expiration date.

8. VENDOR ASSURANCES

This Agreement will be construed according to the laws of the state of North Dakota. In connection with furnishing supplies or performing work under this Agreement, persons who contract with or receive funds to provide services to State are obligated and agree to comply with all local, state, and federal laws, regulations, and executive orders related to the performance of this Agreement, including the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the North Dakota Human Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1970, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Drug-Free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, the Pro-Children Act of 1994, Title IX of the Education Amendments of 1972, and Section 1557 of the Affordable Care Act.

By signing this Agreement Vendor certifies that neither Vendor, Subcontractor, nor their principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with the state or federal government by any department or agency of the state or federal government.

Vendor must be an approved vendor with the Office of Management and Budget within the state of North Dakota as required by North Dakota Century Code § 54-44.4-09.

9. AUTHORITY TO CONTRACT

Vendor may subcontract with qualified vendors of services, provided that any subcontract acknowledges the binding nature of this Agreement, and incorporates this Agreement, together with its attachments, as appropriate. Vendor is solely responsible for the performance of any subcontractor. Vendor may not contract for or on behalf of or incur obligations on behalf of State. Vendor may not assign or otherwise transfer or delegate any right or duty without State's express written consent.

10. INDEPENDENT ENTITY

Vendor is an independent entity under this Agreement. Vendor, its employees, agents, or representatives are not employees of State for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. No part of this Agreement may be construed to represent the creation of an employer/employee relationship between State and Vendor. Vendor retains sole and absolute discretion in the manner and means of carrying out Vendor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

11. INDEMNITY

State and Vendor each agree to assume their own liability for any and all claims of any nature, including all costs, expenses, and attorneys' fees which may in any manner result from or arise out of this Agreement.

12. INSURANCE

a. Vendor shall secure and keep in force during the term of this Agreement, from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.
- 3) Workers' compensation coverage meeting all statutory requirements.

b. The insurance coverages listed above must meet the following additional requirements:

- 1) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 2) Vendor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this Agreement.
- 3) Failure to provide insurance as required in this Agreement is a material breach of contract entitling State to terminate this Agreement immediately.
- 4) Vendor shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

13. NOTICE

Any notice or other communication required under this Agreement must be given by registered or certified mail and is complete on the date mailed when addressed to the parties at the following addresses:

City of Fargo
1240 25th St S
Fargo, ND 58103

OR

ND Department of Health and
Human Services
Behavioral Health Division
600 E Boulevard Ave, Dept. 325
Bismarck, ND 58505-0250

Notice provided under this provision does not meet the notice requirements for monetary claims against State found at North Dakota Century Code § 32-12.2-04.

14. INTEGRATION, MODIFICATION, AND CONFLICT IN DOCUMENTS

This Agreement constitutes the entire Agreement between Vendor and State. There are no understandings, agreements, or representations, oral or written, not specified within this Agreement. No alteration, amendment, or modification of this Agreement is effective unless it is reduced to writing, signed by the parties, and attached to the Agreement.

All terms and conditions contained in any end user agreements (e.g., automated click-throughs, shrink wrap, or browse wrap) are specifically excluded and null and void, and shall not alter the terms of this Agreement. Clicking shall not represent acknowledgement or agreement to any terms or conditions contained in those agreements.

If any inconsistency exists between this Agreement and other provisions of collateral contractual agreements, which are made a part of this Agreement by reference or otherwise, the provisions of this Agreement control.

15. SEVERABILITY

If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement does not contain the illegal or unenforceable term.

16. APPLICABLE LAW AND VENUE

This Agreement is governed by and construed according to the laws of the state of North Dakota. Any action to enforce this Agreement must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

17. ASSIGNMENT

Vendor may not assign this Agreement without State's express written consent, provided, however, that Vendor may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Agreement, whether by merger, reorganization, operation of law, or otherwise. Should the assignee be a business or entity with whom State is prohibited from conducting business, State shall have the right to terminate without cause. This Agreement is equally binding on the respective parties and their successors and assigns.

18. SPOLIATION – PRESERVATION OF EVIDENCE

Vendor shall promptly notify State of all potential claims that arise or result from this Agreement. Vendor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to State the opportunity to review and inspect the evidence, including the scene of an accident.

19. WORKS FOR HIRE

Vendor acknowledges that all work(s) under this Agreement is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to State all rights and interests Vendor may have in the work(s) it prepares under this Agreement, including any right to derivative use of the work(s). All software and related materials developed by Vendor in performance of this Agreement for State shall be the sole property of State, and Vendor hereby assigns and transfers all its right, title, and interest therein to State. Vendor shall execute all necessary documents to enable State to protect State's intellectual property rights under this section.

20. WORK PRODUCT, EQUIPMENT, AND MATERIALS

All work product, equipment, and materials created for State or purchased by State under this Agreement belong to State and must be delivered to State at State's request upon expiration or termination of this Agreement.

21. CONFIDENTIAL INFORMATION

Vendor shall not use or disclose any information it receives from State under this Agreement that State has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by State. State shall not disclose any information it receives from Vendor that Vendor has previously identified as confidential and that State determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law found in North Dakota Century Code chapter 44-04. The duty of State and Vendor to maintain confidentiality of information under this section continues beyond the term of this Agreement, including any extensions or renewals.

22. COMPLIANCE WITH PUBLIC RECORDS LAWS

Vendor understands that, in accordance with this Agreement's Confidential Information section, State must disclose to the public upon request any records it receives from Vendor. Vendor further understands that any records obtained or generated by Vendor under this Agreement, except for records that are confidential under this Agreement, may, under certain circumstances, be open to the public upon request under certain circumstances under the North Dakota open records law. Vendor agrees to contact State immediately upon receiving a request for information under the open records law and to comply with State's instructions on how to respond to the request.

23. ATTORNEY FEES

If a lawsuit is filed by State to obtain performance due under this Agreement, and State is the prevailing party, Vendor shall pay State's reasonable attorney fees and costs in connection with the lawsuit, except when prohibited by North Dakota Century Code § 28-26-04.

24. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

State does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. State does not waive any right to a jury trial.

25. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

Vendor shall comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.)

Vendor shall timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation, and workers' compensation premiums. Vendor also shall have and keep current at all times during the term of this Agreement all licenses and permits required by law.

Vendor is prohibited from boycotting Israel for the duration of this Agreement. (See N.D.C.C § 54-44.4-15.) Vendor represents that it does not and will not engage in a boycotting Israel during the term of this Agreement. If State receives evidence that Vendor boycotts Israel, State shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if Vendor has fewer than ten full-time employees.

Vendor's failure to comply with this section may be deemed a material breach by Vendor entitling State to terminate in accordance with the Termination for Cause section of this Agreement.

26. ACCESS TO BOOKS AND RECORDS

Vendor shall provide State, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Vendor, which are pertinent to the services provided under this Agreement, for the purpose of making an audit or examination, or for making excerpts and transcripts. All records, regardless of physical form, and the accounting practices and procedures of Vendor relevant to this Agreement are subject to examination by the North Dakota State Auditor, the Auditor's designee, or federal auditors. Vendor shall maintain all of these records for at least three years following completion of this Agreement and be able to provide them at any reasonable time. State, State Auditor, or Auditor's designee shall provide reasonable notice.

CITY OF FARGO

By _____ By Desi Fleming 11/21/2023
Timothy J. Mahoney Desi Fleming DATE

Its _____ Its Director of Public Health

DATE _____
45-6002069
Vendor's Federal Taxpayer Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES

By _____ DATE
SARA STOLT
INTERIM COMMISSIONER

By _____ DATE
KYLE J. NELSON
CONTRACT OFFICER
Approved for form and content

1. Priority Substance:	
2. Local Condition:	
3. Strategy Being Implemented:	

Parents Lead (up to \$1,500/month) implementation of three required monthly activities listed in Attachment C - Parents Lead Community Toolkit. (Please note these activities cannot be counted twice or duplicated throughout the rest of the reporting form.)

- a. Hang posters/flyers in high-traffic areas
- b. Display table tents in restaurants or other public spaces
- c. Insert information into school newsletters or church bulletins
- d. Place brochures/flyers in grocery bags
- e. Hand out stickers or flyers at school event
- f. Provide activity books for kids and resources for parents at PTA meetings
- g. Provide public and school libraries with bookmarks for children and parents
- h. Place stickers on popcorn bags at local sporting events
- i. Participate in community events, such as county fairs or other fundraisers
- j. Share Parents Lead conversation starter playing cards in waiting rooms
- k. Place coasters in local coffee shops and dining establishments
- l. Provide coffee sleeves to local coffee shops and supporting partners who serve the public
- m. Purchase billboard space
- n. Place media on radio or TV
- o. Share information on local cable access channels
- p. Utilize free PSA space at local radio stations or host a weekly radio show
- q. Submit articles or letters to the editor to the local paper
- r. Post or share information on social media
- s. Present at teacher in-services
- t. Share information during announcements at a church service
- u. Promote at community events or meetings
- v. Promote social media pages
- w. Sign up for email updates in the community section of parentslead.org and share resources with partners
- x. Other pre-approved activity

1. **Information Dissemination (up to \$3,500/month)** to support your strategy and policy – educational presentations, workshops or seminars or other presentations of data (e.g., public announcements, brochures, dissemination, billboards, community meetings, forums, web-based communication).

- a. Radio or music streaming service messages (up to \$600/month)
- b. Television or visual streaming service PSAs or advertisements (up to \$600/month)
- c. Printed newspaper or magazine ads (up to \$600/month)
- d. Digital website or search engine ads (up to \$600/month)
- e. Eight customized social media posts/month (up to \$300/month)
- f. Posters hung up throughout community (up to \$200/month)

2023 – 2026 Attachment A – Activity Implementation Guide

- g. Flyers handed out to different locations (up to \$200/month)
 - h. Presentation to group (up to \$400/presentation; maximum \$800/month)
 - i. Billboard (up to \$1000/month)
 - j. Handing out brochures (up to \$200/month)
 - k. Social media live stream (up to \$300/video; maximum of \$600/month)
 - l. Host a Community Forum or Town Hall Meeting (up to \$2,000/event; maximum \$4,000/year)
 - m. Host a booth at a community event (up to \$200/event; maximum \$400/month)
 - n. Meet and share information with key stakeholders (up to \$100/meeting; maximum \$400/month)
 - o. Attend and share information at a coalition meeting (up to \$300/meeting; maximum \$600/month)
 - p. Lead a coalition meeting (up to \$400/coalition meeting; maximum \$800/month)
 - q. Other (preapproved by State)
2. **Enhancing Capacity or Skills (up to \$4,000/month)** to support your strategy and policy – workshops, seminars or other activities designed to increase the skills of participants, members and staff needed to achieve population level outcomes (e.g., training, technical assistance, distance learning, strategic planning retreats, curriculum development, etc).
- a. Participate in a webinar (up to \$200/webinar; maximum \$400/month)
 - b. Host a webinar training (up to \$500/webinar; maximum of \$1,000/month)
 - c. Attend a conference (up to \$750/day; maximum \$4,500/year)
 - d. Host a conference (up to \$2,000/day; maximum \$6,000/year)
 - e. Attend a training (up to \$750/day; maximum \$9,000/year)
 - f. Host a community training (up to \$2,000/day; maximum \$8,000/year)
 - g. Host a stakeholder-specific training (up to \$500/day; maximum \$1,500/month)
 - h. Collection of data from already existing sources related to the environmental change/strategy being implemented (up to \$250/data report collected)
 - i. Collection of new data which will support the environmental change/strategy (up to \$3,000 for collection, analysis, and report/maximum of \$6,000 per year)
 - j. Evaluation Report (up to \$2,000/year)
 - k. Other (preapproved by State)
3. **Providing Support (up to \$5,000/month)** to help implement your strategy and policy – creating opportunities to support people to participate in activities that reduce risk or enhance protection (e.g., providing alternative activities, mentoring, referrals, support groups or clubs, etc).
- a. Alternative activities
 - i. Creation of an implementation plan (up to \$500/plan)
 - ii. Promotion of event (up to \$1,000/event; maximum \$2,000/month)
 - iii. Implementation of alternative event (up to \$1,000/activity; maximum of \$2,000/month)
 - b. Evidence-based mentoring program to fidelity
 - i. Creation of an implementation plan (up to \$500/plan)
 - ii. Program training for staff (up to \$5,000/person)
 - iii. Promotion of program (up to \$1,000/program; maximum \$2,000/month)
 - iv. Implementation of program (up to \$2,000/program; maximum of \$4,000/month)
 - c. Evidence-based curriculum
 - i. Creation of an implementation plan (up to \$500/plan)
 - ii. Curriculum training for staff (up to \$5,000/person)

- iii. Promotion of curriculum (up to \$1,000/curriculum; maximum \$2,000/month)
 - iv. Implementation of curriculum (up to \$2,000/curriculum; maximum of \$4,000/month)
 - d. Implementing an evidence-based screening and brief intervention tool (up to \$1,500/month/new location)
 - i. Promotion of new screening tool (up to \$900/month)
 - b. Early intervention seminar instruction (Example: DUI/MIP seminars)
 - i. Completion of early intervention instructor training & certification (up to \$2,500/person)
 - ii. Promotion of early intervention seminars (up to \$1,000/month)
 - c. Implementing parenting classes (Example: Prime for Life for Parents)
 - i. Completion of instructor training (up to \$2,500/person)
 - ii. Promotion of parenting classes (up to \$1,000/month)
 - e. Other preapproved by State
- 4. **Enhancing Access/Reducing Barriers (up to \$1,000/month)** to support your strategy and policy
 - Improving systems and processes to increase the ease, ability and opportunity to utilize those systems and services (e.g., assuring healthcare, childcare, transportation, housing, justice, education, safety, special needs, cultural and language sensitivity, etc).
 - a. Activities implemented in this category must be preapproved by the state. Reimbursements will be provided based on activity.
- 5. **Changing Consequences (Incentives/Disincentives) (up to \$3,000/month)** to support your strategy and policy – Increasing or decreasing the probability of a specific behavior that reduces risk or enhances protection by altering the consequences for performing that behavior (e.g., increasing public recognition for deserved behavior, individual and business rewards, revocations/loss of privileges, etc).
 - a. Incentives
 - i. Press release of congratulations (up to \$500/release/month)
 - ii. Award or certificate for doing the right thing (up to \$1,000/month)
 - iii. Awards ceremony (up to \$3,000/event/year)
 - b. Disincentives
 - i. Press release explaining what is expected (up to \$500/release/month)
 - ii. Letters explaining what is expected (up to \$500/month)
 - c. Texting Tipline (up to \$1,400/year)
 - d. Utilizing Forensic ID Scanners at a community event (up to \$200/day, maximum of \$1,400/month)
 - e. Utilization of Forensic ID Scanners at a retail establishment (up to \$200/month per retail establishment; maximum of \$1,000/month)
 - f. Other preapproved by State
- 6. **Physical Design and Environmental Changes (up to \$3,500/month)** to support your strategy and policy – changing the physical design or structure of the environment to reduce risk or enhance protection (e.g., parks, signage, outlet density).
 - a. Permanent or semi-permanent signs or banners (no posters or flyers) built, installed, or erected (up to \$1,000/month for new signage)
 - i. Example: permanent signage in parks/fair grounds

- ii. Example: permanent signage in buildings
 - iii. Example: metal signage for community events
 - b. Installation of security cameras as a deterrent or to increase enforcement or prosecution (up to \$1,000 for each new location; maximum \$2,000/month)
 - c. Reduction in retail/outlet density (up to \$3,000/month)
 - d. Other preapproved by State

- 7. **Modifying/Changing/Implementing Policies – (up to \$7,000/month)** formal change in written procedures, by-laws, proclamations, rules or laws with written documentation and/or voting procedures (e.g., workplace initiatives, law enforcement procedures and practices, public policy actions, systems change within government, communities and organizations). **Lobbying is prohibited.*
 - a. Internal policy change (up to \$1,500/implementation of new policy; maximum \$3,000/month)
 - i. Example: School policy to require evidence-based screening tool to be used.
 - ii. Example: Medical provider/hospital implements new screening tool.
 - b. Procedural changes (up to \$1,500/implementation of new procedure; maximum \$3,000/month)
 - i. Example: Law enforcement implements new procedure for conducting bar-walkthroughs looking for over-intoxication or fake IDs.
 - c. System changes (up to \$1,500/implementation of new change; maximum \$3,000/month)
 - i. Example: New requirements for obtaining a liquor license (police approval, three strike rule, etc.)
 - ii. Example: New requirements for community events (roped off areas, security, drink sizes, family sections, alcohol-free, etc.)
 - iii. Example: New restrictions/notifications for DUIs.
 - iv. Example: Court requires community service or participation in an evidence-based class.
 - d. Providing support for ordinance change (up to \$5,000/implementation of new ordinance; maximum \$5,000/month)
 - i. Example: Ordinance requiring Alcohol Server Training.
 - ii. Example: Ordinance requiring alcohol-free community events.
 - iii. Example: Ordinance requiring stricter penalties for alcohol possession, delivery, etc.
 - e. Other preapproved by State


**Reimbursement amount by activity may change based on actual costs and preapproval by State.*



28

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: OCTOBER 23, 2023

**RE: AGREEMENT FOR \$9,8000 WITH CENTER POINT TACTICAL,
LLC, JOSH EBERT FOR PUBLIC HEALTH EMERGENCY
PREPAREDNESS.
EXPIRES: 06/30/2024**

The attached agreement for services with Josh Ebert is for a maximum of \$9,800 to assist Fargo Cass Public Health fulfill the requirements of their emergency preparedness grants.

No budget adjustments are required for this contract.

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

Suggested Motion:

Move to approve the agreement with Center Point Tactical, LLC.

DF/ls
Attachment



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

**PURCHASE OF SERVICE AGREEMENT WITH
CENTER POINT TACTICAL LLC**

EPR

TERM: 10/01/2023 TO 06/30/2024 · Page 1 of 2

THIS AGREEMENT, effective the 1st day of October 2023, by and between Fargo Cass Public Health ("FCPH"); and Center Point Tactical LLC.

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

A. Term of Agreement: The parties entered into a written agreement for the period of October 1, 2023, through June 30, 2024.

B. Services to be provided by independent contractor:

1. Develop a schedule and plans to meet the requirements outlined in the Public Health Emergency Preparedness (PHEP) Operational Readiness Review Guidance on pages 6 through 11. Conduct three drills as required by Division of Strategic National Stockpile (DSNS). Results of scheduled drills will be forwarded to North Dakota Department of Health and Human Services (NDDHHS) no later than June 1, 2024, prior to submission by the appropriate method per the Center of Disease Control's requirements. After approval has been obtained by NDDHHS, submit the appropriate documentation regarding the plans for drills and any other required reports by the appropriate method approved by the Center of Disease Control by no later than June 30, 2024.
2. Assemble State Strategic National Stockpile (SNS) and local City Readiness Initiative (CRI) planners to convene periodic CRI meetings to enable participants to engage in the exchange of CRI information, update SNS plans, educate and train volunteers and network to improved CRI program success.
3. Continue development and augmentation of Grantee's scalable plans with supporting infrastructure that is consistent with State plans so that the selected Metropolitan Statistical Areas (MSAs) are prepared to provide medical counter measures during an event. To identify point of dispensing (POD) sites to accommodate the provision of antibiotics to the affected population.
 - Recruit volunteer staff for POD operations and populate the Public Health Emergency Volunteer/Medical Reserve Corps (PHEV/MRC). Submit volunteer data in an approved format to NDDHHS Emergency Preparedness and Response Office.
 - Orient and train volunteer staff (clinical and non-clinical) for POD operations. Training could include pre-event and/or just-in-time tools.
 - Conduct POD site surveys to ensure suitability of facilities in supporting POD operations. Operational manuals should be developed specifically to each POD site.
 - Coordinate with state and local law enforcement to develop a comprehensive security plan.
 - Coordinate with jurisdictions across the MSA to ensure consistent health communication messaging and dissemination of public information.
 - Maintain plans that are consistent with State plans to provide prophylaxis through alternate methods to increase population throughput to decrease the burden of PODs: Examples include Drive-Thru POD, company prophylaxis, mobile mass prophylaxis teams, closed POD.
 - Determining threshold criteria for shifting from a clinical dispensing model to a non-clinical model of dispensing.
4. All plans must be available in the NDDHHS HAN Document Library. CRI plans must be reviewed and updated annually.

Other activities must be mutually agreed upon between Fargo Cass Public Health and the North Dakota Department of Health and Human Services Emergency Preparedness and Response Unit.

C. Reimbursement: Center Point Tactical LLC shall be reimbursed for a total of maximum of \$9,800 for total project detailed.

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

**PURCHASE OF SERVICE AGREEMENT WITH
CENTER POINT TACTICAL**

EPR

TERM: 10/01/2023 TO 06/30/2024 · Page 2 of 2

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

Special Considerations:

- A. It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed to be an employee of Fargo Cass Public Health for any other purpose.
- B. This service agreement shall be governed by the laws of the State of North Dakota. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C. It is understood any forms or paperwork required by Fargo Cass Public Health and the City of Fargo to receive payment for services will be completed as needed.
- D. Services including printing and other miscellaneous costs may be discussed and agreed to by the parties as needed.

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

FARGO CASS PUBLIC HEALTH

Contractor/ Business Name

By Desi Fleming
Desi Fleming, Director of Public Health

By Josh Ebert
Josh Ebert, Center Point Tactical LLC

Date 10/23/2023

Date 10-24-2023

By _____
Timothy, J. Mahoney, Mayor, City of Fargo

Date _____


FARGO CASS PUBLIC HEALTH



(29)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: NOVEMBER 22, 2023

RE: AGREEMENT WITH CLAY COUNTY PUBLIC HEALTH
FUNDS: MAXIMUM OF \$5,430
EXPIRES: 06/30/2024

The attached agreement for services with Clay County Public Health for support that Fargo Cass Public Health will provide for emergency preparedness. No budget adjustments are required for this contract.

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

Suggested Motion:

Move to approve the agreement with Clay County Public Health.

DF/ls
Attachment

AGREEMENT FOR SERVICES

THIS AGREEMENT, effective the 1st day of December 2023, by and between Clay County Public Health (“CCPH”); and Fargo Cass Public Health (“FCPH”)

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

A. Term of Agreement: The parties entered into a written agreement for the period of December 1, 2023, through June 30, 2024

B. Services to be provided by Fargo Cass Public Health to Clay County Public Health:

1. FCPH will support Clay County Public Health by providing the following:
 - a. Advising, consulting, supporting, and educating the CCPH emergency preparedness coordinator and or designee as necessary respective to Minnesota and North Dakota Public Health Emergency Preparedness (PHEP) and City Readiness Initiative (CRI) duties, responsibilities, and mandates.
 - i. Review, discuss, and subsequently assist in completing the BP5 (PHEP & CRI) mid-year grant duty reporting.
 - ii. Assist in completing the BP5 (PHEP & CRI) yearend grant duty reporting.
2. FCPH will review and discuss planning and response operations respective to the functions identified in ESF#8 (Health and Medical).
3. Additionally, FCPH will provide consulting support and training as needed respective to the following areas:
 - a. The 15 PHEP capabilities include functions, tasks, and resource elements including and overview regarding the structural and operational differences between how ND and MN health department’s function.
 - b. Cross border and local emergency response plans including:
 - i. Mass casualty/care response plans.
 - ii. Medical countermeasure (SNS) and (RSS) response and operational plans.
 - iii. COOP plans.
 - iv. Tactical communication and public information plans.
 - v. Emergency Operational Command operations and LPH interface.
 - c. Emergency management and LPH operational structures, including cross border and local jurisdictional response responsibilities.
 - d. Medical reserve core and (MN Responds).
 - e. Healthcare coalitions and LPH integration.

- f. Training/exercise and operational plans respective to management and operations of a DOC (department operations center), including all ICS (incident command system) roles and responsibilities for all command and general LPH staff.
 - g. Mandates related to general and command staff Incident Command System (ICS) and FEMA training.
 - h. Emergency communications/equipment including Everbridge and all supporting equipment, technology, and radio systems.
 - i. Emergency/disaster response plans (base plans, functional plans, supporting annexes, appendixes, and associated MOUs/MOAs and action plans).
 - j. Assist with and ensure AARIPs (after action reports and improvement plans as required or directed) are completed and submitted as required by CDC and MDH.
- C.** Assist with the development of schedules and plans to meet the requirements outlined in the Public Health Emergency plans to meet the requirements outlined in the (PHEP) Operational Readiness Review Guidance, specifically noted on pages 6 through 11.
- D.** Assist with the coordination, development, preparation, and administering of mandated drills as required by the Division of Strategic National Stockpile (DSNS) and MDH.
- E.** Assist with the development, preparation, and submission of results of scheduled drills as mandated and required by MDH and CDC, including submission of reports by the appropriate method per the Center of Disease Control's requirement. In addition, help ensure all required reports will be submitted by using the appropriate documentation regarding the plans for drills and any other required reports by the appropriate method approved by the Center of Disease Control and the Minnesota department of Health by no later than March 30, 2024.
- 1. If required, help support and or conduct one annual PHEP exercise incorporating access and functional needs (AFN) partners.
 - 2. If needed to help assemble State Strategic National Stockpile (SNS) and local City Readiness Initiative (CRI) planners to convene periodic CRI meetings.
 - 3. Help ensure that the continuation, development, and augmentation of Grantee's scalable plans with supporting infrastructure that is consistent with State plans so that the selected Metropolitan Statistical Areas (MSAs) are prepared to provide medical counter measures during an event.
 - 4. Help ensure all CRI plans are reviewed and updated annually.
- F. Reimbursement:** FCPH shall be reimbursed as billed quarterly for the above services rendered for a total or maximum of \$5430 for total project detailed. It is understood any forms or paperwork required by Fargo Cass Public Health to receive payment for services will be completed as needed.
- G. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.

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

IN WITNESS thereof, this purchase of service agreement has been executed between Clay County Public Health and Fargo Cass Public Health on the date executed below.

CLAY COUNTY PUBLIC HEALTH:

Chair, County Commission

Date

Kathy McKay, Public Health Administrator

Date

CITY OF FARGO, NORTH DAKOTA:

Timothy J. Mahoney, Mayor, City of Fargo

Date

FARGO CASS PUBLIC HEALTH:



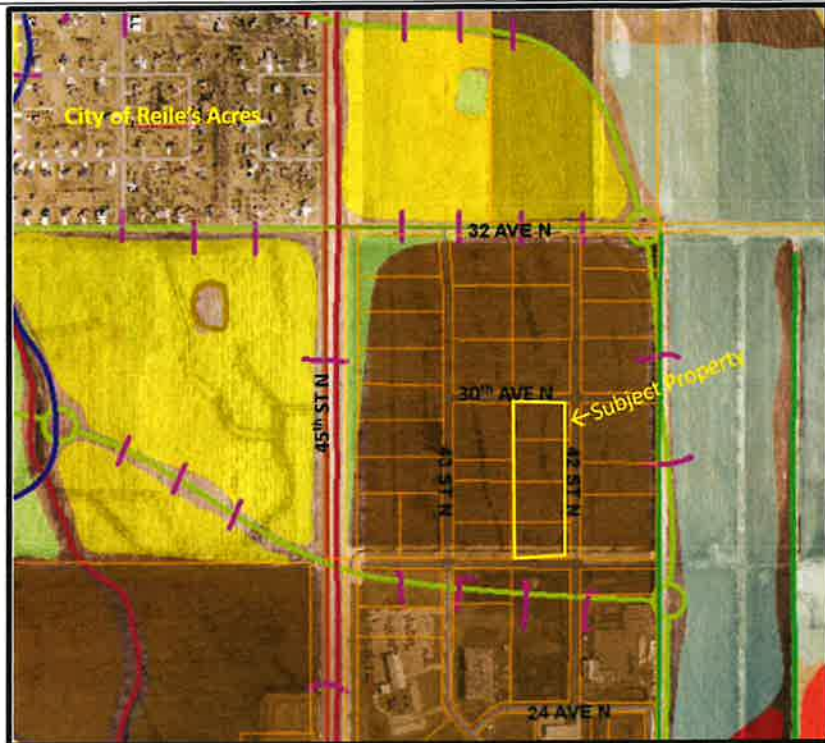
Desi Fleming, Director of Public Health

11/22/2023

Date

30

City of Fargo Staff Report			
Title:	Laverne's Third Addition	Date:	7/27/2023
		Update:	11/22/23
Location:	2812, 2880, 2924, and 2984 42 nd Street North	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Lots 5, 6, 7, and 8, Block 2, Laverne's Second Addition		
Owner(s)/Applicant:	Laverne Indy LLC / Houston Engineering, Inc.	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Minor Subdivision (Plat of Laverne's Third Addition , a replat of Lots 5, 6, 7, and 8, Block 2, Laverne's Second Addition to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Consent Agenda: November 27 th , 2023		
Existing		Proposed	
Land Use: Industrial--warehouse		Land Use: No change	
Zoning: LI, Limited Industrial		Zoning: No change	
Uses Allowed: LI allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, basic utilities, certain telecommunications facilities		Uses Allowed: No change proposed	
Maximum Lot Coverage Allowed: 85%		Maximum Density Allowed: No change proposed	
Proposal:			
The applicant requests one entitlement: 1. A replat of Lots 5, 6, 7, and 8, Block 2, Laverne's Second Addition (minor subdivision) to be known as Laverne's Third Addition .			
Surrounding Zoning Districts and Land Uses:			
<ul style="list-style-type: none"> • North: LI; platted; lots currently undeveloped • East: LI; platted; some lots under development with industrial uses • South: LI; platted; some lots under development with industrial uses • West: LI; platted; lots currently undeveloped 			
Area Plans:			
The subject property is located within the 2007 South Fargo Tier 1 East Future Land Use Plan. This plan, amended in 2016 on this property, designates the subject proeprty as "Industrial." This land use designation includes the current LI zoning. No growth plan amendment is required.			
(continued on next page)			



Proposed Land Uses	
■	Residential Area - lower to medium density
■	Residential Area - medium to high density
■	Residential Area - rural
■	Commercial Area
■	Industrial Area

Context:

Schools: The subject property is located within the West Fargo School District, specifically within the Harwood Elementary, Cheney Middle, and West Fargo High schools.

Neighborhood: The subject property is not located within a named neighborhood.

Parks: There are no Fargo parks within one mile of the subject property.

Pedestrian / Bicycle: A off-street multi-use path is intended to be developed within the 42nd Street right of way.

Transit: The subject property is not along a MATBus route.

Staff Analysis:

The subject property is bounded by 42nd Street North (east); 28th Avenue North (south); and 30th Avenue North (north). The existing lots were platted as part of Laverne's Second Addition in 2022 and have not been developed.

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

SUBDIVISION

The subdivision combines four existing lots into a single lot for industrial development. The current LI, Limited Industrial zoning will remain.

ACCESS: The subdivision will take access from the surrounding dedicated public streets.

(continued on next page)

Minor Subdivision

The LDC stipulates that the following criteria are met before a minor plat can be approved:

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The current zoning is LI, Limited Industrial. No zone change is proposed. This zoning is consistent with the 2007 Growth Plan land use designation of "Industrial" for this property. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

2. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed a plat of the **Laverne's Third Addition**, as outlined in the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, Section 20-0907.B. and C of the LDC, and all other applicable requirements of the LDC."

Planning Commission Recommendation: August 1st, 2023

At the August 1st, 2023 Planning Commission hearing, that Commission, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission of the proposed a plat of the **Laverne's Third Addition**, as outlined in the staff report, as the proposal complies with the 2007 Growth Plan, Standards of Article 20-06, Section 20-0907.B. and C of the LDC, and all other applicable requirements of the LDC."

Attachments:

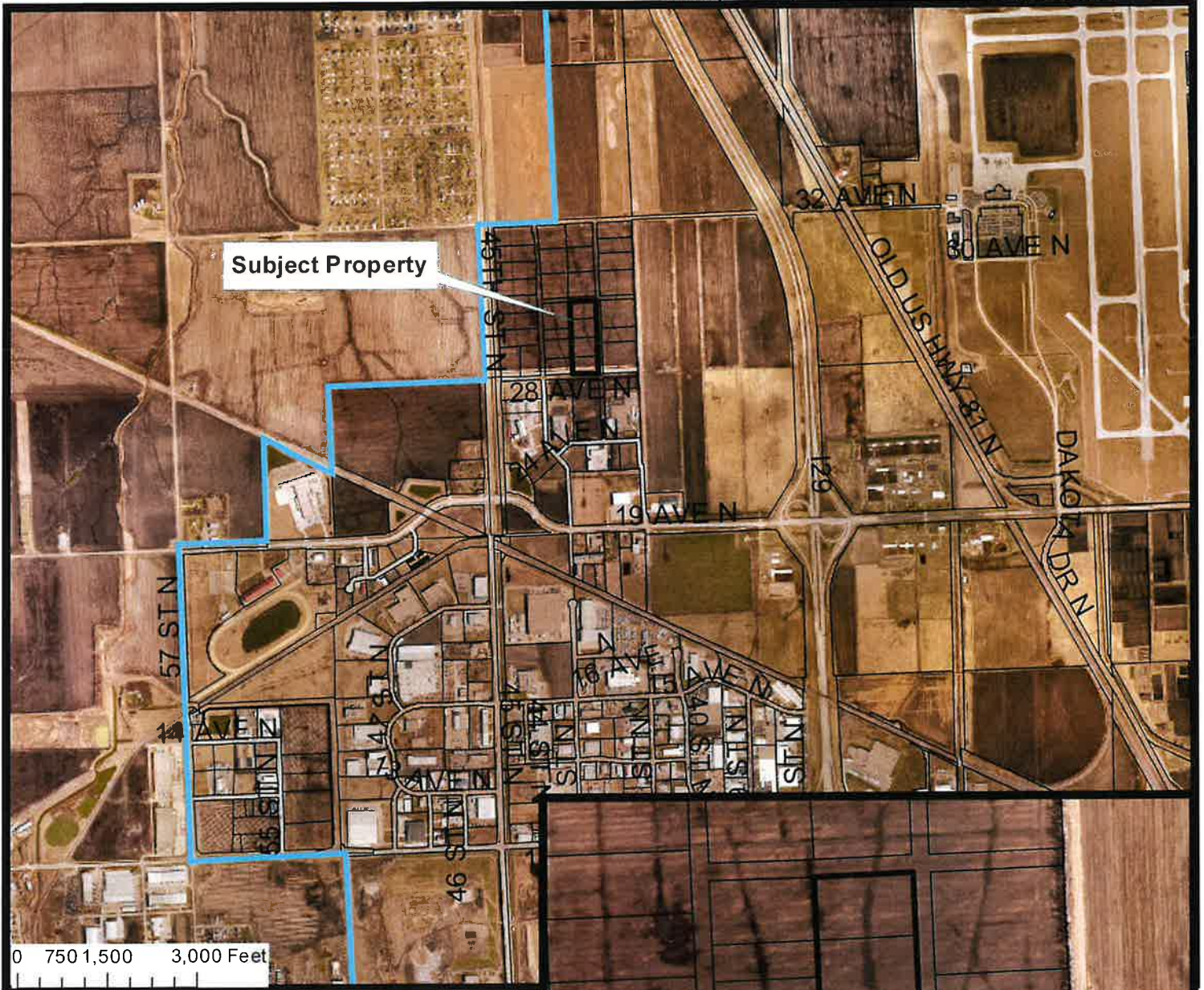
1. Zoning map
2. Location map
3. Preliminary plat

NOTE ON PLAT ACREAGE: Due to an error on the plat that was originally submitted, this plat was advertised as having an area of 9.64 acres. The actual acreage is 13.02 acres, as stated in the plat resolution.

Minor Subdivision

Laverne's Third Addition

2812, 2880, 2924 and 2984 42nd Street North

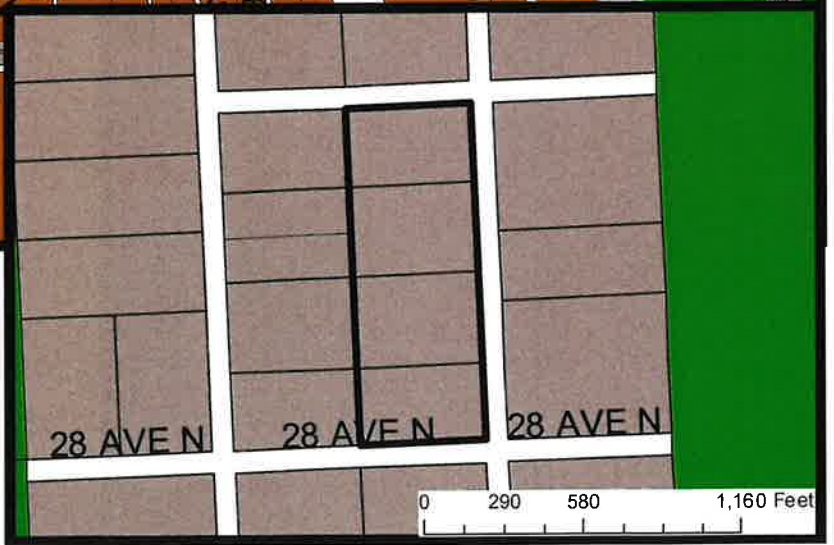
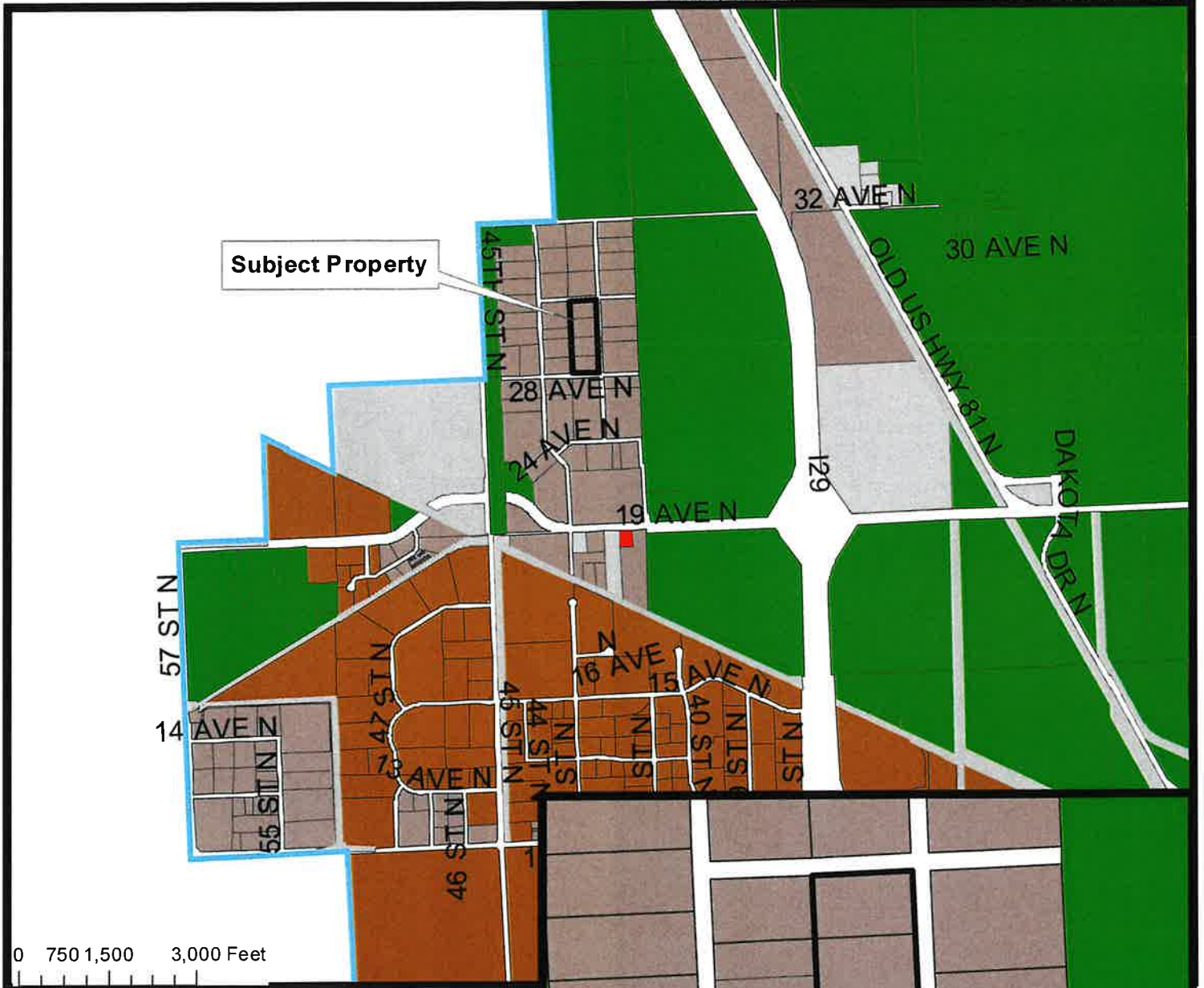


Legend
City Limits

Minor Subdivision

Laverne's Third Addition

2812, 2880, 2924 and 2984 42nd Street North



Legend

AG	DMU	GC	GO	LC	M	MR-1	MR-2	MR-3	MHP	NC	NO	P/I	UMU	SR-2	SR-3	SR-4	SR-5	City Limits
----	-----	----	----	----	---	------	------	------	-----	----	----	-----	-----	------	------	------	------	-------------

LAVERNE'S THIRD ADDITION A MINOR SUBDIVISION BEING A REPEAT OF LOTS 5, 6, 7 & 8, BLOCK 2 LAVERNE'S SECOND ADDITION, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

OWNER'S CERTIFICATE
NOTORIAL PERSONS BY THESE PRESENTS, That Laverne Indv, LLC, a North Dakota limited liability company, are the owners and proprietors of the following described tract of land:

Lots 5, 6, 7 and 8, Block 2, Laverne's Second Addition, in the City of Fargo, Cass County, North Dakota
Said tract contains 13.02 acres, more or less
And that said party has caused the same to be surveyed and platted as LAVERNE'S THIRD ADDITION to the City of Fargo, Cass County, North Dakota

OWNER:
LAVERNE INDV, LLC

By: Synodal, LLP
No. Manager

Angela J. Madala, Partner

State of North Dakota _____
County of Cass _____

On this _____ day of _____, 20____, before me personally appeared Angela J. Madala, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same on behalf of said limited liability partnership

Notary Public: 



SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT

I, James A. Schlemmer, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision, that the monuments for the boundaries of the lots have been located or placed on the ground as shown

Dated this 24th day of July, 2013

James A. Schlemmer, Professional Land Surveyor No. 6086



State of North Dakota _____
County of Cass _____

On this 24th day of July, 2013, before me personally appeared James A. Schlemmer, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as the true and legal deed

Notary Public: 



CITY ENGINEER'S APPROVAL

Approved by the Fargo City Engineer the _____ day of _____, 20____

Tom Koskovich, PE, City Engineer

State of North Dakota _____
County of Cass _____

On this _____ day of _____, 20____, before me personally appeared Tom Koskovich, PE, Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as the true act and deed

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission the _____ day of _____, 20____

Ricky Schneider, Chair
Fargo Planning Commission

State of North Dakota _____
County of Cass _____

On this 20th day of August, 2013, before me personally appeared Ricky Schneider, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the same on behalf of the Fargo Planning Commission

Notary Public: 



FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 20____

Trinity J. Maloney, Mayor

State of North Dakota _____
County of Cass _____

On this _____ day of _____, 20____, before me personally appeared Trinity J. Maloney, Mayor, City of Fargo, and Steven Sprague, City Auditor, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo

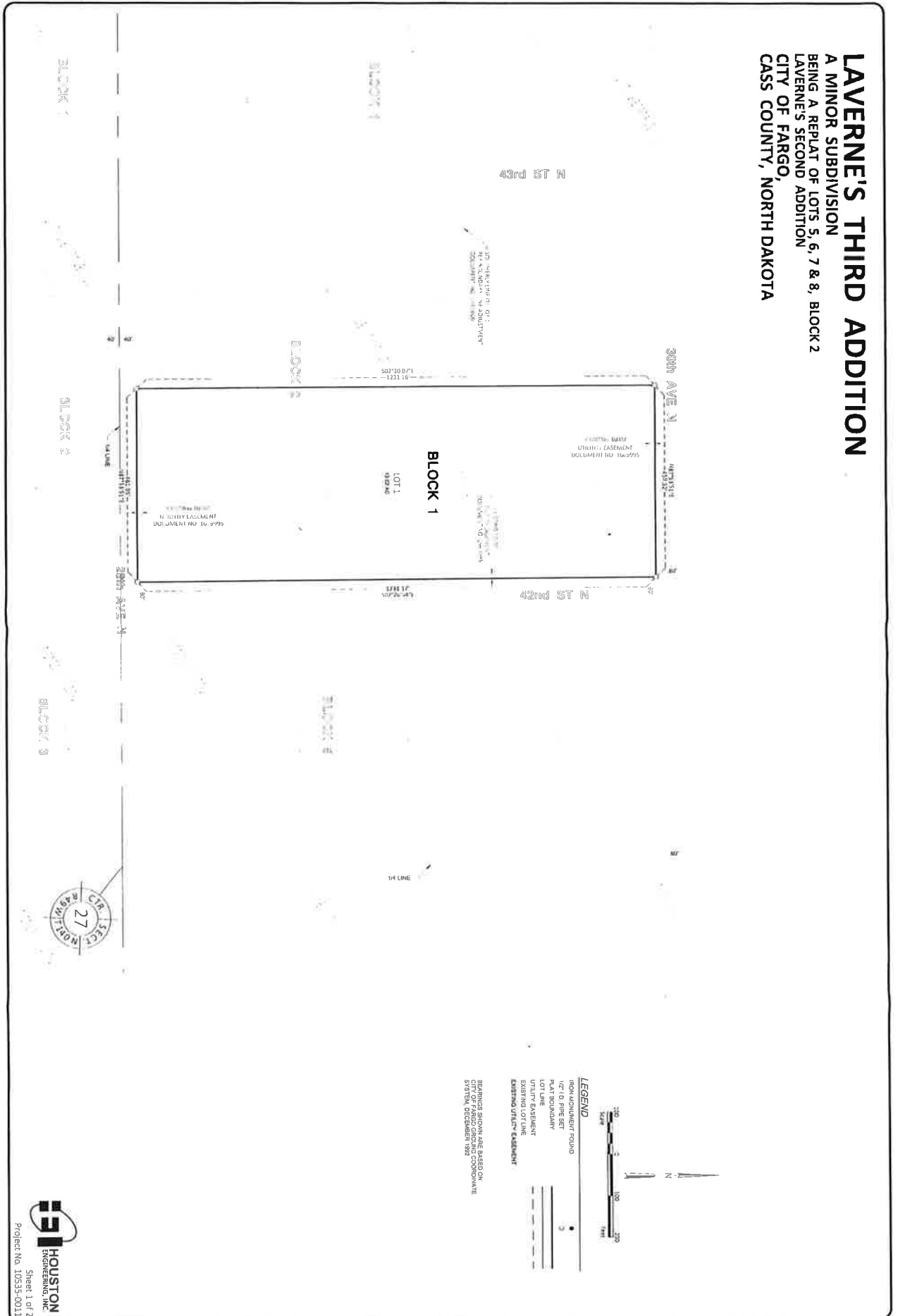
Notary Public: _____



Sheet 2 of 2
Project No. 10535-0011

H:\UBM\10500\10535\10535_001\CAD\Plat1-hpl Plat - Laverne's 3rd Addition.dwg PLAT 7/17/2023 3:55 PM (Mbuchholtz)

LAVERNE'S THIRD ADDITION
 A MINOR SUBDIVISION
 BEING A REPLAT OF LOTS 5, 6, 7 & 8, BLOCK 2
 LAVERNE'S SECOND ADDITION
 CITY OF FARGO,
 CASS COUNTY, NORTH DAKOTA



31

City of Fargo Staff Report			
Title:	Larkin Second Addition	Date:	8/30/2023 11/22/2023
Location:	3600 39 th Street South	Staff Contact:	Alayna Espeseth, Assistant Planner
Legal Description:	Lot 2, Block 1, Larkin Addition		
Owner(s)/Applicant:	Larkin Properties, LLP / Houston Engineering, Inc.	Engineer:	Houston Engineering, Inc.
Entitlements Requested:	Minor Subdivision (Plat of Larkin Second Addition , a replat of Lot 2, Block 1, Larkin Addition to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Consent Agenda: November 27, 2023		

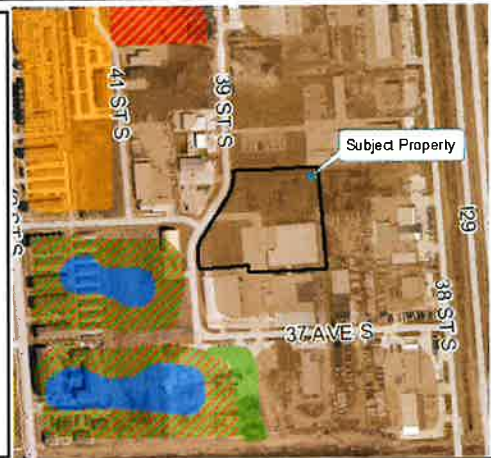
Existing	Proposed
Land Use: Industrial - Warehouse	Land Use: No change
Zoning: LI, Limited Industrial	Zoning: No change
Uses Allowed: Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open areas, religious institutions, safety services, basic utilities, adult establishment, offices, off-premise advertising signs, commercial parking, outdoor recreation and entertainment, retail sales and service, self-service storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, and certain telecommunications facilities.	Uses Allowed: No change
Maximum Lot Coverage Allowed: 85%	Maximum Lot Coverage Allowed: No change

Proposal:
<p>The request is to replat Lot 2, Block 1 of the Larkin Addition into a three lot minor subdivision, entitled Larkin Second Addition. The current structure within Lot 2, Block 1 of Larkin Addition will be within the confinement of Lot 2, Block 1 of the Larkin Second Addition. The orientation of the lot depicts the west property lines as the front, east property lines as the rear and both north and south and remaining property lines as interior side lot lines. No zone change is proposed with this project.</p> <p>The final plat and amenity plan was presented to the Public works Project Evaluation Committee (PWPEC) on November 20, 2023. The amenity plan defines the storm water requirements and responsibilities for Larkin Second Addition.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: LI, Limited Industrial with vehicle service, warehouse and office; • East: LI, Limited Industrial with manufacturing, warehouse and freight movement; • South: LI, Limited Industrial with manufacturing, warehouse and freight movement; • West: Across 39th Street South is LI, Limited Industrial with warehouse.

Area Plans:

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan designates the subject property as "Industrial". The current zoning is LI, Limited Industrial, which matches this land use category. No zone change is proposed.

2003 Southwest Future Land Use Plan	
Land Use	Symbol
Commercial	[Red Square]
Commercial or Medium/High Density	[Orange Square]
Commercial or Medium/High or Park/Open Space	[Yellow Square]
Commercial or Park/Open Space	[Light Green Square]
Either Industrial or Commercial	[Dark Green Square]
Either Office or Commercial	[Blue Square]
Either Office or Medium/High Density Residential	[Light Blue Square]
Industrial	[Brown Square]
Low/Medium Density Residential	[Light Yellow Square]
Low/Medium Density or Medium/High Density	[Light Orange Square]
Medium/High Density Residential	[Orange Square]
Medium/High Density or Park/Open Space	[Light Green Square]
Office	[Blue Square]
Office or Commercial or Medium/High Density	[Light Blue Square]
Park/Open Space	[Light Green Square]
Public	[Purple Square]
Public or Commercial	[Light Purple Square]
Public or Low/Medium Density	[Light Yellow Square]
Public or Office	[Light Blue Square]
Storm Water	[Dark Blue Square]



Context:

Neighborhood: The subject property is located within the Pointe West Neighborhood.

Schools: The subject property is located within the Fargo School District and served by Kennedy Elementary school, Carl Ben Eielson Middle school and South High school.

Parks: The subject property is located within a half mile of Pointe West Park (3331 42nd Street S) to the northwest and Stonebridge #2 Park (3520 32nd Street S) to the east.

- Pointe West Park – Amenities include a playground and soccer fields.
- Stonebridge #2 Park – Amenities include basketball court, a playground, recreational trails and a junior disc golf course.

Pedestrian / Bicycle: The subject property is within a half-mile of a shared use path, located along the west side of 42nd Street South.

Bus Route: The subject property is within a quarter mile of route 18. Route 18 runs along 42nd Street South with stops both north and south bound.

Staff Analysis:

Minor Subdivision

The LDC stipulates that the following criteria is met before a minor plat can be approved:

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

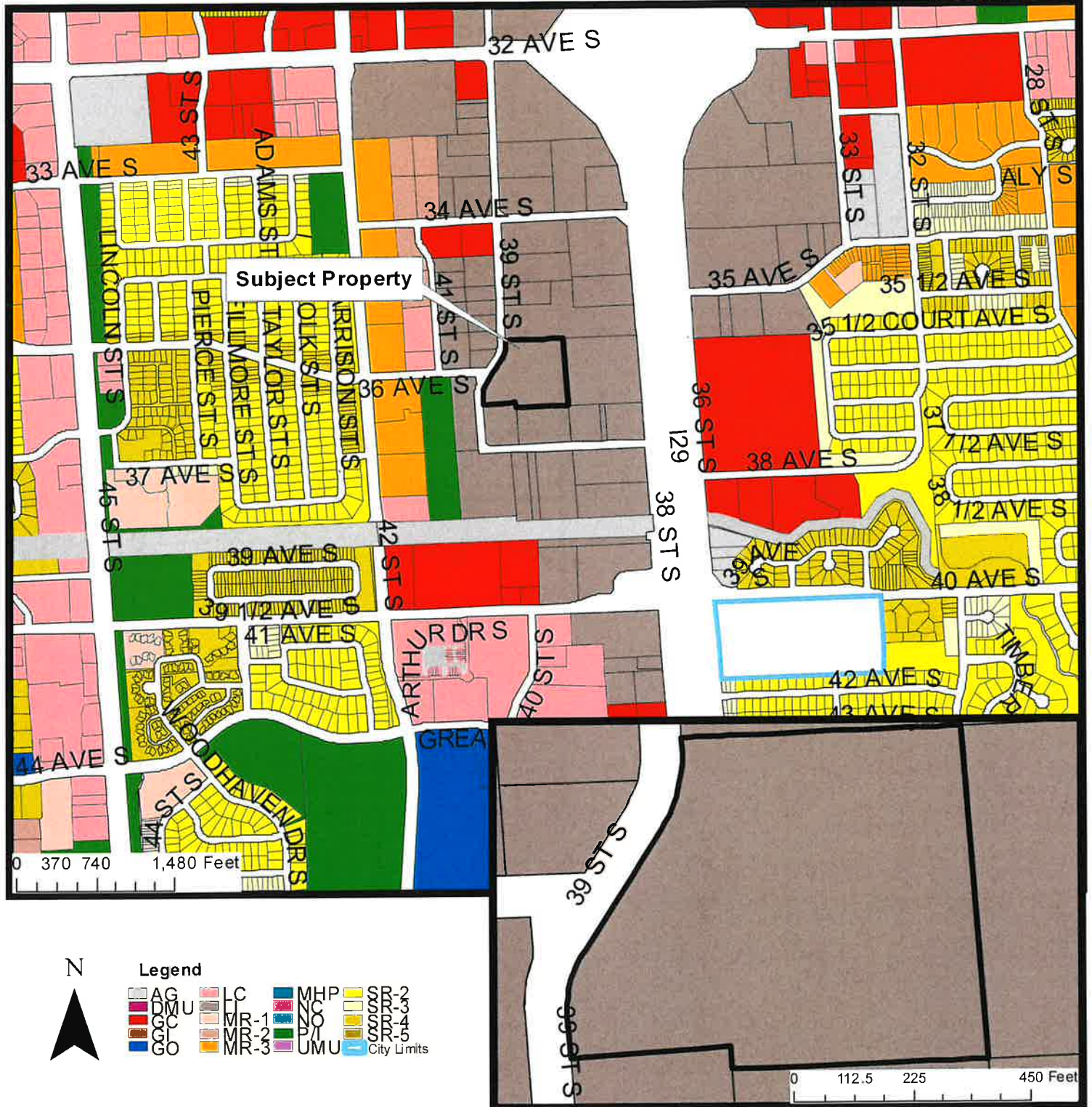
This subdivision is intended to replat the existing lot into three new lots. The property within this plat is currently zoned LI, Limited Industrial, and no change is proposed. Surrounding properties are zoned LI, Limited Industrial. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received one inquiry about the application with no noted concern. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

<p>2. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.</p> <p>While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles.</p> <p>(Criteria Satisfied)</p>
<p>Staff Recommendation:</p>
<p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed subdivision plat, Larkin Second Addition as outlined within the staff report, as the proposal complies with the 2003 Southwest Future Land Use Plan, standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code".</p>
<p>Planning Commission Recommendation: September 7, 2023</p>
<p>At the September 7th, 2023 Planning Commission hearing, by a vote of 8-0 with 1 Commissioner absent and two Commission seats vacant, the Commission moved to accept the findings and recommendations of staff and moved to recommend approval to the City Commission the proposed subdivision plat, Larkin Second Addition as outlined within the staff report, as the proposal complies with the 2003 Southwest Future Land Use Plan, standards of Section 20-0907.B & C, standards of Article 20-06, and all other applicable requirements of the Land Development Code.</p>
<p>Attachments:</p>
<ol style="list-style-type: none"> 1. Zoning Map 2. Location Map 3. Preliminary Plat

Minor Subdivision

Larkin Second Addition

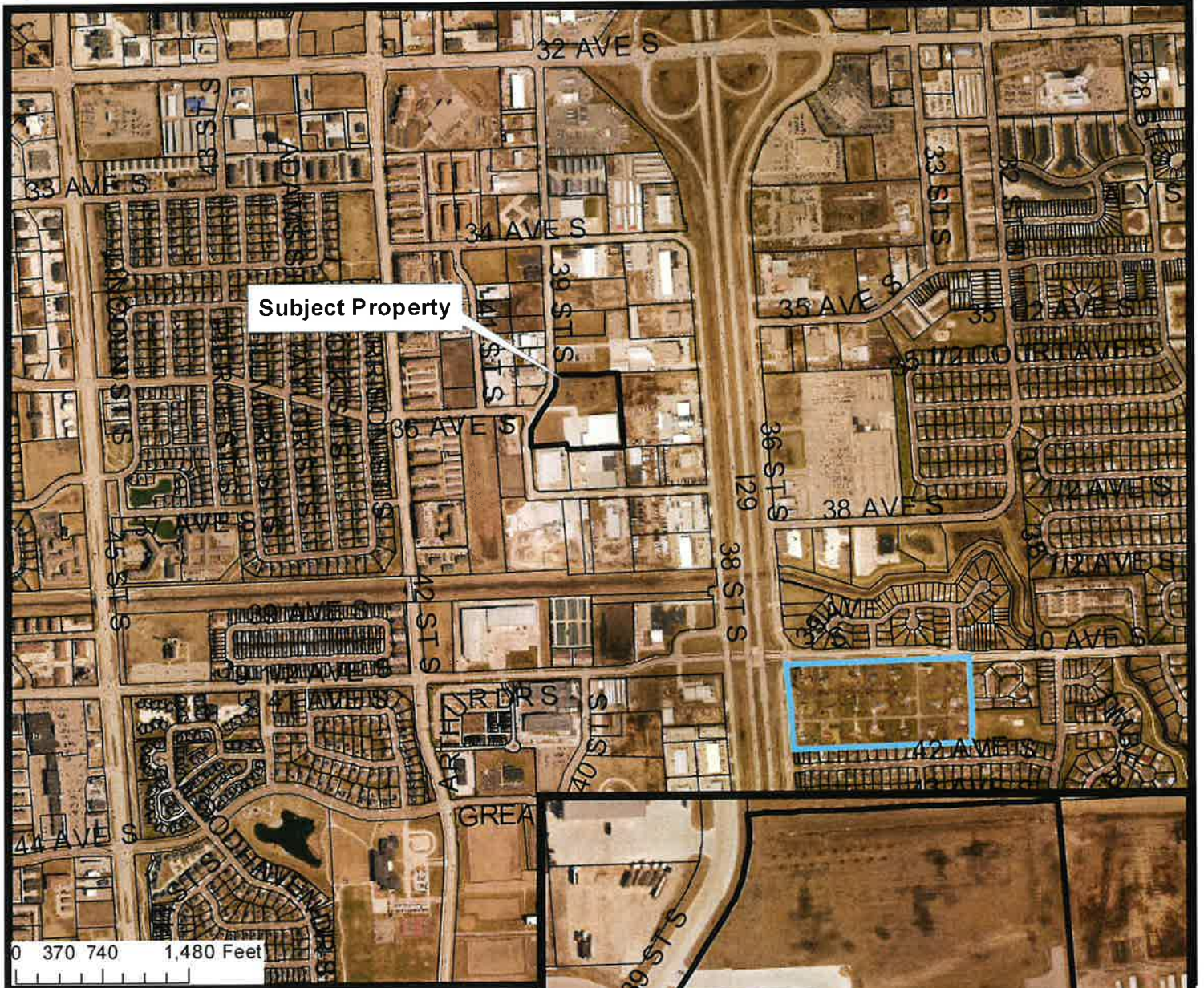
3600 39th Street South



Minor Subdivision

Larkin Second Addition

3600 39th Street South



Legend

 City Limits

LARKIN SECOND ADDITION A MINOR SUBDIVISION BEING A REPLAT OF LOT 2, BLOCK 1, LARKIN ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

OWNERS CERTIFICATE
NOW ALL PERSONS BY THESE PRESENTS That Larkin Properties, LLP, a North Dakota limited liability partnership, and the owners and proprietors of the following described tract of land:

Lot 2, Block 1, Larkin Addition, to the City of Fargo, Cass County, North Dakota

Said tract contains 8.649 acres, more or less.
And that said party has caused the same to be surveyed and platted as LARKIN SECOND ADDITION to the City of Fargo, Cass County, North Dakota, and do hereby dedicate to the public, for public use, the utility easements shown on this plat.

OWNER:
Larkin Properties, LLP, a North Dakota limited liability partnership

JASON LARKIN, PRESIDENT

State of _____)
County of _____)

On this _____ day of _____, 20____, before me personally appeared Jason Larkin, President of Larkin Properties, LLP, a North Dakota limited liability partnership, known to me to be the person who is described in and who executed this within instrument and acknowledged to me that he executed the same on behalf of and limited liability partnership

Notary Public _____

SURVEYORS CERTIFICATE AND ACKNOWLEDGEMENT

I, James A. Schlemmer, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of _____ and _____ and that the same meets for the guidance of future surveys have been located or placed in the ground as shown.

Dated this _____ day of _____, 20____.

James A. Schlemmer, Professional Land Surveyor No. 6086

State of North Dakota)
County of Cass)

On this _____ day of _____, 20____, before me personally appeared James A. Schlemmer, Professional Land Surveyor, known to me to be the person who is described in and who executed this within instrument and acknowledged to me that he executed the same as this live act and deed.

Notary Public _____

CITY ENGINEERS APPROVAL

Approved by the Fargo City Engineer this _____ day of _____, 20____.

Tom Krakowich, PE, City Engineer

State of North Dakota)
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Tom Krakowich, PE, Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as this live act and deed.

Notary Public _____

FARGO PLANNING COMMISSION APPROVAL

Approved by the City of Fargo Planning Commission this _____ day of _____, 20____.

Ricky Schreiber, Chair
Fargo Planning Commission

State of North Dakota)
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Rocky Schreiber, Chair of Fargo Planning Commission, known to me to be the person who is described in and who executed this within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Notary Public _____

FARGO CITY COMMISSION APPROVAL

Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 20____.

Timothy J. Mahoney, Mayor

State of North Dakota)
County of Cass)

On this _____ day of _____, 20____, before me personally appeared Timothy J. Mahoney, Mayor, City of Fargo, and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who are described in and who executed this within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public _____



Sheet 2 of 2
Project No. 10250-0004



FARGO POLICE DEPARTMENT
CHIEF DAVID B. ZIBOLSKI
105 25th Street North
Fargo, ND 58102-4002
Main Line: 701.235.4493 | Fax: 701.297.7789
FargoPolice.com

32

COPY

November 20, 2023

Fargo City Commission
City Hall
225 4th Street N.
Fargo, ND 58102

RE: ND House Bill 1307 Grant Award and 2024 Budget Adjustment
Account Number#101-000-334-10-37 (ND Office of Attorney General)
Project Code#PD90

Dear Commissioners,

The 2023 North Dakota Legislative Session appropriated \$3.5 million for House Bill 1307 or the "Back the Blue" award for local law enforcement and correctional officers. Of that amount, \$750,000 was set aside for agencies with less than 10 officers.

This funding may be used for providing hiring and retention bonuses to new and current law enforcement and correctional officers and providing tuition and fee payments on behalf of law enforcement trainees.

Supplanting is not allowed. These funds should not be used to replace local funds that, in the absence of this grant, have been appropriated or made available for the purpose of this project. Instead, these funds should enhance the applicant's budgets and activities, and should increase the total funding available for this purpose.

The Back the Blue funds are for police chiefs and sheriffs to decide the best way to use the funds for recruitment and retention within their law enforcement agency.

The North Dakota Office of the Attorney general released the Back the Blue funds to the Fargo Police Department in the amount of \$264,000. The City of Fargo has no financial obligation, or match, to receive these funds. The

The request was approved during the November 20, 2023 Finance Committee meeting.

Recommended Motion:

Accept the Back the Blue award as a result of ND Legislation passing House Bill 1307 in the amount of \$264,000 awarded to the Fargo Police Department and make the appropriate budget adjustment for 2024. Account Number: 101-0000-334-10-37 (ND Office of Attorney General) Project: PD90

Please contact me if you have any questions regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Zibolski". The signature is written in a cursive style with a large, looping initial "D".

David B. Zibolski
Chief of Police



AWARD ACCEPTANCE
Back the Blue Grant
Office of Attorney General

Back the Blue Award Acceptance

This funding has been appropriated by the 2023 ND Legislative Session and may be used for providing hiring and retention bonuses to new and current law enforcement and correctional officers and providing tuition and fee payments on behalf of law enforcement trainees.

Supplanting is not allowed. These funds should not be used to replace local funds that, in the absence of this grant, have been appropriated or made available for the purpose of this project. Instead, these funds should enhance the applicant's budgets and activities, and should increase the total funding available for this purpose.

Reporting required. All agencies accepting funds will be required to report to the Attorney General's office regarding the use and effectiveness of the funding.

Applicant Information			
Agency:	<u>Fargo Police Department</u>		
Address:	<u>105 25th St. N</u>	<u>Fargo,</u>	<u>ND 58102</u>
	Street Address	City	State Zip Code
Phone:	<u>701-241-1401</u>	Email:	<u>dzibolski@fargond.gov</u>
Budget Plan			
Award Amount:	<u>\$264,000</u>	Please Explain how you plan to allocate the funds.	
<p>The grant award will be divided amongst current sworn members as a retention bonus.</p>			
Disclaimer and Signature			
<p><i>I certify that these funds will be spent no later than March 31, 2025. Any unspent funds will need to be returned to the Attorney General.</i></p>			
Signature:	<u></u>		Date:
			<u>11-13-2023</u>

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1307
(Representatives Roers Jones, Lefor, Mock, O'Brien, Pyle)
(Senators Meyer, Patten, J. Roers, K. Roers)

AN ACT to provide an appropriation to the attorney general for a back the blue grant program; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - ATTORNEY GENERAL - BACK THE BLUE GRANT PROGRAM - ONE-TIME FUNDING - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,500,000, or so much of the sum as may be necessary, to the attorney general for the purpose of providing back the blue grants to assist local law enforcement agencies with workforce recruitment and retention, for the biennium beginning July 1, 2023, and ending June 30, 2025. The attorney general shall provide grants to each city and county law enforcement agency in the state based on the proportional number of licensed peace officers and correctional officers employed by the city or county law enforcement agency compared to the total number of licensed peace officers and correctional officers employed by all city and county law enforcement agencies. Of the funding available under this program, a sum of at least \$750,000 must be granted to local law enforcement agencies employing ten or fewer employees working in a law enforcement capacity. Funding appropriated in this section may be used for providing hiring and retention bonuses to new and current law enforcement and correctional officers and providing tuition and fee payments on behalf of law enforcement trainees. This funding is considered a one-time funding item. Law enforcement agencies receiving funding under this section shall report to the attorney general regarding the use and effectiveness of the funding. The attorney general shall report to the sixty-ninth legislative assembly regarding the use and effectiveness of grant funds and the number of grants provided pursuant to this section.

H. B. NO. 1307 - PAGE 2

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1307.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 42 Nays 5 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State



FARGO POLICE DEPARTMENT
CHIEF DAVID B. ZIBOLSKI
105 25th Street North
Fargo, ND 58102-4002
Main Line: 701.235.4493 | Fax: 701.297.7789
FargoPolice.com

November 20, 2023

(33)

COPY

Fargo City Commission
City Hall
225 4th Street N.
Fargo, ND 58102

Re: COPS Hiring Program Grant Award and Budget Adjustment
ID# 15JCOPS-23-GG-01699-MUMU
CFDA# 16.710
Project Code# COPS12

Dear Commissioners,

The United States Department of Justice, Office of Community Oriented Policing Services (COPS), has awarded the Fargo Police Department \$188,539.00 for the purpose of employing one civilian Wellness and Mental Health Coordinator on a contractual basis from 10/1/2023 – 09/30/2025. The \$188,539.00 is to pay the salary and benefits of the position over the identified two-year period. The grant does not require any financial obligation from the City of Fargo during this period nor does it require the City of Fargo to continue the position once the grant award has expired.

The Fargo Police Department plans to utilize the Law Enforcement Mental Health and Wellness Act or LEMHWA grant to support and enhance the current wellness and mental health initiatives inside the department by creating a civilian Wellness and Mental Health Coordinator position. This coordinator will enhance the already established pillars of wellness by researching, implementing new programs in mental health services and practices by creating and implementing suicide awareness prevention training and screening practices, Post Traumatic Growth training, develop and implement stress reduction and mindfulness training and supporting programs and practices. Additionally, the coordinator will develop police officer spouse and family training and coordinating supportive services. The coordinator will also support officers after critical incidents by ensuring officers are debriefed and checked on periodically after the incident to monitor for any long-term effects. The coordinator will support current annual mental health check-ins by being a resource for officers on available employee benefits and connection to available community services and providers. The coordinator will also be responsible for program evaluation to ensure the wellness programs are meeting officer needs and programmatic goals.

On November 20, 2023, the Finance Committee approved the classification for the proposed Health and Wellness Coordinator position at Grade 12.

Recommended Motion:

Accept and utilize the COPS Hiring Program Grant award and approve an adjustment to the Police Department's 2024 and 2025 budget in the amount \$188,539.00 total using the established revenue account of 101-0000-331-11-21 (Operating- Direct Assist/COPS – Other).

Please contact me if you have any questions regarding this request.

Sincerely,



David B. Zibolski
Chief of Police

The allocated funds will be used and split over the established 2024-2025 period as projected in the table below:

Revenue:	2024	2025
101-0000-331.11-21 Operating - Direct Assist / COPS - Other	94,269.00	94,269.00
Expense:		
101-5045-411.11-00 Police / Full Time Staff	77,588.00	77,588.00
101-5045-411.20-01 Employee Benefits / Health Insurance	4,329.00	4,329.00
101-5045-411.20-03 Employee Benefits / Dental Insurance	1,019.00	1,019.00
101-5045-411.20-04 Employee Benefits / Long Term Disability	13.00	13.00
101-5045-411.21-01 Employee Benefits / FICA 6.2%	4,791.00	4,791.00
101-5045-411.21-02 Employee Benefits / Medicare 1.45%	1,120.00	1,120.00
101-5045-411.22-02 Pension Benefits / Safety Non Medicare 11.7	5,409.00	5,409.00
	94,269.00	94,269.00



Funded Award

PENDING-AWARD ACCEPTANCE

Entity Legal Name

Doing Business As:

Solicitation Title:	FY 2023 Law Enforcement Mental Health	Solicitation Category:	MA
Project Title:	FY23 City of Fargo, ND. LEMHWA Project	Federal Award Amount:	\$188,539.00
Project Period:	10/1/23 - 9/30/25	UEI:	L2XTF33UJDQ5
Managing Office:	COPS	COPS ORI:	ND00902
DOJ Grant Manager:	SARAH ESTILL	TIN:	456002069
Grant Award Administrator:	Tomasz Stefanczyk		
FAW Case ID:	FAW-180208		



Funded Award

PENDING-AWARD ACCEPTANCE

Entity Legal Name

Doing Business As:

Budget Category	Proposed Budget	Change	Approved Budget	Percentages
Sworn Officer Positions:	\$0	\$0	\$0	
Civilian or Non-Sworn Personnel:	\$188,539	\$0	\$188,539	
Travel:	\$0	\$0	\$0	
Equipment:	\$0	\$0	\$0	
Supplies:	\$0	\$0	\$0	
SubAwards:	\$0	\$0	\$0	
Procurement Contracts:	\$0	\$0	\$0	
Other Costs:	\$0	\$0	\$0	
Total Direct Costs:	\$188,539	\$0	\$188,539	
Indirect Costs:	\$0	\$0	\$0	
Total Project Costs:	\$188,539	\$0	\$188,539	
Federal Funds:	\$188,539	\$0	\$188,539	100.00%
Match Amount:	\$0	\$0	\$0	0.00%
Program Income:	\$0	\$0	\$0	0.00%



FARGO POLICE DEPARTMENT
CHIEF DAVID B. ZIBOLSKI
105 25th Street North
Fargo, ND 58102-4002
Main Line: 701.235.4493 | Fax: 701.297.7789
FargoPolice.com

34

COPY

November 20, 2023

Fargo City Commission
City Hall
225 4th Street N.
Fargo, ND 58102

RE: COPS Hiring Program Grant Award and Budget Adjustment
ID# 15JCOPS-23-GG-04706-UHPX
CFDA# 16.710
Project Code# COPS13

Dear Commissioners,

The United States Department of Justice, Office of Community Oriented Policing Services (COPS) FY23 COPS Hiring Program, has awarded the Fargo Police Department \$750,000 for the purpose of employing six Police Officers to advance the practice of community policing and public safety partnerships through building legitimacy and trust. Funding under this award program will be utilized by local law enforcement agencies to hire and rehire career law enforcement officers necessary to increase the jurisdiction's capacity to prevent and disrupt crime and violence. The \$750,000 or 43.99% is awarded to pay the salary and benefits of the position over the identified three-year period. The City of Fargo is obligated to pay \$954,804 or 56.01% over the identified three-year period. The total combined project cost will be \$1,704,804.

The implementation of a Traffic Safety Unit (TSU) in Fargo to address dangerous driving specifically, and overall traffic safety broadly, is the result of strong community support and safety concerns brought forward individually and collectively during a citywide town hall meeting in May of 2022. The support and demand for police action to this persistent and dangerous behavior has continued from both the community, business owners, and internally from department members, who strongly desire to address the behavior, but are hamstrung with calls for service and other demands, leaving traffic enforcement to be conducted sporadically as time allows. As a result, our community questions the legitimacy of our department in terms of our ability to address this dangerous behavior, which ultimately affects community trust and our community policing efforts.

The long-term strategy entails reducing and/or eliminating dangerous driving behavior, allowing for regular and consistent traffic enforcement and safety for our community and motoring public. This effort involves continued community involvement and participation. The TSU will provide updates to our community through proactive engagement and

education, as well as through neighborhood and community meetings. This will allow for transparency, feedback, and trust to be fostered. In addition, the Department will track and make available for public consumption via social media and our department website, the details of our efforts related to traffic enforcement. This will include demographics, violation types, locations, and other statistical data that is of interest to our community. These efforts will bolster transparency as well as assist in re-establishing legitimacy, and trust in our department.

This request was approved during the Finance Committee Meeting on November 20, 2023.

Recommended Motion:

Accept and utilize the COPS Hiring Program Grant award and approve an adjustment to the Police Department's 2024, 2025 and 2026 budget in the amount \$750,000 total using the established revenue account of 101-0000-331-11-21 (Operating- Direct Assist/COPS – Other).

Please contact me if you have any questions regarding this request.

Sincerely,



David B. Zibolski
Chief of Police

The allocated funds will be used and split over the established time period as projected in the table below.

Revenue:		2024	2025	2026	TOTAL
101-0000-331.11-21	Operating - Direct Assist / COPS - Other	350,000.00	250,000.00	150,000.00	750,000.00
Add Expense:					
101-5045-411.11-00	Police / Full Time Staff	379,853.00	407,347.00	424,042.00	1,211,242.00
101-5045-411.20-01	Benefits / Health Insurance	103,905.00	103,905.00	103,905.00	311,715.00
101-5045-411.20-03	Benefits / Dental Insurance	3,103.00	3,103.00	3,103.00	9,309.00
101-5045-411.21-02	Benefits / Medicare 1.45%	5,508.00	5,907.00	6,149.00	17,564.00
101-5045-411.22-02	Pension Benefits / Safety	51,658.00	51,658.00	51,658.00	154,974.00
		<u>544,027.00</u>	<u>571,920.00</u>	<u>588,857.00</u>	<u>1,704,804.00</u>
Local Share:		194,027.00	321,920.00	438,857.00	954,804.00
Remove Expense:					
101-5050-411.11-00	Police / Full Time Staff	(121,264.00)			
101-5050-411.20-01	Benefits / Health Insurance	(34,635.00)			
101-5050-411.20-03	Benefits / Dental Insurance	(1,034.00)			
101-5050-411.21-02	Benefits / Medicare 1.45%	(1,758.00)			
101-5050-411.22-02	Pension Benefits / Safety	(17,219.00)			
		<u>(175,910.00)</u>			

Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

A financial analysis of budgeted costs has been completed. All costs listed in the approved budget below were programmatically approved based on the final proposed detailed budget and budget narratives submitted by your agency to the COPS Office. Any adjustments or edits to the proposed budget are explained below.

Budget Clearance Date: 9/14/23 4:16 PM

Comments

No items

Budget Category	Proposed Budget	Change	Approved Budget	Percentages
Sworn Officer Positions:	\$1,704,803	\$1	\$1,704,804	
Civilian or Non-Sworn Personnel:	\$0	\$0	\$0	
Travel:	\$0	\$0	\$0	
Equipment:	\$0	\$0	\$0	
Supplies:	\$0	\$0	\$0	
SubAwards:	\$0	\$0	\$0	
Procurement Contracts:	\$0	\$0	\$0	
Other Costs:	\$0	\$0	\$0	
Total Direct Costs:	\$1,704,803	\$1	\$1,704,804	
Indirect Costs:	\$0	\$0	\$0	
Total Project Costs:	\$1,704,803	\$1	\$1,704,804	
Federal Funds:	\$750,000	\$0	\$750,000	43.99%
Match Amount:	\$954,804	\$0	\$954,804	56.01%
Program Income:	\$0	\$0	\$0	0.00%

35

November 27, 2023

City of Fargo Commissioners
225 N 4th Street
Fargo, ND 58102

Dear Commissioners:

The current agreement between the City of Fargo and TransDev expires on December 31, 2023, unless it is mutually agreed between the parties to exercise a one-year extension option. Negotiations with TransDev began in April 2024 and have recently concluded.

Extensive recruitment efforts by TransDev have not resulted in filling driver vacancies due to the low unemployment in the area, the high demand for and increasing pay for CDL drivers in the F-M metro area, and the high turnover in drivers under training at 60%. The evening and weekend shifts are most difficult to fill. The following strategies would be implemented to recruit and retain drivers: 1) Increase starting wage to be the preferred employer; 2) add a pay differential for evening and weekend shifts; 3) hire a full-time class room trainer; 4) survey existing drivers to determine preferred shifts.

The City of Fargo and City of Moorhead MATBUS staff and TransDev have since negotiated 2024 and mutual agreement was reached on the following items, which were recommended by the MAT Coordinating Board at their meeting of November 15, 2023, and presented below for City Commission consideration:

Management Fees:

The 2024 management fees will increase by 5.6%, shared by Fargo and Moorhead Fargo based on revenue hours. Management fees provide nine full-time equivalent employees (up one from 2023 to add a full-time classroom trainer). Company overhead and profit rates within the management fee were not adjusted.

Wages & Benefits:

Driver wages are proposed to increase by an average of 4.7% in 2024 and reflect a cost-of-living adjustment. The starting driver wage for 2024 increases from \$21.90 to \$23.00 per hour, plus a new \$2.00 per hour pay differential for evening and weekend shifts was added. See Revised Appendix 15 attached for details on minimum wages and benefits.

Access to Software and Equipment:

The contract terms will be amended to insure the TransDev local team has access to driver scheduling software to assist in developing driver bid packs. Implementation is dependent upon both cities' approval of the contract changes and amendments. The proposed wage scales would be effective January 1, 2024, through December 31, 2024, pending negotiations and approval between the Teamsters Union and TransDev. Implementation is dependent upon both cities' approval of the contract changes and amendments.

November 27, 2023
 Transdev Contract Amendment
 Page 2 of 2

All the incentives or bonuses will continue to be billed to the City of Fargo and City of Moorhead as a pass-through cost based on actual payments made to employees. The new operator sign-on bonus and referral bonus are only implemented if pre-approved by both the City of Fargo and City of Moorhead based on the current need for recruitment, such as lack of qualified driver applications. Implementation of bonuses are part of the contract and the Transit Director evaluates the justification for the bonuses before remitting payment. TransDev may implement a sign-on bonus at their discretion and cost within the contract prices.

FARGO SUMMARY	2023	2024	Increase	Percentage Change
Fixed Route				
Management Services	\$ 851,359	\$ 951,747	\$ 100,388	12%
Drivers	\$ 3,280,498	\$ 3,653,376	\$ 372,878	11%
SUBTOTAL FIXED ROUTE	\$ 4,131,857	\$ 4,605,124	\$ 473,266	11%
Paratransit (81%)				
Management Services	\$ 188,029	\$ 210,200	\$ 22,171	12%
Drivers	\$ 698,966	\$ 900,529	\$ 201,563	29%
SUBTOTAL PARATRANSIT	\$ 886,995	\$ 1,110,729	\$ 223,734	25%
TOTAL FARGO	\$ 5,018,852	\$ 5,715,853	\$ 697,001	14%
PERFORMANCE BOND	\$ 37,688	\$ 34,632	\$ (3,056)	-8%

The cost to Fargo for 2024 contract changes was anticipated and is included in the CY2024 Transit budget.

RECOMMENDED MOTION: Approve Amendment #2 to the Contract with TransDev to extend the contract for one year through December 31, 2024, to amend the terms for CY2024 and to authorize Transit staff to develop a contract in consultation with the Legal department.

Sincerely,


 Julie Bommelman
 City of Fargo Transit Director
 476-6737

REPORT OF ACTION

36

UTILITY COMMITTEE

Project No. N/A

Type: Second Addendum to Agreement
City of Fargo, CRWUD, Park District

Location: New Softball Complex (64th Ave N)

Date of Hearing: 10-4-2023

<u>Routing</u>	<u>Date</u>
City Commission	11-27-2023
Project File	_____

Jim Hausauer, Water Reclamation Utility Director, presented the attached memo requesting approval of the Second Addendum to the Agreement between the City of Fargo, Cass Rural Water Users District (CRWUD), and the Fargo Park District. In 2014, the CRWUD, Fargo Park District, and the City of Fargo entered into an agreement where the City would obtain an easement across Park District property known as Mickelson Field (east of Oak Street between 8th and 11th Avenue N), so the City could construct a flood protection levee. As the footprint of the levee across Mickelson Field consumed several softball diamonds, the City and Park District then entered into a lease of land to replace the softball diamonds. This land is located adjacent to the City of Fargo Wastewater Stabilization Ponds. The 2014 agreement consists of:

- CRWUD would extend water lines to serve the new softball land for drinking and irrigation purposes. The Park District would pay for installation of such lines & pay applicable water rates.
- The City of Fargo would install sanitary sewer service to the new softball land. The Park District agrees to pay sewer rates consistent with rates based on metered water consumption.

The First Addendum to the agreement was in response to a request from the Director of Parks in 2014, to provide operation and maintenance (O/M) to their new lift station. The Water Reclamation Utility response was to agree, and base O/M similar to other outside users that owned their own lift station (Harwood, Reiles Acres, and Oxbow etc.)

- Fargo would provide O/M of the Park District lift station and maintenance of the 24 hour high level radio alarm system and telemetry.
- Any maintenance of the lift station that exceeded \$5,000 annually would be the responsibility of the Park District (capital improvements, major repairs, replacement of pumps, valves. etc.).

The First Addendum was based on the assumption that the Park District owned the land & lift station, but it was discovered through a separate project, that Fargo actually owns the land & lift station that serves the new softball land. The new language clarifying ownership is as follows:

5. Fargo is the owner of the "Park District lift station." Fargo shall be responsible for the operation and maintenance of the Park District Lift Station. Fargo is responsible for any capital improvements, as well as major repairs to its lift station including, but not limited to, replacement of pumps and valves. The Park District has no ownership of the Park District lift station and has no responsibility for its operation and maintenance. The parties agree to execute any additional documents needed in the future to make clear that Fargo is the sole owner of the Park District lift station.

MOTION

On a motion by Scott Luidahl, seconded by Tom Knakmuhs, the Utility Committee voted to approve the Second Addendum to Agreement between the City of Fargo, Cass Rural Water Users District and Fargo Park District to define/clarify ownership of the sanitary lift station that serves the new softball complex.


COMMITTEE: _____ Present Yes No Unanimous X

X

Proxy

Denise Kolpack, City Commissioner	X	X		
Susan Thompson, Director of Finance				
Brian Ward, Water Plant Superintendent	X	X		
Mark Miller, Water Reclamation Supt.	X	X		
Bruce Grubb, Temp. PT City Administrator	X	X		
Scott Liudahl, City Forester	X	X		
Scott Olson, Solid Waste Utility Director	X	X		
Jim Hausauer, Water Reclamation Utility Dir.	X	X		
Troy Hall, Water Utility Director	X	X		
Ben Dow, Public Works Operations Director	X	X		
Tom Knakmuhs, City Engineer	X	X		
Dan Portlock, Water Utility Engineer	X	X		

ATTEST:



Jim Hausauer
Water Reclamation Utility Director

- C: Mayor Mahoney
- Commissioner Strand
- Commissioner Piepkorn
- Commissioner Preston

MEMORANDUM

October 4th, 2023

To: Utility Committee
From: Jim Hausauer, Water Reclamation Utility Director *JH*
Re: Second Addendum to Agreement
City of Fargo and Fargo Park District

Background

In 2014, the Cass Rural Water Users District (CRWUD), Fargo Park District, and the City of Fargo entered into an agreement where the City would obtain an easement across Park District property known as Mickelson Field east of Oak Street between 8th and 11th Avenue N, so the City could construct and install a flood protection levee. As the footprint of the levee across Mickelson Field consumed several softball diamonds, the City and Park District entered into a long term lease of land owned by the City and leased to the Park District to replace the softball diamonds. This land is located adjacent to the City of Fargo Wastewater Stabilization Ponds (NW ¼ of Section 10, Twp. 140, North Range 49 West) The 2014 agreement consists of:

1. CRWUD would extend water lines to serve the new softball land for drinking and irrigation purposes. The Park District would pay for installation of such lines and pay a water rate prescribed by the three party coordinated method by which water is metered and charged.
2. The City of Fargo would install sanitary sewer service to the new softball land and the Park District agrees to pay sewer rates consistent with rates for other users based on metered water consumption excluding charges for water used in irrigation.

First Addendum

The First Addendum to the agreement was in response to a request from the Director of Parks in 2014, to provide operation and maintenance (O/M) to their new lift station. The Water Reclamation Utility response was to agree, and base O/M on how they provide O/M to other outside users that owned their own lift station (Harwood, Reiles Acres, and Oxbow etc.)

- Fargo would provide O/M of the Park District lift station and maintenance of the 24 hour high level radio alarm system and telemetry.
- Any maintenance of the lift station that exceeded \$5,000 annually would be the responsibility of the Park District. For example, any capital improvements, major repairs, replacement of pumps and valves. etc.

Second Addendum

The First Addendum was based on the assumption that the Park District owned the land and the lift station, but it was discovered through a separate project, that Fargo actually owns the land and the sanitary lift station that serves the new softball land. As Fargo is the owner the land and lift station, the language in the First Addendum that references maintenance, capital improvements, major repairs would be the responsibility of the City of Fargo. The new language clarifying ownership is as follows:

5. Fargo is the owner of the "Park District lift station." Fargo shall be responsible for the operation and maintenance of the Park District Lift Station. Fargo is responsible for any capital improvements, as well as major repairs to its lift station including, but not limited to, replacement of pumps and valves. The Park District has no ownership of the Park District lift station and has no responsibility for its operation and maintenance. The parties agree to execute any additional documents needed in the future to make clear that Fargo is the sole owner of the Park District lift station.

Recommended Motion:

Approve the Second Addendum to Agreement between the City of Fargo and Fargo Park District to define ownership of the sanitary lift station that serves the softball complex.

SECOND ADDENDUM TO AGREEMENT
(City of Fargo, Fargo Park District, Cass Rural Water User District)

THIS SECOND ADDENDUM TO AGREEMENT is made and entered into this ____ day of ____, 2023, by and between the City of Fargo, a North Dakota municipal corporation, hereinafter “Fargo”, Cass Rural Water User District, a political subdivision of the state of North Dakota, whose address is P.O. Box 98, 131 Maple Street, Kindred, North Dakota 58501, and the Park District of the City of Fargo, a political subdivision of the state of North Dakota, hereinafter “Park District”.

WHEREAS, the parties entered into an agreement dated March 12, 2014 (“Agreement”); and,

WHEREAS, the Agreement provides, in part, that the City is leasing land it owns to the Park District described as “New Softball Land” in the Agreement;

WHEREAS, Park District has installed a sanitary lift station to serve the New Softball Land;

WHEREAS, the Fargo and Park District entered into a First Addendum to Agreement dated November 11, 2014, in which they amended the Agreement to insert a new paragraph 5 which related to the operation, maintenance, and repair of the sanitary lift station;

WHEREAS, the First Addendum provides that Fargo is responsible for the regular operation and maintenance of the lift station not to exceed \$5,000 annually and the Park District is responsible to cover any amount above the \$5,000 cap on an annual basis.

WHEREAS, the parties agree the sanitary lift station should be and in fact is owned by Fargo. The parties agree the sanitary lift station is located on land which is owned by Fargo.

WHEREAS, the parties desire that Fargo be responsible for all of the operation and maintenance of the lift station as it is the owner of said lift station.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Agreement as amended by the First Addendum is hereby further amended as follows:

Section One. Paragraph 5 of the Sewer Agreement shall be deleted and replaced with the following language, to read as follows:

5. Fargo is the owner of the “Park District lift station.” Fargo shall be responsible for the operation and maintenance of the Park District Lift Station. Fargo is responsible for any capital improvements, as well as major repairs to its lift station including, but not limited to, replacement of pumps and valves. The Park District has no ownership of the Park District lift station and has no responsibility for its operation and maintenance. The parties agree to execute

any additional documents needed in the future to make clear that Fargo is the sole owner of the Park District lift station.

Section Two. Except as set forth herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Addendum to Agreement the day and year last executed below.

CITY OF FARGO,
a North Dakota Municipal Corporation

By: _____
Dr. Timothy J. Mahoney, Mayor

Date: _____

ATTEST:

Steve Sprague, City Auditor

CASS RURAL WATER USERS
DISTRICT

By: 
Jerry Blomeke, Manager

Date: 10/09/2023

PARK DISTRICT OF THE CITY OF
FARGO, a North Dakota political
subdivision

By: 

Joe Deutsch, President

Date: 11/14/2023

AGREEMENT

THIS AGREEMENT is made and entered into effective this 12th day of March, 2014, by and between **CASS RURAL WATER USER DISTRICT**, a political subdivision of the state of North Dakota, whose address is P.O. Box 98, 131 Maple Street, Kindred, North Dakota 58051 (hereinafter referred to as "Cass Rural"); the **PARK DISTRICT OF THE CITY OF FARGO**, a political subdivision of the state of North Dakota, whose address is 701 Main Avenue, Fargo, North Dakota 58102 (hereinafter referred to as the "Park District"); and the **CITY OF FARGO**, North Dakota, a municipal corporation, whose address is 200 North Third Street, Fargo, North Dakota 58102 (hereinafter referred to as "City");

WHEREAS, the City and Park District have made arrangements and entered into the appropriate agreements and documents whereby the City will obtain an easement across Park District property commonly known as Mickelson Field, located east of Oak Street and lying, generally, between 8th Avenue and 11th Avenue North in Fargo, so that the City may construct and install a flood protection levee; and

WHEREAS, the footprint of the flood protection levee across Mickelson Field will consume several of the softball diamonds and, as part of this arrangement, the City and the Park District have entered into a long-term lease of certain land owned by the City to be leased to the Park District to be used by the Park District to replace said softball diamonds and for such other related Park District purposes; the legal description for said land which has been leased, or will be leased, to the Park District for said purposes is situate in the county of Cass and state of North Dakota more fully described as follows:

Northwest 1/4 of Section 10, Township 140, North Range 49 West, 155.84 acres, hereinafter the "New Softball Land"; and

WHEREAS, the Park District will need a supply of water for drinking and irrigation purposes and will need sanitary sewer service as well for the New Softball Land; and

WHEREAS, Cass Rural is a rural water system financed, in whole or in part, by federal loans pursuant to United States Code Annotated Section 1926, and provides water services to areas within Cass County, North Dakota, including the aforesaid New Softball Land; and

WHEREAS, Cass Rural has existing water service lines located nearby the New Softball Lands and is willing to extend said water service line to serve the New Softball Land; and

WHEREAS, the City is willing to extend sewer service to the New Softball Land; and

WHEREAS, the parties are agreeable to enter into this agreement containing the terms by which water, sewer and sewer infrastructure will be extended to serve the New Softball Land and to establish the terms by which the Park District will pay for sewer and water provided to the New Softball Land;

NOW, THEREFORE, based upon the mutual covenants stated herein and other valuable consideration, it is hereby agreed:

1. Cass Rural will extend water lines to serve the New Softball Land, said water service line or lines to be designed at such capacity to satisfy the expected needs of the Park District for the New Softball Land for both drinking water and irrigation water purposes. Cass Rural and the Park District agree that a six-inch diameter water line will be sufficient to meet the current expected capacity needs of the New Softball Land. Cass Rural intends to install a water line with greater capacity than a six-inch diameter pipe so that said service line may be utilized to serve other properties. The Park District agrees to pay Cass Rural the cost Cass Rural would have borne to install a six-inch diameter pipeline and Cass Rural will bear any costs associated with the over-sizing of the said water supply pipe.

2. The Park District will be charged by Cass Rural the sum of \$2.00 for each 1,000 gallons of water used by the Park District for the New Softball Land. Cass Rural obtains the water that will be provided to the New Softball Land from the City. The City will charge Cass Rural the sum of \$1.50 for each 1,000 gallons of water used by the Park District on the New Softball Land. The three parties agree to coordinate a method by which the metered volume of water consumed by the Park District for the New Softball Land is monitored and recorded and the periodic usage of said water is, in turn, invoiced by the City to Cass Rural and, accordingly, by Cass Rural to the Park District.

3. The City will be responsible for installation of extending sanitary sewer service to the New Softball Land in accordance with the City's customary practices, including the establishment of a special improvement district, and the assessment of the cost of such installation to benefitted properties. The Park District agrees to accept the reasonable assessment against the New Softball Land, it being a benefitted property, and the Park District waives the right to protest the resolution and necessity of said public improvements in accordance with North Dakota Century Code Section 40-22-17. The Park District consents to the construction of said public improvements and to the assessment of costs against the property.

4. The Park District agrees to pay sewer rates consistent with the rates charged by the City for commercial and industrial users based upon the Park District's metered consumption of water, as referred to in paragraph 2, above, but excluding from such charges the water used solely for irrigation purposes. In order to distinguish between water used for irrigation purposes and water used for other purposes, such separate uses will need to be separately metered or, in the alternative, the City and Park District may arrive at other arrangements for estimating the same.

5. Term of Agreement. This agreement shall extend for an initial period of 20 years, and may be renewed for one or more additional periods of five-year terms upon agreement of the parties hereto.

5. This agreement shall be deemed effective the date and year first above written.

CASS RURAL WATER USERS, INC.,
a non-profit corporation,

Dated: 3/12/14

By: Bradley Koetz

Its: Chairman of the Board of Directors

ATTEST:

[Signature]
Secretary/Treasurer

CITY OF FARGO, North Dakota
a municipal corporation

Dated: 12-23-13

By: [Signature]
Dennis R. Walaker

Its: Mayor

ATTEST:

[Signature]
Steve Sprague, City Auditor

PARK DISTRICT OF THE CITY OF
FARGO, a North
Dakota political subdivision

Dated: _____

By: [Signature]

Its: Chairman of Board of Commissioners

ADDENDUM TO AGREEMENT

(City of Fargo and Fargo Park District)

THIS ADDENDUM TO AGREEMENT is made and entered into this 11th day of November 2014 by and between **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter "Fargo", and **the PARK DISTRICT OF THE CITY OF FARGO** a political subdivision of the state of North Dakota, hereinafter "Park District",

WITNESSETH:

WHEREAS, the parties have entered into an agreement dated March 12, 2014 ("Agreement"); and,

WHEREAS, Park District has installed a sanitary lift station to serve the New Softball Land; and,

WHEREAS, the present Agreement contemplated only the installation of such lift station; and,

WHEREAS, the parties agree that the lift station that was constructed by Park District will require operation, maintenance and repair; and,

WHEREAS, the parties wish to amend the existing agreement to provide for such.

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

1. Renumber Paragraphs. The Agreement contained an error in the numbering of the paragraphs – there are two paragraph 5's. The Agreement is hereby amended to renumber the second paragraph 5 (stating the effective date of the Agreement) as paragraph "7", and the first paragraph "5" as paragraph "6".
2. The Agreement is hereby amended to insert a new paragraph 5, to read as follows:

5. Fargo shall be responsible for the operation and routine maintenance of the Park District lift station. Such operation and routine maintenance shall include, but is not limited to, and is subject to the limitation hereinafter set forth:

A. *Regular operation and maintenance (OM) of the lift station;*

B. *Maintenance of a 24-hour high level radio alarm system and lift station telemetry.*

For purposes of this agreement, routine maintenance of the Park District lift station shall be defined as maintenance not exceeding \$5,000 annually. Any cost over said amount shall be the Park District responsibility. The Park District shall be responsible for any capital improvements, as well as major repairs to its lift station including, but not limited to, replacement of pumps and valves. The Park District shall construct the lift station to specifications approved in advance by Fargo.

2. Except as set forth herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

THE CITY OF FARGO, NORTH DAKOTA
a municipal corporation

By 
Dennis Walaker, Mayor

ATTEST:


Steven Sprague, City Auditor

PARK DISTRICT OF THE CITY OF FARGO, a
North Dakota political subdivision

By 
Chairman



Jim Hausauer, Utility Director
City of Fargo - Division of Wastewater
3400 North Broadway
Fargo, ND 58102

September 12, 2014

Dear Jim,

The Fargo Park District is requesting the City of Fargo Waste Water Utility consider assuming the regular operation and maintenance (OM) of our new sanitary lift station located at the new Fargo Softball Complex located in north Fargo.

The Waste Water Utility Department's expertise in this area would be of tremendous help to us in operating this new complex.

If the Utility Committee is in agreement to this request we could add an addendum to our original agreement with the City of Fargo regarding the transfer of lands and water utilities for the new complex.

We appreciate your consideration in assisting us in with our new complex's lift station operation and maintenance (OM).

Sincerely,

Dave Leker
Director of Parks
Fargo Park District

Cc: Roger Gress, Executive Director Fargo Park District
Jim Larson, Director of Finance

Park Board

Barb Johnson, Commissioner
Joel Vettel, Commissioner
Ron Sorvaag, Commissioner
Mary Johnson, Commissioner
Joe Deutsch, Commissioner
Chris Kennelly, Clerk

Administration

Roger Gress,
Executive Director

Jim Larson,
Director of Finance/Human
Resources

Dave Leker,
Director of Parks

Clay Whittlesey,
Director of Recreation

Carolyn Boutain,
Director of Cultural Activities

Kevin Boe,
General Manager Courts Plus
Fitness Center

Brian Arett,
Director Fargo Senior Services

Amy Rasmussen,
Administrative Assistant





64th AVE N

45th ST N

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

LS 71

1:9,028

9/28/2023 9:37 AM

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



City of Fargo, ND

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

Mickelson Field - 2010

1:4,514

9/28/2023 10:30 AM

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





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

Mickelson Field Levee - 2023

1:4,514

9/28/2023 10:27 AM

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




As the NDSP price was established based on actual Tharaldson O&M and established value of water, the 2024 supplied water price for both Tharaldson Ethanol and NDSP will be **\$3.52/1000 gal.** Both will be monitored annually and adjusted as needed (no later than 5 years). The price for wastewater return is the same as other industries in the City of Fargo **\$2.40/1000 gallons.**

MOTION:

On a motion by Troy Hall, seconded by Brian Ward, the Utility Committee voted to approve the draft Fourth Amendment to the Memorandum of Understanding between Fargo, Cass Rural Water Users District and Tharaldson Ethanol to adjust the rate of treated water supplied as spelled out in the original agreement.

COMMITTEE:	Present	Yes	No	Unanimous
				<u>Proxy</u>
Denise Kolpack, City Commissioner	X	X		
Susan Thompson, Director of Finance	X	X		
Brian Ward, Water Plant Superintendent	X	X		
Mark Miller, Water Reclamation Plant Supt.	X	X		
Bruce Grubb, Temp. PT City Administrator	X	X		
Scott Liudahl, City Forester	X	X		
Scott Olson, Solid Waste Utility Director				
Jim Hausauer, Water Reclamation Utility Dir.	X	X		
Troy Hall, Water Utility Director	X	X		
Ben Dow, Public Works Operations Director	X	X		
Tom Knakmuhs, City Engineer	X	X		
Dan Portlock Water Utility Engineer	X	X		

ATTEST:



 Jim Hausauer
 Water Reclamation Utility Director

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



WATER RECLAMATION

REGIONAL WATER RECLAMATION FACILITY
 3400 North Broadway
 Fargo, ND 58102
 Phone: 701.241.1454 | Fax: 701.241.8159
FargoND.gov

MEMORANDUM

September 6th, 2023

To: Utility Committee
From: Jim Hausauer, Water Reclamation Utility Director *JH*
Re: Fourth Amendment to Memorandum of Understanding
 City of Fargo, Cass Rural Water Users District and Tharaldson Ethanol

Background

If you recall the Water Reclamation Facility (WRF) operates an Effluent Reuse Facility (ERF) that treats secondary effluent (treated wastewater) to reverse osmosis quality water for use at the Tharaldson Ethanol Plant in Casselton, ND. Since 2007 the ERF treats & provides (sells) over a million gpd that would ordinarily be discharged into the river (over 5.3 billion gallons ytd). The WRF also receives and treats wastewater from the Ethanol Plant as well.

The original 2007 agreement established a price per thousand gallons provided as follows:

- 1). \$1.02/1000 gal. = Estimated cost of O&M (operation/maintenance)
- 2). \$1.50/1000 gal. = Value given the volume of water per/1000 gallons
- 3). \$2.52/1000 gal. = Initial Rate for treated water to Tharaldson Ethanol (billed to CRWUD)

The wastewater charge being returned from Tharaldson Ethanol was equal to wastewater charge being levied against other industrial users within the city at a rate of **\$1.90/1000** based on meter readings.

2018 Rate Increase

The 2007 agreement allows for an adjustment of the O&M component (\$1.02/1000) to cover actual costs as defined in section 5 of the agreement: Below were the actual costs for years 2012-2017:

Actual Operations & Maintenance 2012-2017:

Year	H2O Produced (X1000 gal)	Actual O&M Costs	O&M X1000 gal
2012	331,813	\$437,679	\$1.32
2013	315,160	\$528,462	\$1.68
2014	324,477	\$473,439	\$1.46
2015	333,591	\$473,066	\$1.42
2016	368,079	\$455,036	\$1.24
2017 (June)	184,582	\$216,940	\$1.18
Total	1,857,702	\$2,584,622	\$1.39

The original water costs were given a value of \$1.50/1000. The 2007 agreement allows for an increase of 3.5% of the applicable rate for the prior 5-year period. For example, the \$1.50/1000 water component, in years 6-10 the rate can be increased to **\$1.5525/1000** gallons.

2018 – New Rate:

\$1.39 (O&M) + \$1.5525 (H2O)/1000 gal = **\$2.94/1000 gallons**
 2018 Wastewater Return= **\$2.10/1000 gallons**

Proposed 2024 Rate Increase

The 2024 proposed Tharaldson Ethanol water rate was established by the WRF's effort to establish a rate for the North Dakota Soybean Producers (NDSP) ERF II Project. Similar to Tharaldson in 2007, NDSP was looking for a source of water that met their needs from a quality, quantity and cost standpoint. NDSP reached out to the CoF WRF & Cass Rural Water Users District (CRWUD) to negotiate an MOU (approved in Aug 2022) similar to the Tharaldson MOU for water and wastewater services to serve their facility near Casselton. As the WRF only had historical O&M data and an existing MOU for the established Tharaldson Facility, the NDSP water rate was established as follows:

Actual O&M and Value of Water:

- 1.) \$1.59/1000 gal. = actual O&M for the previous three years (2019, 2020, 2021)
- 2.) \$1.61/1000 gal. = value of the water \$1.55/1000 (2018) x 3.5% as per the agreement.
- 3.) \$3.20/1000 X 10% escalation due to drastic price escalations during and post COVID.

Total= \$3.52/1000 = 2024 price for both Tharaldson Ethanol and NDSP

As the NDSP price was established based on actual Tharaldson O&M and established value of water, the 2024 supplied water price for both Tharaldson Ethanol and NDSP will be **\$3.52/1000 gal.** Both will be monitored annually and adjusted as needed (no later than 5 years). The price for wastewater return is the same as other industries in the City of Fargo **\$2.40/1000 gallons.**

Your consideration in this matter is greatly appreciated.

Recommended Motion

Approve the Fourth Amendment to Memorandum of Understanding (between the City of Fargo, Cass Rural Water Users District and Tharaldson Ethanol) to adjust the rate of treated water/wastewater as spelled out in the original agreement.

FOURTH AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

(City of Fargo, Cass Rural Water Users District, and Tharaldson Ethanol)

THIS AMENDMENT TO AGREEMENT is made and entered into *effective the first day of January, 2024*, by and between the City of Fargo, a North Dakota municipal corporation, hereinafter “Fargo”, Cass Rural Water Users District, hereinafter “CRWUD” and Tharaldson Ethanol Plant I, LLC, hereinafter “Tharaldson”.

WITNESSETH:

WHEREAS, the parties have entered into a Memorandum of Understanding dated July 9, 2007, which has been amended three times—on September 13, 2007, December 15, 2009, and January 1, 2018 [said MOU, as amended, shall also be referred to herein as the “MOU”]; and,

WHEREAS the parties wish to modify the rate of the Treated Wastewater derived from Fargo’s Wastewater Treatment Plant; and,

NOW THEREFORE, in consideration of the mutual agreements herein contained, the MOU is hereby amended as follows:

SECTION I. Section 6 of the MOU is hereby amended to read as follows:

6. PROPOSED AGREEMENT BETWEEN CITY AND CRWUD FOR TREATED WASTEWATER SUPPLY.

Tharaldson has requested water service from CRWUD for a Treated Wastewater supply with the quality parameters and in the quantities set forth herein. The City has authority pursuant to Industrial Water Permit No. 5897 (Priority Date for which is February 20, 2007 and issue date of May 22, 2007) granted by the ND Water Commission which permit allows the City to use a specified amount and rate of flow of its wastewater for industrial purposes provided it is in priority. So long as said permit remains in effect and in priority and so long as the wastewater supply is available pursuant to state water rights rules and regulations, Fargo will supply to CRWUD Treated Wastewater as provided herein. The City will agree to provide said Treated Wastewater supply to CRWUD. It is understood that the Treated Wastewater will ultimately be supplied to Tharaldson. While the actual number delivered may fluctuate daily according to Tharaldson’s needs, the City and CRWUD must be capable of delivering 1.4 million gallons of Treated Wastewater per day when demanded by Tharaldson subject to the terms and conditions of this MOU. The minimum monthly volume of water to be supplied by the City and accepted by CRWUD will be 15 million gallons subject to the terms and conditions of this MOU. The maximum monthly volume of water to be supplied by the City and accepted by CRWUD will be 43.4 million gallons at a maximum daily rate of flow of

1,400,000 gallons per day subject to the terms and conditions of this MOU. Any deliveries above the stated maximum volume or above the maximum flow rate will not give rise to any continuing obligation to supply Treated Wastewater at any such increased volume or increased flow rate.

CRWUD will contract with the City pursuant to a separate agreement whereby the City would agree to sell Treated Wastewater derived from the City's wastewater treatment plant at a rate of \$2.52 per 1,000 gallons. Therefore, said contract will provide for a minimum payment to be made by CRWUD to the City in the sum of Thirty Seven Thousand Eight Hundred and no/100 Dollars (\$37,800.00) per month (representing the minimum "take or pay" amount of 15 million gallons per month multiplied by \$2.52/1000 gallons), based on a monthly calculation of minimum water use rather than a daily calculation of minimum water use, commencing the first of the month following the first full month of operations of the ethanol plant by Tharaldson, said payment to continue to be paid on the first of each month thereafter throughout the term of this MOU. Said monthly payments shall be in arrears, in payment for the prior month. To the extent that Treated Wastewater has been provided prior to the said first full month of operations, payment shall be made based upon actual meter readings. This amount reflects the City's capital costs, O & M costs and water supply. At the beginning of the sixth year after the first full month of operations of the ethanol plant by Tharaldson, and every fifth year thereafter, the rate may be adjusted by the City in an amount equal to the following:

- a) As to the first ~~\$1.39~~ 1.75 of the actual rate of ~~\$2.94~~ 3.52 per 1000 gallons of Treated Wastewater, said ~~\$1.39~~ 1.75 may be adjusted to such amount as is necessary to cover actual, documented, O & M costs as defined in Section 5, above, as may be established by the City. In the event any party disagrees with the adjustment, the parties agree to negotiate, in good faith; provided that if the parties cannot agree upon the amount of such adjustment the matter shall be decided by arbitration in accordance with the provisions of the Uniform Arbitration Act, N.D.C.C. Chapter 32-29.3, as the same may be amended from time to time.
- b) As to the ~~\$1.5525~~ 1.77 of the initial rate of ~~\$2.9425~~ 3.52 per 1000 gallons of Treated Wastewater, an increase to an amount that three and one-half percent of the rate applicable for the prior five-year period. For example, with regard to the 1.77 water component, in years six through ten, the rate will be 1.8319 per 1,000 gallons. In years eleven through sixteen, the rate will be 1.8960 per 1,000 gallons, and so on.

The 2024 Rate will be \$3.52/1000 gallons.

To the extent that Treated Wastewater is provided in excess of the stated minimum volume of 15 million gallons per month, CRWUD shall pay the sum of ~~\$2.9425~~ 3.52 per 1,000 gallons for said excess amounts. Monthly Treated Wastewater fees will be based on meter readings at the Membrane Treatment Plant.

If the City is unable to deliver water expected pursuant to this MOU, the minimum payments anticipated will not be in effect during the period of time when the City is unable to deliver water.

SECTION II. Section 9 of the MOU is hereby amended to read as follows:

9. AGREEMENT BETWEEN THARALDSON AND CITY FOR PLANT WASTEWATER RETURN.

Tharaldson will contract with the City for treatment of Plant Wastewater Return Flow conveyed from the ethanol plant to the City's wastewater treatment plant. While the actual amount may fluctuate depending on Tharaldson's operations, the City will accept up to .47 million gallons per day of wastewater return flow subject to the terms and conditions of this MOU. Tharaldson will also be required to obtain an Industrial User Permit, expected to be executed contemporaneously with this MOU, from the City for the Plant Wastewater Return Flow and will be subject to any other pretreatment regulations required by the City, as the same requirements and regulations may be amended from time to time by the City as to the City's other industrial permittees. The foregoing are intended as additional, but not alternative, to the provisions of Paragraph 3.2.1, above. Except as provided herein, Tharaldson shall bear all cost of compliance with these conditions.

The maximum volume of Plant Wastewater Return to be supplied by Tharaldson and accepted by the City will be 14.6 million gallons per month at a maximum daily rate of flow of 470,000 gallons per day subject to the terms and conditions of this MOU. The City agrees to accept and Tharaldson agrees to pay for the Plant Wastewater Return at a rate that is commensurate with the rate paid by other industries within the City of Fargo, subject to the terms and conditions of this MOU. Beginning in the sixth year after the first full month of operations of the ethanol plant by Tharaldson, and then every fifth year thereafter, the rate may be increased by the City so that the service fee for Plant Wastewater Return is then equal to the wastewater service fee levied against other industrial users within the city, as approved by resolution of the Board of City Commissioners. Monthly Plant Wastewater Return fees will be based on meter readings at the City's wastewater treatment plant. The agreed upon rate for the calendar years 2023 and 2024 shall be \$2.10 2.40 per 1000 gallons.

In addition, the City reserves the right to apply a high strength surcharge to the wastewater return if the concentrations of BOD or TSS exceed 275 ppm each. The surcharge will be \$45 per 1,000 pounds of BOD and \$50 per 1,000 pounds of TSS. Beginning in the sixth year after the first full month of operations of the ethanol plant by Tharaldson, and then every fifth year thereafter, the rate may be increased by the City so that the surcharge is then equal to the surcharge levied against other industrial users within the city, as approved by resolution of the Board of City Commissioners..

Subject to the terms and conditions of this MOU the City will not charge Tharaldson for the cost of returning any residuals from backwash and membrane concentrate from the Membrane Treatment Plant processes to the City's wastewater treatment plant.

SECTION III. In all other respects the MOU, as the same has been previously amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective the date and year first above written.

CITY OF FARGO,

By: _____
Timothy J. Mahoney, Mayor

Date: _____

ATTEST:

Steve Sprague, City Auditor

CASS RURAL WATER USERS DISTRICT,

By: 
Jerry Blomeke, Manager

Date: 11/2/2023

THARALDSON ETHANOL

By: 

Ryan Carter, COO

Date: 10. 21. 23

REPORT OF ACTION

UTILITY COMMITTEE

38

Project: WW1905

Type: AE2S Task Order #3-Amendment #1
FEMA BRIC Grant Re-application

Location: Fargo West Side Interceptor (WSI) Improvements

Date of Hearing: 11-15-2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>11-27-2023</u>
Project File	<u></u>

Jim Hausauer Water Reclamation Utility Director, presented the attached memo associated with Amendment #1 to AE2S Task Order #3. If you recall, the West Side Interceptor (WSI) is one of three major interceptors that convey wastewater to the Fargo/Regional Water Reclamation Facility (WRF). The WSI was constructed in the 1970's and is a critical component of the Fargo wastewater collection system. It generally follows the 42nd Street corridor and serves areas throughout Fargo spanning as far south as the Davies neighborhood, and as far north as Hector Airport. The WSI is responsible for collecting and conveying approximately 30% of the City's total wastewater to the WRF. In recent years, the City has had to make costly emergency repairs to the WSI due to multiple structural pipe failures, with some repairs running as high as \$275,000. As this interceptor is ~55 years old, it is likely that these pipe failures will continue, thus a plan to rehabilitate and improve the WSI is needed. Additionally, a hydraulic modeling evaluation identified that a portion of the system is undersized for both current and future conditions. As such, improvements are being proposed to replace pipe in areas of poor condition and locations where the pipe is undersized.

The Water Reclamation Utility has previously performed a condition assessment on the WSI to prioritize segments for rehabilitation and/or replacement. The assessment identified & prioritized improvements on the West Side Interceptor System and a plan to pursue funding for eligible improvements through FEMA's Building Resilient Infrastructure and Communities (BRIC) funding program. FEMA BRIC will fund projects at a 75% federal share with a 25% local share. This program was formerly known as the Pre-Disaster Mitigation (PDM) program, which the City of Fargo had been previously successful in obtaining funding through for its Red River Pump Station and WRF Flood Protection projects. The BRIC program has received an increase in funding from its predecessor program, is allocated each year & nationally competitive. Each state can only submit one project, but the ND Department of Emergency Services (NDDDES) is optimistic that this project continues to be a good candidate for selection. Based on current and future anticipated construction costs, this multi-year project has an initial cost estimate in excess of \$25 million dollars.

Amendment #1 to Task Order #3

In 2021, a BRIC application & supporting documentation was submitted to the NDDDES for review and comment. This initial application was unsuccessful and denied. NDDDES recently recommended that the City of Fargo reapply for the next BRIC application cycle as North Dakota recently had two significant projects selected for funding based on modifications to the scoring and selection process. This task order amendment would include updating and revising the prior application, cost estimate, benefit cost analysis (BCA), adding documentation for socio-economic impacts and ultimately resubmitting the application. If the reapplication is successful, 75% of the improvement cost share would be funded through the FEMA BRIC program. The initial period of performance is 42 months, but time extensions are looked upon favorably.

Note: 75% of this Task Order and Amendment #1 will be funded with a FEMA BRIC Scoping Grant. The local share associated with this project, will be funded with Water Reclamation Infrastructure Sales Tax Fund 455 and is included in the Water Reclamation Capital Improvement Plan (CIP)

MOTION

On a motion by Troy Hall, seconded by Scott Olson, the Utility Committee voted to approve Amendment #1 to Task Order #3 from AE2S in the amount of \$15,000 for a FEMA Building Resilient Infrastructure in Communities (BRIC) Grant reapplication for improvements associated with the West Side Interceptor.

COMMITTEE:	Present	Yes	No	Unanimous	X
					Proxy - X
Denise Kolpack, City Commissioner	X	X			
Susan Thompson, Director of Finance	X	X			
Brian Ward, Water Plant Superintendent	X	X			
Mark Miller, Water Reclamation Plant Supt.	X	X			
Bruce Grubb, Temp. PT City Administrator	X	X			
Scott Liudahl, City Forester	X	X			
Scott Olson, Solid Waste Utility Director	X	X			
Jim Hausauer, Water Reclamation Utility Dir.	X	X			
Troy Hall, Water Utility Director	X	X			
Ben Dow, Public Works Operations Director	X	X			
Tom Knakmuhs, City Engineer	X	X			
Dan Portlock, Water Utility Engineer	X	X			

ATTEST:



 Jim Hausauer
 Water Reclamation Utility Director

- C: Mayor Mahoney
- Commissioner Strand
- Commissioner Piepkorn
- Commissioner Preston



MEMORANDUM

November 15, 2023

TO: Utility Committee
FROM: Jim Hausauer, Water Reclamation Utility Director *JH*
RE: Amendment #1 to AE2S Task Order #3
FEMA Building Resilient Infrastructure in Communities (BRIC) Funding Reapplication
Project WW 1905--West Side Interceptor Improvements

Background

The West Side Interceptor (WSI) is one of three major interceptors that convey wastewater to the Fargo/Regional Water Reclamation Facility (WRF). The WSI was constructed in the 1970's and is a critical component of the Fargo wastewater collection system. It generally follows the 42nd Street corridor and serves areas throughout Fargo spanning as far south as the Davies neighborhood, and as far north as Hector Airport. The WSI is responsible for collecting and conveying approximately 30% of the City's total wastewater to the WRF. In recent years, the City has had to make costly emergency repairs to the WSI due to multiple structural pipe failures, with some repairs running as high as \$275,000. As this interceptor is close to 55 years old, it is likely that these pipe failures will continue, thus a plan to rehabilitate and improve the WSI is needed. Additionally, a hydraulic modeling evaluation identified that a portion of the system is undersized for both current and future conditions. As such, improvements are being proposed to replace pipe in areas of known poor condition and locations where the pipe is undersized.

FEMA BRIC Application

The Water Reclamation Utility has previously performed a condition assessment on the WSI to prioritize segments for rehabilitation and/or replacement. The assessment identified & prioritized improvements on the West Side Interceptor System and a plan to pursue funding for eligible improvements through FEMA's Building Resilient Infrastructure and Communities (BRIC) funding program. FEMA BRIC will fund projects at a 75% federal share and a 25% local share. This program was formerly known as the Pre-Disaster Mitigation (PDM) program, which the City of Fargo had been previously successful in obtaining funding through for its Red River Pump Station and WRF Flood Protection projects. The BRIC program has received an increase in funding from its predecessor program, is allocated each year & nationally competitive. Each state can only submit one project, but the ND Department of Emergency Services (NDES) is optimistic that this project continues to be a good candidate for selection. Based on current and future anticipated construction costs, this multi-year project has an initial cost estimate in excess of \$25 million dollars. A summary of the improvements include:

- Upsizing gravity reinforced concrete pipe (RCP) from 36-inch to 48-inch from approximately Main Avenue to 19th Avenue North.
- Replace 36-inch pipe from 13th Avenue South along 42nd Street South up to Lift Station 22.

Amendment #1 to Task Order #3

In 2021, a BRIC application and supporting documentation was submitted to the NDDDES for their review and comment. This initial application was unsuccessful and denied. NDDDES recently recommended that the City of Fargo reapply for the next BRIC application cycle as North Dakota recently had two significant projects selected for funding based on modifications to the scoring and selection process. This task order amendment would include updating and revising the prior application, benefic cost analysis (BCA), adding documentation for socio-economic impacts and ultimately resubmitting the application. If the reapplication is successful, 75% of the improvement cost share would be funded through the FEMA BRIC program. The initial period of performance is 42 months, but time extensions are looked upon favorably.

Note: 75% of this Task Order and Amendment #1 will be funded with a FEMA BRIC Scoping Grant. The local share associated with this project, will be funded with Water Reclamation Infrastructure Sales Tax Fund 455 and is included in the Water Reclamation Capital Improvement Plan (CIP)

Recommended Motion

Approve attached Amendment #1 to Task Order #3 from AE2S in the amount of \$15,000 for a FEMA Building Resilient Infrastructure in Communities (BRIC) Grant reapplication for improvements associated with the West Side Interceptor.



November 9, 2023

Jim Hausauer
Fargo Water Reclamation Utility Director
3400 North Broadway
Fargo, ND 58102

**RE: Fargo WSI Improvements – Planning and Funding Development
Financial Services – BRIC Grant Resubmission
Water Reclamation Consulting Task Order No. 3**

Dear Jim:

Thank you for the opportunity to submit this letter proposal for professional engineering services for the Fargo WSI Improvements – Planning and Funding Development Project. This letter and the attached Amendment No. 1 to Water Reclamation Consulting Task Order No. 3 provide the proposed scope of services for financial services. The proposed fee for these services, expenses and reimbursables is \$15,000.

The Building Resilient Infrastructure and Communities (BRIC) program is a funding program administered by the Federal Emergency Management Agency (FEMA) that funds projects at a 75 percent federal share and 25 percent local share. This program was formerly known as the Pre-Disaster Mitigation (PDM) program, which the City of Fargo had been previously successful in obtaining funding through for its Red River Pump Station and Wastewater Treatment Plant Flood Protection projects. The BRIC program has received a dramatic increase in funding from its predecessor program and is tied to six (6) percent of the previous year's federal disaster claim.

A construction application was submitted in 2021 under FEMA's BRIC program to fund improvements to the City's West Side Interceptor system. While that application was unsuccessful in being selected for funding, the State's Department of Emergency Services recently recommended that the City resubmit the project for consideration under the upcoming BRIC application cycle. North Dakota recently had two significant projects selected for funding following recent modifications to the application scoring and selection process. This amendment includes updating and revising the prior application and benefit cost analysis, adding new documentation for socio-economic impacts, and resubmitting the application for potential selection under the BRIC funding program.

If you agree with the proposed scope of services and associated professional fees presented in the attached Amendment No. 1 to Water Reclamation Consulting Task Order No. 3, please sign both copies in the spaces provided, retain one fully-executed copy for your records, and return the other fully-executed copy to AE2S. We are excited to assist the City of Fargo in completing this important water reclamation service project.

Submitted in Service,

A handwritten signature in blue ink that reads "Ryan Grubb".

Ryan Grubb, PE
Operations Manager

Amendment No. 1 To Wastewater Consulting Task Order No. 3

In accordance with the Agreement Between Owner and Engineer for Professional Services, dated January 1, 2021 (“Agreement”), Owner and Engineer agree to amend an existing Task Order as follows:

1. Background Data:

- a. Effective Date of Amendment: November 27, 2023
- b. Owner: City of Fargo (Division of Water Reclamation)
- c. Engineer: Advanced Engineering and Environmental Services, LLC. (AE2S)
- d. Project Title: Fargo WSI Improvements – Planning and Funding Development
- e. Engineer Project No.: P00803-2020-019

2. Description of Modifications

- a. Engineer shall perform the following Additional Services:

Phase 121 – Financial Services

Task 01 – BRIC Grant Resubmission

ENGINEER shall revise and resubmit a grant application for the West Side Interceptor (WSI) Improvements to FEMA’s Building Resilient Infrastructure and Communities (BRIC) program. Key tasks to be performed as part of the grant application resubmittal include the following:

- *Update opinion of probable project costs.*
- *Perform a Benefit Cost Analysis (BCA) of the proposed improvements with FEMA’s updated BCA calculator.*
- *Revise original application to separate the project into two phases, with Phase 1 covering design and bidding of the improvements and Phase 2 covering construction of the improvements. The revised application shall include a funding request for Phase 1 only.*
- *Update BCA and application supporting documentation, which shall include the addition of socioeconomic impacts to the impacted service area using the EPA’s Environmental Justice Screening Tool.*

ENGINEER shall coordinate closely with the North Dakota Department of Emergency Services (NDDSES) and FEMA’s Region 8 office during the development of the updated BRIC application. The application shall be updated and submitted to the Region 8 office for initial review and comment. ENGINEER shall review and incorporate comments received from Region 8 office into the final application and resubmit for potential selection under the BRIC funding program.

- b. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:

<i>Phase</i>	<i>Task Number and Task Name</i>	<i>Payment Method</i>	<i>Estimated Hours</i>	<i>Amount</i>
<i>121</i>	<i>Financial Services</i>	<i>Method B</i>		
<i>01</i>	<i>BRIC Grant Resubmission</i>		<i>84</i>	<i>\$15,000</i>

c. The schedule for rendering services under this Task Order is modified as follows:

- *Task Order approval – November 27, 2023*
- *Grant Application Resubmission – January 2024*

3. Task Order Summary (Reference only)

- a. Original Task Order amount: \$142,200
- b. Net change for prior amendments: \$0.00
- c. This amendment amount: \$15,000
- d. Adjusted Task Order amount: \$157,200

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C of the Agreement.

Owner and Engineer hereby agree to modify the above-referenced Task Order as set forth in this Amendment. All provisions of the Agreement and Task Order not modified by this or previous Amendments remain in effect.

The Effective Date of this Amendment is November 27, 2023.

OWNER: City of Fargo (Division of Water Reclamation)

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

By:



By:



Name:

Jim Hausauer, REHS

Name:

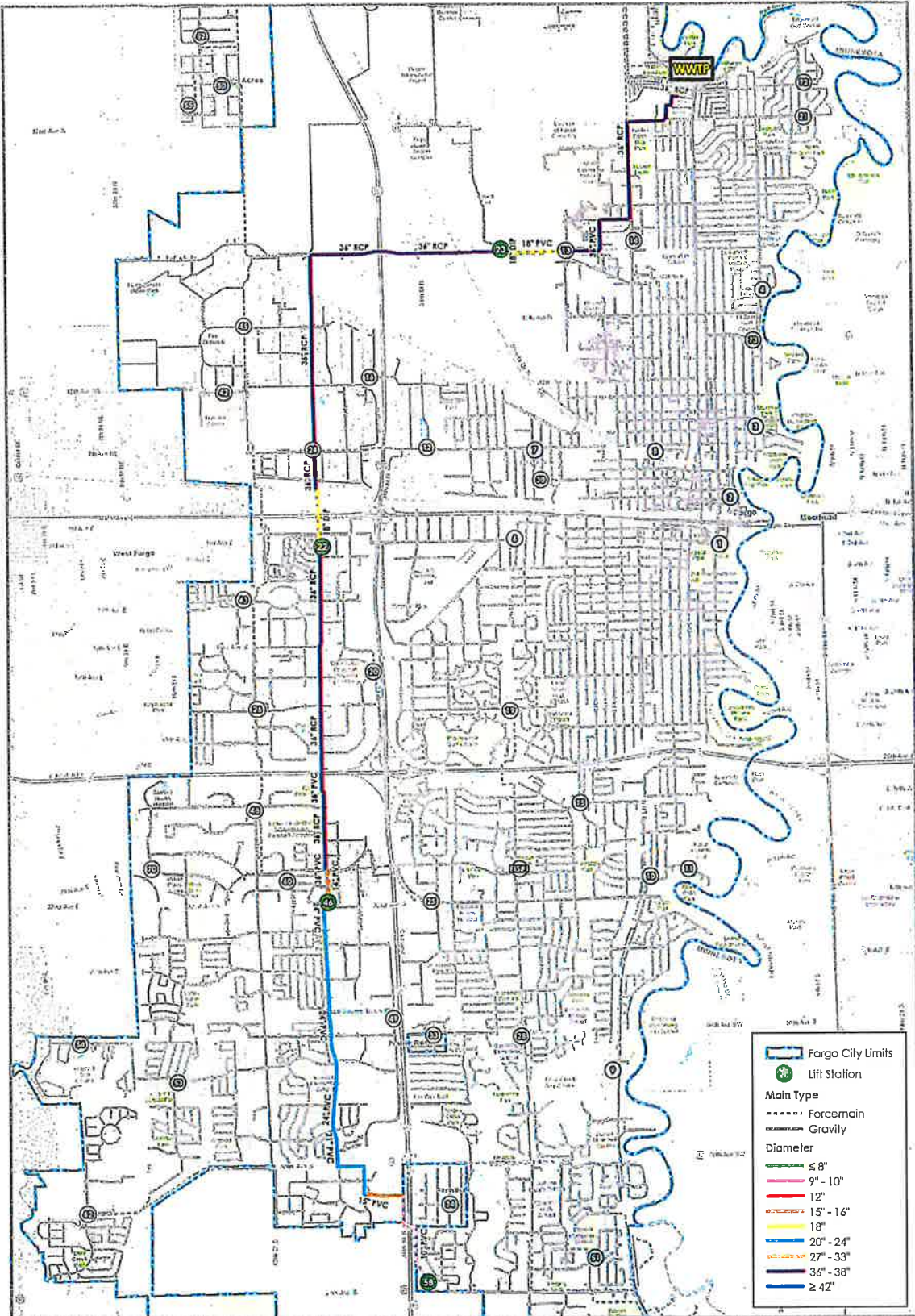
Ryan Grubb, PE

Title:

Water Reclamation Utility Director

Title:

Operations Manager



Information depicted may include data unverified by AE2S. Any reliance upon such data is at the user's own risk. AE2S does not warrant this map or its features are either spatially or temporally accurate. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: dlissick | C:\Data\Projects\WAFS\Fargo\00803-2018-001\GIS\Fargo 2018-001.aprx



WESTSIDE INTERCEPTOR

Fargo | Cass County, ND

THE CITY OF
Fargo
 FAR MORE

Date: 9/9/2019

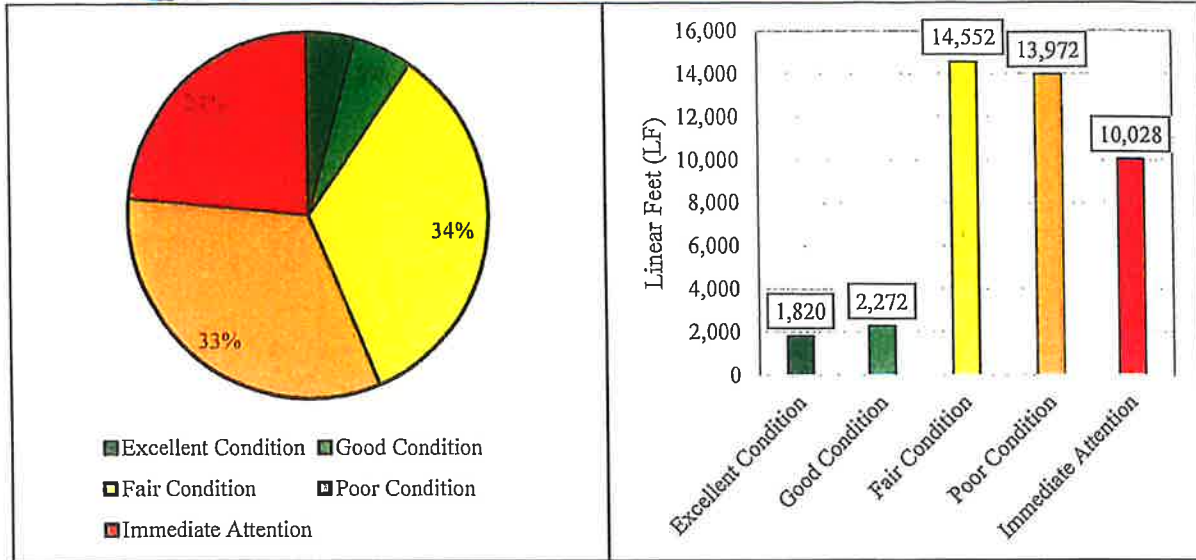
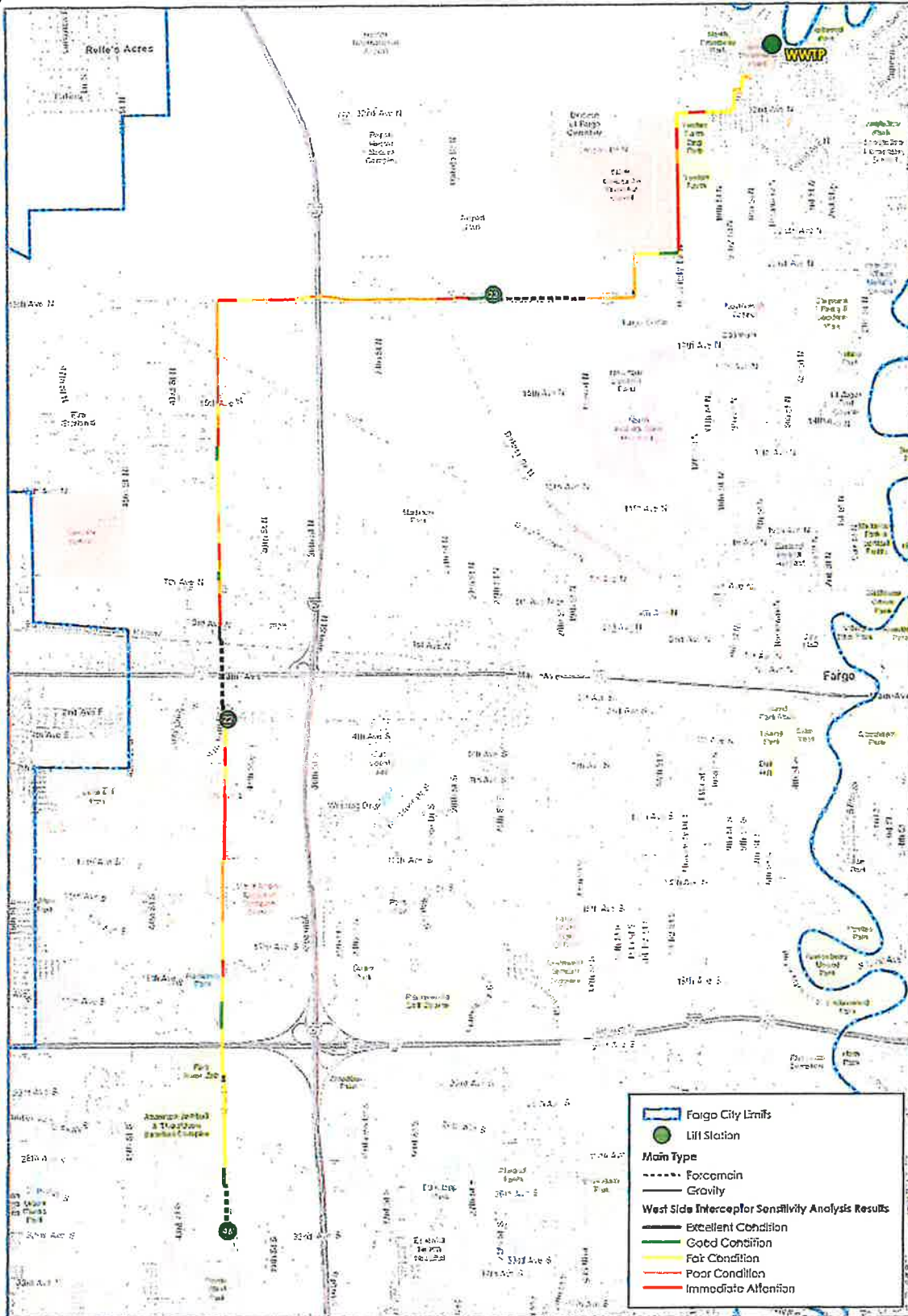


Figure 2.2 Condition Assessment Results Distribution

A map of each WSI pipe segment, showing the condition grade from the condition assessment is provided in Figure 2.3.



Information depicted may include data unverified by AES. Any reliance upon such data is at the user's own risk. AES does not warrant this map or its contents are either spatially or temporally accurate. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: dlissick | C:\Data\Projects\WWSIF\Fargo\0203-2018_001\GIS\Fargo 2018-001.aprx

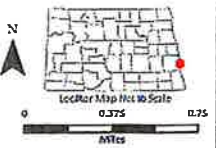


FIGURE 2.3
WEST SIDE INTERCEPTOR
CONDITION ASSESSMENT RESULTS
 Fargo | Cass County, ND



39

REPORT OF ACTION

UTILITY COMMITTEE

Project No. _____ Type: 2024 Amendment to Rate Resolution
 Surcharge Fee for Outside Users

Location: Solid Waste Division – Landfill

Date of Hearing: 11/15/2023

<u>Routing</u>	<u>Date</u>
City Commission	11/27/2023
Project File	2024 Rate Resolution - Surcharge

Scott Olson, Solid Waste Utility Director, presented the attached memo describing the 2024 proposed amendment to the solid waste rate resolution which would add a surcharge fee for \$25/ton to landfill users who generate waste outside of the City of Fargo and outside of Cass County.

On December 12, 2022, the Commission approved a resolution prescribing rates and charges for Solid Waste services effective January 1, 2023 which details the cost payable for residential and commercial garbage and recycling services made available by the City, as well as, Landfill charges associated with disposal and handling of waste.

The City currently accepts waste, under Landfill Agreement, with two entities outside of Cass County. Becker County and Valley City were notified in June of 2022 that Solid Waste staff would be exploring a “surcharge fee”. In November of 2022 the outside users were notified that staff would be proposing a \$25/ton surcharge and, if approved, become effective on January 1, 2024. These letters were provided to allow at least 1 year for the outside users to make necessary budget adjustments or find alternative disposal locations.

The cost of the surcharge was determined by analyzing:

- The cost to handle a ton of waste, plus
- Financial Assurance requirements at per-ton basis, and
- Rates of other disposal sites available to users regionally.

MOTION:

On a motion by Troy Hall, seconded by Thomas Knaukmuh, the Utility Committee voted to approve the proposed amendment to the resolutions prescribing rates and charges for solid waste services adding a surcharge fee of \$25/ton to out-of-county and out-of-state waste generators to be effective January 1, 2024.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Denise Kolpack, City Commissioner	X	X		X
Thomas Knaukmuh, City Engineer	X	X		
Susan Thompson, Interim City Finance Director	X	X		
Bruce Grubb, City Administration	X	X		
Brian Ward, Water Plant Supt.	X	X		
Mark Miller, Wastewater Plant Supt.	X	X		
Scott Liudahl, City Forester	X	X		
James Hausauer, Wastewater Util. Director	X	X		
Troy Hall, Water Utility Director	X	X		
Ben Dow, Public Works Operations Director	X	X		
Scott Olson, Solid Waste Utility Director	X	X		
Daniel Portlock, Water Utility Engineer	X	X		

ATTEST:



 Scott Olson, PE
 Solid Waste Utility Director

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



Division of Solid Waste

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

To: Utility Committee
From: Scott Olson, Solid Waste Utility Director *SO*
Date: November 8, 2023
Subject: 2024 Amendment to Solid Waste Rate Resolution – Surcharge Fee for Out-of-County and Out-of-State Waste

Background

On December 12, 2022, the Commission approved a resolution prescribing rates and charges for Solid Waste services effective January 1, 2023. The resolution details the cost payable by owners and occupants of all premises to which residential and commercial garbage and recycling services are made available by the City, as well as, Landfill charges associated with disposal and handling of waste.

The City provides all **residential** garbage and recycling collection within the City of Fargo, while **commercial** businesses and entities can choose to utilize the City's commercial collection services or use a private contractor. Private contractors (Haulers) collecting waste from within the City of Fargo and Cass County are allowed to dispose of wastes at the City Landfill through a "Private Hauler Agreement" with the Solid Waste Department.

The City generally does not accept waste from outside of Cass County unless a "Landfill Use Agreement" is in place with the governing body (city, county, etc.) or company providing the waste.

Out of County/Out of State Waste Landfill Disposal Surcharge Fee

The City currently accepts waste, under agreement, with two entities outside of Cass County. The entities include Becker County MN and Valley City, ND. The relationship with the two entities has been successful and long-standing, with Becker County being approved in 1993 and Valley City being approved in 2003. Combined, the two outside users dispose of approximately 12,000 tons of waste annually, which equates to just over \$600,000 in annual revenues.

While the City Landfill is a valuable asset for the City, there are associated liabilities should the City be required to close and halt operations. These liabilities include closure (immediate) and post-closure (30-year) costs which would be required of the City and the greater Cass County area. Estimates of these costs are provided in an annual Financial Assurance document required by the North Dakota Department of Environmental Quality. The total Financial Assurance requirement as of 2022 is approximately \$6,000,000.

The Solid Waste Department's goal is to provide quality service to residents and businesses located within Cass County and be sure to extend the Landfill life expectancy as long as possible for the service area (Cass County). It's important to note that, outside users have disposal options available to them within reasonable proximity.

Becker County and Valley City were notified in June of 2022 that Solid Waste staff would be exploring a "surcharge fee". In November of 2022 the outside users were notified that staff would be proposing a \$25/ton surcharge and, if approved, become effective on January 1, 2024. These letters were provided to allow at least 1 year for the outside users to make necessary budget adjustments or find alternative disposal locations.

The cost of the surcharge was determined by analyzing:

- The cost to handle a ton of waste, plus
- Financial Assurance requirements at per-ton basis, and
- Rates of other disposal sites available to users regionally.

The additional surcharge fee would result in an additional \$300,000 in revenues from the outside users at their current tonnage volumes. Should these outside haulers choose to dispose of waste at another regional landfill, it would result in an extension of the landfill's life expectancy by approximately 1.5 to 2 years.

Recommendation

Approve the proposed amendment to the resolutions prescribing rates and charges for solid waste services adding a surcharge fee of \$25/ton to out-of-county and out-of-state waste generators to be effective January 1, 2024.

Resolution Prescribing Rates and Charges for Solid Waste Services
(Amended January 1, 2024)

BE IT RESOLVED by the Board of City Commissioners of the City of Fargo, North Dakota, under and pursuant to the provisions of Section 13-0518 of the Fargo Municipal Code of the City of Fargo, as amended, the rates and charges stated in this resolution are established and shall be payable by the owners and occupants of all premises to which garbage and recycling services are furnished and made available by the municipal garbage and recycling utility, effective January 1, 2023, and shall be reflected in the statements for garbage and recycling service prepared after that date; provided, however, that the rates and charges for such service or services in effect prior to January 1, 2023 shall remain in full force and effect:

RATES ARE NON-NEGOTIABLE.

1. There shall be collected for each single family dwelling the following monthly charges for garbage service effective January 1, 2023:

<u>Cart Size (Each)</u>	<u>Charge</u>
Small (48-gallon)	\$ 6.00
Medium (65-gallon)	\$ 9.00
Large (96-gallon)	\$14.00

2. There shall be collected from each multiple dwelling and/or apartment dwelling the following monthly charges for garbage service effective January 1, 2023:

<u>Cart Size (Each)</u>	<u>Charge</u>
Small (48-gallon)	\$ 6.00
Medium (65-gallon)	\$ 9.00
Large (96-gallon)	\$14.00

Any multiple dwelling and/or apartment dwelling equipped with a commercial dumpster for garbage shall pay a monthly collection fee as described in paragraph 5. Said changes to be billed to and paid for by the property owner monthly.

3. There shall be collected from each mobile home court the following monthly charges for garbage service per mobile home effective January 1, 2023:

<u>Cart Size (Each)</u>	<u>Charge</u>
Small (48-gallon)	\$ 6.00
Medium (65-gallon)	\$ 9.00
Large (96-gallon)	\$14.00

Any mobile home court equipped with a commercial dumpster shall pay a monthly collection fee as described in paragraph 5. Said charges to be billed to and paid for by the property owner monthly.

4. There shall be collected for each single-family dwelling that chooses to participate in the single-stream recycling program the following monthly charges for recycling service, effective January 1, 2023:

<u>Cart Size (Each)</u>	<u>Charge</u>
Large (96-gallon)	\$4.00

5. There shall be collected from each mobile home court the following monthly charges for recycling service per mobile home that chooses to participate in the single-stream recycling program, effective January 1, 2023:

<u>Cart Size (Each)</u>	<u>Charge</u>
Large (96-gallon)	\$4.00

6. For persons 65 years of age or older who qualify for real estate homestead credit in accordance with section 57-02-08.1 of the North Dakota Century Code, the charge shall be \$2.50 per month for garbage service and \$1.00 per month for single-stream recycling service.

7. There shall be collected for containers the following monthly charges, and for commercial recycling and roll-off services, the following charges effective January 1, 2023.

Cubic Yards	1/wk	2/wk	3/wk	4/wk	5/wk	6/wk	7/wk
2	64.00	128.00	192.00	256.00	320.01	384.01	448.01
3	75.28	150.57	225.85	301.13	376.41	451.70	526.98
4	86.56	173.13	259.69	346.26	432.82	519.39	605.95
6	109.13	218.25	327.38	436.51	545.64	654.76	763.89
8	131.69	263.38	395.07	526.76	658.45	790.14	921.83

\$2.61/CY + \$9.57/PICK-UP
 COMPACTED TRASH 1.5 TIMES THE RATES LISTED ABOVE
 FLAT GARBAGE CHARGE - \$45.71/MONTH MINIMUM FOR NONCOMMERCIAL CONTAINER ACCOUNTS AS APPROVED BY ROUTE SUPERVISOR.

COMMERCIAL RECYCLING SERVICE:

\$10.00 per stop for all commercially separated recyclable materials (cardboard, plastic, glass, etc.)

ROLL-OFF SERVICE:

Pulls: \$100.00/pull plus landfill fees
 \$85.00/pull plus landfill fees if container is owned by the contractor
 \$85.00/pull if load is recycled or incinerated
 Rental: \$ 5.00/day excluding week-ends (the rental fee will be waived if one pull is made per week)

BE IT FURTHER RESOLVED, that effective **January 1, 2024**, there shall be charged to all users of the City of Fargo Sanitary Landfill the following charges:

All Landfill Waste	\$51.00/ton
Private Haulers In-City	\$50.00/ton
Inert Waste	\$46.00/ton
Out of County/Out of State Waste	\$25.00/ton Surcharge Fee*
Separated Demolition Material (free of debris) Untreated Wood, Trees, Pallets, Concrete	\$46.00/ton
Compost Waste	\$30.00/ton
Special Handling (Asbestos, Contaminated Soil)	\$51.00/ton or \$125.00 Minimum
Minimum Charge	\$12.00/load
Weight Only	\$10.00/each
Industrial Waste – Special Handling (Ash & Powders)**	\$300.00/load - plus tipping fee
Offloading Assistance	\$100.00/hour – ½ hour minimum

* Total charge of \$76/ton to waste from outside of Cass County and Out of State

**Assessed if handling of waste results in increased equipment maintenance costs (i.e. air filters)

BE IT FURTHER RESOLVED, that effective January 1, 2023, there shall be charged to all conditionally exempt small quantity generators (CESQGs) and those non-resident users not included in current landfill agreements with the City whom utilize the City of Fargo Household Hazardous Waste (HHW) facility, the following charges:

Acids/Bases	\$0.95/lb.	Oxidizers	\$1.04/lb.
Adhesives/Flammable Solids	\$0.76/lb.	Paint (max. 50 1-gal cans/month)	
		Latex	\$0.20/lb.
		Oil-based	\$0.78/lb.
Aerosols	\$1.07/lb.	PCB Ballasts	\$1.28/lb.
		PCB Capacitors	\$3.75/lb.
Anti-freeze* (max. 10-gals/month)	\$0.24/lb.	Poisons/Pesticides	\$0.89/lb.
Cleaners/Solvents	\$0.44/lb.	Used Oil* (max. 10-gals/month)	\$0.12/lb.
Dioxins** (wood preservatives)	\$ (see below)	Mercury**	\$6.00/lb.
Flammable Liquids	\$0.44/lb.		
Electronics	\$1.14/lb.		
Fluorescent Bulbs (max. 36 bulbs/month)			
4 ft. and below	\$1.00/each		
5 ft and above	\$1.17/each		

*Not included in the 220/lbs./month CESOG limit specified in the North Dakota Solid Waste Management Rules.

**Dioxins, reactives and items not listed will be priced on a case-by-case basis.

(40)

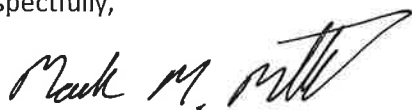
November 20, 2023
 Honorable Board of City Commissioners
 City of Fargo

Commissioners,
 The following is in Reference to City Auditors Ad number ITB24009. Bid opening was conducted on November 15, 2023. Please find attached the bid tabulation sheet listing all bids received for supplying chemicals to the Water Reclamation Utility for 2024. Listed below are the low and responsible bid for each chemical.

item #	Product Name	Vendor	Price \$ Per PO	Unit
24	Azone 15/ Sodium Hypochlorite	Hawkins	3.57	/gallon
25	Pretreat Plus Antiscalant	Hawkins	22.88	/gallon
26	Caustic Soda, 30%	Hawkins	4.95	/gallon
27	Caustic Soda 50%	Hawkins	0.488	/pound
28	Ferric Chloride, 35%	Hawkins	0.66	/pound
29	Ammonium Hydroxide, 19%	Hawkins	0.595	/pound
30	Sulfuric Acid, 40%	Hawkins	4.79	/pound
31	Citric Acid, 50%	Hawkins	1.47	/pound
32	Odor Control/Hydrogen Sulfide	MNX Inc.	105.00	/FT ³ media
33	Odor Control/Broad Spectrum	MNX Inc.	98.00	/FT ³ media
34	Calcium Nitrate / Bulk	Hawkins	3.39	/gallon
	Calcium Nitrate / Tote	Hawkins	4.74	/gallon
35	Hydrogen Peroxide 34% / Bulk	US Peroxide LLC	2.94	/gallon
	Hydrogen Peroxide 34% / Tote	Hawkins	5.08	/gallon
36	Cationic Flocculant	SVEN	2.00	/pound

Recommendation;
 Water Reclamation Staff recommendation to City Commission is to award the 2024 chemical bids to the included vendors and their respective chemicals.

Respectfully,



Mark Miller
 Utility Superintendent
 Water Reclamation Utility

41

November 20, 2023

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

Dear Commissioners:

Attached please find a tabulation sheet from ITB24007 listing all qualified bids received for supplying chemicals to the Water Treatment Plant for 2024. Listed below are the lowest and/or best value bids received for each of the chemicals:

ITB24007 Water Treatment Plant Chemical Bid Results		
Product Name	Vendor	Unit Price
Aluminum Sulfate	Hawkins, Inc.	\$0.151 / pound
Anhydrous Ammonia	Hawkins, Inc.	\$3.16 / pound
Citric Acid, 50%	Chemrite, Inc.	\$1.21 / pound
Hydrofluosilicic Acid	Univar Solutions Inc.	\$0.29 / pound
Hydrogen Peroxide, 34%	Hawkins, Inc.	\$0.53 / pound
Lime	Graymont (WI) LLC	\$268.58 / ton
Liquid carbon Dioxide	American Welding & Gas	\$185.00 / ton
Liquid Chlorine	Hawkins, Inc.	\$2,208.00 / ton
Liquid Oxygen	Airgas USA LLC	\$142.54 / ton
Aluminum Chlorohydrate	Hawkins, Inc.	\$0.375 / pound
Polyphosphate	Carus, LLC.	\$1.76 / pound
Ferric Sulfate 60%	Hawkins, Inc.	\$3.11 / gallon
Soda Ash	Tata Chemicals SAP, LLC	\$536.00 / ton
Sodium Bisulfite, 38%	Hawkins, Inc.	\$0.398 / pound
Sodium Hydroxide, 50%	Univar Solutions Inc.	\$0.213 / pound
Sodium Hypochlorite, 12.5%	Hawkins, Inc.	\$0.315 / pound
Sulfuric Acid, 40% Totes	Hawkins, Inc.	\$0.44 / pound
Sulfuric Acid, 40% Pails	Hawkins, Inc.	\$9.26 / gallon
Sulfuric Acid, 93%	Hawkins, Inc.	\$0.142 / pound
Poly DADMAC 20	Hexagon Technologies	\$1.19 / pound
Anionic Polyacrylamide	Neo Solutions, Inc.	\$2.14 / pound
Acetic Acid 56	Hawkins, Inc.	\$1.70 / pound
Anionic Flocculant	Sioux Valley Environmental	\$1.44 / pound

The recommendation is to award the 2024 chemical bids as listed above.

It is projected that chemical usage for 2024 will be similar to usage during 2023. The results of ITB24007 Chemical Bid reflect a 4.7% decrease in costs compared to 2023.

Sincerely,



Troy B. Hall
 Water Utility Director

Sincerely,



Brian A. Ward
 Water Plant Superintendent

MEMORANDUM
September 29, 2023

To: Utility Committee

From: Troy B. Hall, Water Utility Director *TBH*

Re: AE2S Task Order #28 – LSWTP Secondary Softening Basin Rehab

Attached, please find a proposed AE2S task order for engineering services related the design and bidding of a rehabilitation project in the 1997 Lime Softening Water Treatment Plant (LSWTP). The project will refurbish three (3) secondary softening basins in the LSWTP. The task order is in the amount of \$247,575 and will use a State Revolving Fund (SRF) loan for project funding. Rehabilitation of the primary and secondary softening basins was split into two (2) separate projects. For this current project, some equipment for dry chemical storage – located above the softening trains – will be recoated or modified as well.

Aligning with the construction completion of the Membrane WTP, Water Utility staff and consultants began refurbishing/rehabilitating treatment processes and equipment in the older LSWTP. For the LSWTP, the secondary softening project will be the last significant treatment process rehabilitation project originating from two (2) past planning efforts: WTP Facility Plan for the Membrane WTP (2012) and WTP Facility Plan – Phase 2 (2016). The softening basin rehabilitation project is in the Capital Improvement Plan (CIP) for the Water Utility, Water Utility budget, and was included as a listed project in a State Revolving Fund (SRF) loan – approved in 2019.



Shown is one of the secondary softening trains in the 1997 Lime Softening Water Treatment Plant. There is significant rust and corrosion on the submerged metal components. The water collection troughs were already changed to stainless steel in a project that took place over a decade ago.

This task order will be billed hourly and not-to-exceed \$247,575. The following is the scope, estimated hours, and cost breakdown for this task order:

<u>Phase</u>	<u>Task Number and Task Name</u>	<u>Est. Hours</u>	<u>Amount</u>
040	Final Design Phase Services		
	01 Project Management	91	\$ 20,450
	02 Engineering, Drawings, and Specifications	1,186	\$201,975
050	Bidding or Negotiating Phase Services		
	01 Pre-Bidding Administration	83	\$ 15,350
	02 Post-Bidding Administration	44	\$ 9,800
	Total	524	\$247,575

Plan of Financing

The LSWTP Softening Secondary Softening Basin Rehab project is approved to be paid using a State Revolving Fund (SRF) loan, approved in 2019. There were several projects funded under this single SRF loan to help simplify debt service payments and administration in the future.

SUGGESTED MOTION:

Approve Task Order #28 with AE2S in the amount of \$247,575 for design and bid the rehabilitation of the secondary Softening basins in the 1997 Lime Softening WTP.

Your consideration in this matter is greatly appreciated.

This is Water Consulting Task Order No. 28, consisting of 4 pages.

Water Consulting Task Order No. 28

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

1. Background Data

- A. Effective Task Order Date: October 9, 2023
- B. Owner: City of Fargo (Water Utility)
- C. Engineer: Advanced Engineering and Environmental Services, LLC (AE2S)
- D. Engineer Project No.: P00803-2021-009
- E. Specific Project (title): Fargo LSWTP Secondary Basin Rehab

F. Specific Project (description):

Design and bidding phase services for improvements to the three (3) secondary softening basins (basins) at the existing Fargo Lime Softening Water Treatment Plant (LSWTP). The improvements generally include the replacement of the rake arms and rake arm towers; remanufacturing of one (1) basin drive and gearbox (for future spare); modifications to the turbine drums; stripping, repairing, and recoating the carbon steel components within the basins; replacing aging valves in the softening basin pits; and blasting and painting the eight (8) dry chemical storage silos in the penthouse.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are detailed in Attachment 1 and include the services (and related terms and conditions) set forth in the following sections of Exhibit A, as attached to the Agreement referred to above, such sections being hereby incorporated by reference.
 - Final Design Phase (Exhibit A, Paragraph A1.03)
 - Bidding or Negotiating Services (Exhibit A, Paragraph A1.04)
- B. Resident Project Representative (RPR) Services: None.
- C. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Owner's Responsibilities

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

4. Task Order Schedule

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

- Task Order approval – October 2023
- Final Design Phase – February 2024
- Bidding Phase – March 2024

5. Payments to Engineer

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

Phase	Task Number and Task Name	Payment Method	Estimated Hours	Amount
040	Final Design Phase Services	Method A		
	01 Project Management		91	\$20,450
	02 Engineering, Drawings, and Specifications		1,186	\$201,975
050	Bidding or Negotiating Phase Services	Method A		
	01 Pre-Bidding Administration		83	\$15,350
	02 Post-Bidding Administration		44	\$9,800
Total			1,404	\$247,575

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

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

6. Consultants retained as of the Effective Date of the Task Order:

Black & Veatch Corporation

7. Other Modifications to Agreement and Exhibits: None.

8. Attachments:

Attachment 1 – Scope of Services for Task Order

9. Other Documents Incorporated by Reference: None.

10. Terms and Conditions

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

The Effective Date of this Task Order is October 9, 2023.

OWNER: City of Fargo (Water Utility)

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

By: _____

By:  _____

Name: Troy B. Hall

Name: Brian R. Bergantine, PE

Title: Water Utility Director

Title: Project Quality Director

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Troy B. Hall

Name: Richard Wagner, PE

Title: Water Utility Director

Title: Senior Project Manager

Address: 435 14th Ave S
Fargo, ND 58103

Address: 4170 28th Ave S
Fargo, ND 58104

E-Mail Address: THall@FargoND.gov

E-Mail Address: Richard.Wagner@AE2S.com

Phone: (701) 476 - 6741

Phone: (701) 364 - 9111

Attachment 1 to Water Consulting Task Order No. 28

Fargo LSWTP Secondary Basin Rehab

October 9, 2023

Scope of Services

The Project entails improvements to the secondary softening basins (basins) at the existing Fargo Lime Softening Water Treatment Plant (LSWTP). This Scope of Services provides for the design and bidding phase services to support: the replacement of the rake arms and rake arm towers; remanufacturing of one (1) basin drive and gearbox (for future spare); modifications to the turbine drums; stripping, repairing, and recoating the carbon steel components within the basins; replacing aging valves in the softening basin pits; and blasting and painting the eight (8) dry chemical storage silos in the penthouse. The following is a detailed breakdown of this Scope of Services to Water Consulting Task Order No. 28.

Phase 040 – Final Design Phase Services

In accordance with Paragraphs A1.03 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Final Design Phase services under Water Consulting Task Order No. 28:

The tasks or deliverables to be provided in the Final Design Phase will include preparing project plans and specifications for the Project and result in completion of final bidding documents for Water Consulting Services Task Order No. 28. One (1) set of bidding documents will be prepared for the Project. Throughout the Final Design Phase, design deliverables shall be prepared in the form of the following milestones:

- Intermediate Design Submittal
- Pre-Final Design Submittal
- Final Bid Documents

The milestone design deliverables are anticipated to include the following key components:

Intermediate Design Submittal (60% Submittal)

ENGINEER shall provide intermediate design engineering services which shall consist of the following tasks and deliverables:

- Incorporate project kick-off meeting decisions and components requested by OWNER.
- Prepare preliminary contract front-end documents (using Engineers Joint Contract Documents Committee (EJCDC) and Construction Specification Institute (CSI) format)
- Prepare major commodity specifications.
- Prepare intermediate design drawings.
- Prepare sections and details showing major process equipment.
- Prepare preliminary opinion of probable construction cost.
- Provide preliminary project schedule.
- Conduct internal quality control review and refinement of deliverables before submittal to OWNER.

- Provide one (1) electronic copy, in PDF format, of the Intermediate Design deliverables to OWNER for review at least one week prior to review meeting.
- Conduct an Intermediate Design Workshop with the OWNER to obtain OWNER'S comments on work product.

Pre-Final Design Submittal (90% Submittal)

This task will consist of the work items necessary to continue to refine the project documents towards final completion. The OWNER's comments obtained during review of the intermediate design documents will be incorporated into the design documents. ENGINEER shall refine the drawings, details, notes, and appurtenances during this task and the specifications will be completed in greater detail. ENGINEER shall submit the pre-final design documents (90%) to the OWNER'S key project stakeholders for review. The tasks and deliverables anticipated are as follows:

- Provide final review set of contract drawings.
- Provide final review set of technical specifications and construction contract documents.
- Update opinion of probable construction cost.
- Provide project schedule update.
- Conduct internal quality control review and refinement before submittal to OWNER.
- Provide one (1) electronic copy, in PDF format, of the pre-final design deliverables to OWNER for review at least one week prior to review meeting.
- Conduct a pre-final design review workshop with key City staff to thoroughly review the pre-final design submittal.
- Refine documents according to mutual agreement between OWNER and ENGINEER.

Final Bidding Document Submittal

These submittals will be used as the bidding documents and include or address pre-final review comments, as appropriate. ENGINEER shall prepare and submit an electronic copy (PDF) and three (3) sets of Final (100 Percent) Bidding Documents to the OWNER for review. ENGINEER shall also submit three (3) copies of the Bidding Documents to the NDDEQ for review and approval. One (1) approved copy will be retained by the NDDEQ, one (1) approved copy will be retained by the OWNER, and one (1) approved copy will be retained by the ENGINEER. ENGINEER shall meet with the OWNER to discuss review comments, if any, from the regulatory agencies. The Final Bidding Documents deliverables are as follows:

- Provide final review set of drawings for the Fargo LSWTP Secondary Basin Rehab, signed and sealed as appropriate.
- Provide final review set of technical specifications and construction contract documents for the Fargo LSWTP Secondary Basin Rehab, signed and sealed as appropriate.
- Provide final opinion of probable construction cost.

For presentation of scope of services, the Fargo LSWTP Secondary Basin Rehab Final Design Phase will be split into the following Tasks: (1) Project Management and Administration and (2) Engineering, Drawings, and Specifications.

Task 01 – Project Management and Administration

ENGINEER shall perform general Project administration activities including progress monitoring, scheduling, general correspondence, office administration, and invoicing. These activities include maintaining contact and liaison with the OWNER and Project staff; providing OWNER with monthly Project financial status updates; ensuring that the needs of the OWNER are met in a timely manner, and monitoring Project budgets and schedules.

Task 02 – Engineering, Drawings, and Specifications

Services to be provided under this Task shall include the tasks and deliverables as detailed in the milestone deliverable descriptions, including the development of front-end EJCDC documents and technical specifications. More specifically, the three (3) existing secondary softening basins will be rehabilitated and is anticipated to include the following key components:

- Rake Arm and Tower:
 - The rake arms and towers will be removed and replaced with new stainless steel units. The rotating drum (lower portion of draft tube) will also be replaced with stainless steel as this section connects to rake arms.
- Basin Drives:
 - The three (3) existing basin drives will be removed and one (1) unit will be remanufactured as a shelf spare. The replacement will include the installation of the remanufactured units completed from the primary softening project.
 - A clarifier drive removal plan will be created to allow for the removal of the center clarifier drives. Structural calculations on the existing structure will be performed to determine loading conditions for equipment to be removed. Details will be prepared for construction contractor's temporary monorails/hoists.
- Basin Turbine Access Hatch:
 - The basin turbine drum will be modified to allow the installation of access hatches for cleaning and maintenance. Access hatches will be coordinated with original clarifier OEM for structural integrity of moving parts.
- Stripping, repair, and painting basin components: The wetted parts of the basin will be cleaned, stripped, repaired, and painted.
 - Structural repair allowance/specification to be provided for repair of miscellaneous carbon steel.
- Valve Replacement in Softening Basin Pits:
 - The valves in the softening pits (installed with the construction of the LSWTP) will be removed and replaced with new valves.
- Blasting and Painting Dry Chemical Storage Silos:
 - The eight (8) dry chemical storage silos in the penthouse of the LSWTP will be blasted and painted, and the remaining surfaces in the penthouse (building framework, walls, ceiling, floors) will be pressure washed and cleaned.

Phase 050 – Bidding or Negotiating Phase Services

In accordance with Paragraphs A1.04 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Bidding or Negotiating Phase services under Water Consulting Task Order No. 28:

Task 01 – Pre-Bidding Administration

Pre-bidding administration services will be provided to assist the OWNER in soliciting bids for construction, responding to plan holder questions, preparing and certifying addenda for distribution, and attending the bid opening for the Fargo LSWTP Secondary Basin Rehab.

Task 02 – Post-Bidding Administration

Post-bidding administration services will include reviewing the bids for errors and discrepancies, preparing a recommendation letter to the Utility Committee and City Commission, preparing the Notice of Award(s) to the successful contractor(s), and preparing the contract documents for the Fargo LSWTP Secondary Basin Rehab.

Signature: 
Email: brian.bergantine@ae2s.com

REPORT OF ACTION

UTILITY COMMITTEE

(43)

Project No: WA1865

Type: Water Treatment Plant – Residuals Facility

Location: Water Treatment Plant Campus (435 14th Avenue South)

Date of Hearing: 11/15/2023

<u>Routing</u>	<u>Date</u>
City Commission	11/27/2023
Project File	

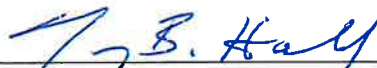
Troy Hall, Water Utility Director, presented the attached memo regarding Amendment No. 1 for AE2S Task Order No. 9 for Project WA1865. There is no cost change with the amendment, but there is a change in work scope to change the direction of this study. There have been challenges in sludge characteristics with Membrane Water Treatment Plant (MWTP) pretreatment residuals. The change in scope will allow focus on these challenges ahead of preliminary design work for future Residuals Plant improvements. The Residuals Plant is one of the oldest facilities with high maintenance requirements under the Water Utility. Project WA1865 is more of a study and currently cash funded through Infrastructure Sales Tax (Fund 450). The full-scale project will likely be funded through a low-interest State Revolving Fund (SRF) loan. Once the MWTP residuals are more figured out, preliminary design work can be done in the future.

MOTION:

On a motion by Ben Dow, seconded by Mark Miller, the Utility Committee voted to approve Amendment No. 1 to AE2S Task Order #9 for a no cost and a change in the work scope.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Denise Kolpack, City Commissioner	<u>X</u>			
Susan Thompson, Finance Director	<u>X</u>			
Brian Ward, Water Plant Supt.	<u>X</u>			
Mark Miller, Wastewater Plant Supt.	<u>X</u>			
Bruce Grubb, Temp. Asst. City Administrator	<u>X</u>			
Scott Liudahl, City Forester	<u>X</u>			
James Hausauer, Water Recl. Utility Director	<u>X</u>			
Troy Hall, Water Utility Director	<u>X</u>			
Ben Dow, Public Works Operations Director	<u>X</u>			
Tom Knakmuhs, City Engineer	<u>X</u>			
Dan Portlock, Water Utility Engineer	<u>X</u>			
Scott Olson, Solid Waste Utility Director	<u>X</u>			

ATTEST:



 Troy B. Hall
 Water Utility Director

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

MEMORANDUM
November 13, 2023

To: Utility Committee

From: Troy B. Hall, Water Utility Director *TBK*

Re: Amendment No. 1 to AE2S Task Order No. 9 – Fargo WTP Residuals Facility Improvements

Attached, please find a proposed amendment to AE2S Task Order No. 9 for Fargo WTP Residual Facility Improvements. This amendment is a change in scope, but no change in cost. The Membrane WTP sludge has proven to be difficult to handle operationally and has delayed the preliminary design for residuals facility improvements. The change in scope is to focus more on options to deal with the Membrane WTP sludge. The facility planning for overall residuals facility improvements will need to come at a later time. Under Task Order No. 9, the following are additional scope items;

- LSWTP Pretreatment Bypass Piping Alternative Development
- Membrane Pretreatment Sludge Evaluation

Deleted scope for AE2S Task Order No. 9 include:

- Economic Analysis and Recommendations
- Preliminary Design Phase Services



Pretreatment plate settling system in the Membrane Water Treatment Plant (MWTP). The MWTP sludge is high in organic content and more difficult to dewater compared to lime sludge.

Water Utility staff are also pursuing an SRF loan for overall Residuals Facility improvements, according to the Financial Model for the utility. If this loan is in place soon enough, the Pretreatment Bypass may be included in the SRF loan. Since the sludge from the MWTP is a current operational issue, the Pretreatment Bypass project is high priority and needs to be completed as soon as possible.

Plan of Financing

For AE2S Task Order No. 9, there is no change in cost. It is only a change in scope. For the overall Residuals Facility improvements, a low-interest State Revolving Fund (SRF) loan is utilized in the Water Utility financial model. Water Utility staff have had recent communications with SRF staff at the North Dakota Department of Environmental Quality (DEQ) about this loan.

SUGGESTED MOTION:

Approve Amendment No. 1 to Task Order No. 9 with AE2S at no cost and a change in scope.

Your consideration in this matter is greatly appreciated.

Amendment No. 1 To Water Consulting Task Order No. 9

In accordance with the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated January 1, 2018 (“Agreement”), Owner and Engineer agree to amend an existing Task Order as follows:

1. Background Data:

- a. Effective Date of Amendment: November 15, 2023
- b. Owner: City of Fargo (Water Utility)
- c. Engineer: Advanced Engineering and Environmental Services, LLC (AE2S)
- d. Engineer Project No.: P00803-2013-068
- e. Project Title: Fargo WTP Residuals Facility Improvements

2. Description of Modifications

- a. Engineer shall perform the following Additional Services:

Phase 021 – Study and Report Phase Services

Task 01 – LSWTP Pretreatment Bypass Piping Alternative Development

ENGINEER shall review options to bypass partial raw water flows around the pretreatment basins of the lime softening water treatment plant (LSWTP). Task shall include the following:

- *Conduct an on-site meeting with the Owner to walk through the project location and discuss the preferred capabilities of the bypass.*
- *Review the existing pretreatment basin plans and drawings to determine possible alternatives to bypass the LSWTP pretreatment basins.*
- *Prepare a technical memorandum (TM) summarizing up to three (3) alternatives; which will include connection locations, pipe routing, and approximate pipe size.*
- *Develop an opinion of probable project cost for one (1) of the alternatives.*
- *Conduct one (1) meeting with the Owner to review the LSWTP Pretreatment Bypass Piping TM.*

Task 02 – Membrane Pretreatment Sludge Evaluation

ENGINEER shall prepare a Sampling Plan of the membrane pretreatment sludge to send for analysis and evaluate settling capacity. Other components of the Evaluation shall include the following:

- *Evaluation of a settling tank to be installed in the spare lime silo location at the Membrane WTP*
 - *Dewatering technology research for floating sludge removal*
 - *Bench scale testing sludge dewatering technology with approved vendors*
 - *Recommendation of pilot scale testing of selected sludge dewatering technology*
 - *Preparation of a Technical Memorandum documenting testing, findings, alternatives investigated, and recommendation of selected alternatives for advancement to pilot scale onsite testing*
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Task Order and previous amendments, if any, is modified as follows:
- *Delete Task 05 – Economic Analysis and Recommendations from Phase 020 – Study and Report Phase Services.*
 - *Delete Phase 030 – Preliminary Design Phase Services in its entirety from Task Order No. 9. The existing fee for this phase will be transferred to Phase 021 – Study and Report Phase Services.*
- c. The responsibilities of Owner with respect to the Task Order are modified as follows:
- *Assist ENGINEER with the collection of membrane pretreatment sludge as part of the Sampling Plan.*
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation: *None*.
- e. The schedule for rendering services under this Task Order is modified as follows:
- *Performance of the Membrane Pretreatment Sludge Evaluation will be dependent upon the occurrence of floating sludge and the collection of such sludge so it can be analyzed.*
 - *The original project was placed on hold for multiple years due to on-going process improvements and operational changes at the Water Treatment Plant that would significantly impact improvement recommendations at the Residuals Facility. The project completion date is amended to be December 2024.*

3. Task Order Summary (Reference only)

- a. Original Task Order amount: \$296,700
- b. Net change for prior amendments: N/A
- c. This amendment amount: \$0
- d. Adjusted Task Order amount: \$296,700

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C of the Agreement.

Owner and Engineer hereby agree to modify the above-referenced Task Order as set forth in this Amendment. All provisions of the Agreement and Task Order not modified by this or previous Amendments remain in effect.

The Effective Date of this Amendment is November 15, 2023.

OWNER: City of Fargo (Water Utility)

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

By:

By:



Name:

Troy Hall

Name:

Ryan Grubb, PE

Title:

Water Utility Director

Title:

Operations Manager

REPORT OF ACTION

UTILITY COMMITTEE

AA

Project No. WA1863

Type: Water Treatment Plant – Pretreat Rehab/UV

Location: 1997 Lime Softening Water Treatment Plant (435 14th Avenue South)

Date of Hearing: 11/15/2023

<u>Routing</u>	<u>Date</u>
City Commission	11/27/2023
Project File	

Dan Portlock, Water Utility Engineer, presented the attached memo regarding final balancing change orders with two contractors for Project WA1863. This overall project was bid as a combination of two Capital Improvement Plan (CIP) projects in the Fargo’s 1997 Lime Softening Water Treatment Plant (LSWTP): Pretreatment Rehabilitation and installation of an Ultraviolet (UV) treatment system. With decent bids and combining the two projects, this work was completed about \$1.15 million under planning level costs. The project is funded by a low-interest Drinking Water State Revolving Fund Loan (SRF). Approval of this item will allow project close-out.

The proposed change orders are as follows:

- **CC Steel, Inc. (General Construction):** Increase of \$8,944.85 and adjustment of final completion date to December 1, 2023. Final contract price of \$3,646,056.85 (total of change orders 6.4% over the bid)
- **Fusion Automation (Electrical Construction):** Increase of \$3,148.17 and adjustment of final completion date to December 1, 2023. Final contract price of \$573,528.86 (total of change orders 8.0% over the bid price)


MOTION:

On a motion by Ben Dow, seconded by Tom Knakmuhs, the Utility Committee voted to approve final change orders as follows:

- **Change Order No. 4 to Contract No. 1 (General Construction):** Increase of \$8,944.85 and adjustment of final completion date to December 1, 2023.
- **Change Order No. 4 to Contract No. 2 (Electrical Construction):** Increase of \$3,148.17 and adjustment of final completion date to December 1, 2023.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				X
				Proxy
Denise Kolpack, City Commissioner	X			
Susan Thompson, Finance Director	X			
Brian Ward, Water Plant Supt.	X			
Mark Miller, Wastewater Plant Supt.	X			
Bruce Grubb, Temp. Asst. City Administrator	X			
Scott Liudahl, City Forester	X			
James Hausauer, Water Recl. Utility Director	X			
Troy Hall, Water Utility Director	X			
Ben Dow, Public Works Operations Director	X			
Tom Knakmuhs, City Engineer	X			
Dan Portlock, Water Utility Engineer	X			
Scott Olson, Solid Waste Utility Director	X			

ATTEST:



 Troy B. Hall
 Water Utility Director

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

MEMORANDUM
November 13, 2023

To: Utility Committee

From: Troy B. Hall, Water Utility Director *TBH*

Re: Project WA1863 – Final Balancing Change Orders

Attached, please find a proposed final balancing change orders for two construction contracts. Approval of these change orders will allow for project close-out. The project combined two projects (Pretreatment Rehabilitation and Ultraviolet System Installation) and was completed over \$1,100,000 under planning level estimates. The project has been funded with a low-interest State Revolving Fund (SRF) loan and was in the Capital Improvement Plan (CIP) for the Water Utility.

- **Change Order No. 4 to Contract No. 1 (General Construction):** Increase of \$8,944.85 for spare parts cost-split and adjustment of final completion date to December 1, 2023.
- **Change Order No. 4 to Contract No. 2 (Electrical Construction):** Increase of \$3,148.17 to upsize wire and piping for Ultraviolet reactors and adjustment of final completion date to December 1, 2023.



Ultraviolet (UV) reactor installed under Project WA1863. The UV system is operational and is providing additional water disinfection credit in the older 1997 Lime Softening WTP.

The final contract amounts and bid price changes for Project WA1863 are as follows:

- **CC Steel, Inc. (General Construction):** \$3,646,056.85 (total increase of \$219,056 or 6.4% over the bid price)
- **Fusion Automation (Electrical Construction):** \$573,528.86 (total increase of \$42,724.65 or 8.0% over the bid price)

Plan of Financing

Project WA1863 has been funded with a low-interest State Revolving Fund (SRF) loan and was in the Capital Improvement Plan (CIP) for the Water Utility. The project was completed over \$1,100,000 under planning level estimates.

SUGGESTED MOTION:

Approve final balancing change orders for Project WA1863 for two construction contracts:

- **CC Steel, Inc. (General Construction):** Change Order No. 4 to Contract No. 1 for a cost increase of \$8,944.85 and adjustment of final completion date to December 1, 2023.
- **Fusion Automation (Electrical Construction):** Change Order No. 4 to Contract No. 2 for a cost increase of \$3,148.17 and adjustment of final completion date to December 1, 2023.

Your consideration in this matter is greatly appreciated.



November 15, 2023

Mr. Troy Hall
Water Utility Director
City of Fargo Water Treatment Plant
435 14th Ave S
Fargo, ND 58103-4306

**Re: Change Order No. 4 to Contract No. 1 – General Construction
Fargo LSWTP Pretreatment and Crypto Compliance Improvements
City of Fargo Project #WA1863**

Dear Mr. Hall:

Enclosed please find **Change Order No. 4 to Contract No. 1**. The Change Order pertains to the following changes to the project:

Change Order No. 4 to Contract No. 1 – General Construction

1. **Cost-share (50/50) for UV Spare Parts:** While going through UV start-up, it was discovered that spare parts had been left out of De Nora's original bid. After discussions between the Owner, Engineer, and General Contractor, it was decided that the Owner and General Contractor would do a 50/50 cost-share for the required spare parts.
 - a. *Adder of \$8,944.85.*

2. **Adjustment to Final Completion Date:** This is a no-cost adjustment to the final completion date due to unforeseen equipment and start-up delays. The new completion date is December 1, 2023.
 - a. *No cost change.*

Contract No. 1 Change Order Amount: \$8,944.85.

Upon the City of Fargo's acceptance of **Change Order No. 4 to Contract No. 1**, please sign and date each respective form. Please return a scanned copy of the formal change order forms containing all signatures to AE2S. AE2S will forward the signed copies to the contractors and will retain a copy for our records. Please contact me if you have any questions or need additional information.



Sincerely,

AE2S

A handwritten signature in blue ink, appearing to read "Ryan Grubb".

Ryan Grubb, PE
Operations Manager

Attachments

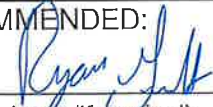
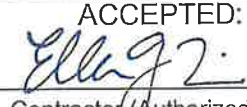
Date of Issuance: 11/15/2023	Effective Date: 11/15/2023
Owner: City of Fargo	Owner's Contract No.: WA1863
Contractor: CC Steel	Contractor's Project No.:
Engineer: AE2S / B&V	Engineer's Project No.: P00803-2018-021
Project: Fargo LSWTP Pretreatment and Crypto Compliance Improvements	Contract Name: Contract No. 1 – General Construction

The Contract is modified as follows upon execution of this Change Order:

Description: The UV system and associated equipment was included in Contract No. 1 as pre-selected equipment. While undergoing start-up of the UV system, it was discovered that spare parts had been left out of the supplier's bid. After discussions between the Owner, Engineer, and General Contractor, it was decided that the Owner and General Contractor would do a 50/50 cost-share for the required spare parts. This change order encompasses 50 percent of the spare parts cost, as well as a no-cost change adjustment to the final completion date.

Attachments: CC Steel Spare Part Change Order Summary

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>3,427,000.00</u>	Original Contract Times: Substantial Completion: <u>October 30, 2021</u> Ready for Final Payment: <u>December 30, 2021</u> days or dates
[Increase] [Decrease] from previously approved Change Order No. <u>1</u> and No. <u>3</u> : \$ <u>210,112.00</u>	[Increase] [Decrease] from previously approved Change Order No. <u>1</u> and Change Order No. <u>3</u> : Substantial Completion: <u>December 15, 2021</u> Ready for Final Payment: <u>February 14, 2022</u> days
Contract Price prior to this Change Order: \$ <u>3,637,112.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>December 15, 2021</u> Ready for Final Payment: <u>May 2, 2022</u> days or dates
[Increase] [Decrease] of this Change Order: \$ <u>8,944.85</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>No Change</u> Ready for Final Payment: <u>December 1, 2023</u> days or dates
Contract Price incorporating this Change Order: \$ <u>3,646,056.85</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>December 15, 2021</u> Ready for Final Payment: <u>December 1, 2023</u> days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u></u> Engineer (if required)	By: _____ Owner (Authorized Signature)	By: <u></u> Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title: _____	Title: <u>Ella G. Trio Chief Manager</u>
Date: <u>11-07-23</u>	Date: _____	Date: <u>11/8/2023</u>

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____



November 15, 2023

Mr. Troy Hall
Water Utility Director
City of Fargo Water Treatment Plant
435 14th Ave S
Fargo, ND 58103-4306

**Re: Change Order No. 4 to Contract No. 2 – Electrical Construction
Fargo LSWTP Pretreatment and Crypto Compliance Improvements
City of Fargo Project #WA1863**

Dear Mr. Hall:

Enclosed please find **Change Order No. 4 to Contract No. 2**. The Change Order pertains to the following changes to the project:

Change Order No. 4 to Contract No. 2 – Electrical Construction

1. **Upsizing UV Feeder Wire and Piping:** Fusion Automation did not perform the work to re-route the conduit in the floor slab that was needed for the 42-inch UV effluent piping, and the cable tray was not upsized like Fusion was under the impression that it would be. This change order encompasses the cost of upsizing the wire and piping associated with the UV feeder wiring.
 - a. *Adder of \$3,148.17.*

2. **Adjustment to Substantial and Final Completion Dates:** This is a no-cost adjustment to the substantial and final completion dates due to unforeseen equipment and start-up delays. The new substantial and final completion date is December 1, 2023.
 - a. *No cost change.*

Contract No. 2 Change Order Amount: \$3,148.17.



Upon the City of Fargo's acceptance of **Change Order No. 4 to Contract No. 2**, please sign and date each respective form. Please return a scanned copy of the formal change order forms containing all signatures to AE2S. AE2S will forward the signed copies to the contractors and will retain a copy for our records. Please contact me if you have any questions or need additional information.

Sincerely,
AE2S

A handwritten signature in blue ink, appearing to read "Ryan Grubb".

Ryan Grubb, PE
Operations Manager

Attachments


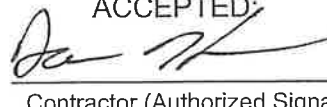
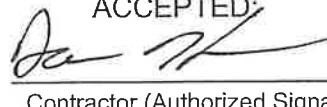
Date of Issuance: 11/15/2023	Effective Date: 11/15/2023
Owner: City of Fargo	Owner's Contract No.: WA1863
Contractor: Fusion Automation	Contractor's Project No.:
Engineer: AE2S / B&V	Engineer's Project No.: P00803-2018-021
Project: Fargo LSWTP Pretreatment and Crypto Compliance Improvements	Contract Name: Contract No. 2 - Electrical Construction

The Contract is modified as follows upon execution of this Change Order:

Description: Fusion Automation did not perform the work to re-route the conduit in the floor slab that was needed for the 42-inch UV effluent piping, and the cable tray was not upsized like Fusion was under the impression that it would be. This change order encompasses the cost of upsizing the wire and piping associated with the UV feeder wiring as well as no-cost change adjustments to the substantial and final completion date..

Attachments: Fusion Automation cost of work breakdown.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES W
Original Contract Price: \$ <u>530,804.21</u>	Original Contract Times: Substantial Completion: <u>October 30, 2021</u> Ready for Final Payment: <u>December 30, 2021</u> days or dates
[Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>3</u> : \$ <u>39,576.48</u>	[Increase] [Decrease] from previously approved Change Orders No. <u> </u> to No. <u> </u> : Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ <u>570,380.69</u>	Contract Times prior to this Change Order: Substantial Completion: <u>October 30, 2021</u> Ready for Final Payment: <u>December 30, 2021</u> days or dates
[Increase] [Decrease] of this Change Order: \$ <u>3,148.17</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>December 1, 2023</u> Ready for Final Payment: <u>December 1, 2023</u> days or dates
Contract Price incorporating this Change Order: \$ <u>573,528.86</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>December 1, 2023</u> Ready for Final Payment: <u>December 1, 2023</u> days or dates

<p>RECOMMENDED:</p> <p>By: <u></u> By: _____</p> <p style="margin-left: 40px;">Engineer (if required)</p> <p>Title: <u>Project Manager</u> Title _____</p> <p>Date: <u>11-07-23</u> Date _____</p>	<p>ACCEPTED:</p> <p>By: _____ By: <u></u></p> <p style="margin-left: 40px;">Owner (Authorized Signature)</p> <p>Title _____ Title <u>President</u></p> <p>Date _____ Date <u>11/08/2023</u></p>	<p>ACCEPTED:</p> <p>By: _____ By: <u></u></p> <p style="margin-left: 40px;">Contractor (Authorized Signature)</p> <p>Title _____ Title <u>President</u></p> <p>Date _____ Date <u>11/08/2023</u></p>
--	---	--

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

MEMORANDUM
 November 13, 2023

To: Utility Committee

From: Troy B. Hall, Water Utility Director *TBK*

Re: AE2S Task Order No. 29 – Fargo LSWTP Pretreatment Bypass

Attached, please find a proposed AE2S task order for engineering services related to the design and bidding of Pretreatment Bypass Infrastructure for the Lime Softening Water Treatment Plant (LSWTP). This project will allow Water Treatment Plant (WTP) staff to utilize a Pretreatment train for year around settling of Membrane WTP (MWTP) sludge and also allow flexibility for maintenance of Pretreatment process equipment. The project can be considered to align with a large capital improvement project, Residuals Facility Improvements.

The task order cost is \$197,685 and includes the following design scope:

- Above ground pipe penetration on the east side of the LSWTP to route 42-inch pipe out and diving underground to attach to an older Pretreatment bypass pipe near the east WTP driveway.
- Design above ground pipe access cabinet with structural, architectural, electrical, and heating components.
- Design of an adjustable weir at the LSWTP influent splitter box to allow for flow control in diverting water to the appropriate WTP location by personnel.

In the 2024 budget, cash funding was approved for Residuals Improvements. This request was intended to help construct infrastructure to handle sludge from the MWTP. MWTP sludge is one of the biggest operational challenges/issues in day-to-day operation of the WTP.



Pretreatment splitter box in the LSWTP allows for raw water flow control and was constructed to allow for WTP plant expansion from 30 million gallons per day (MDG) to 45 MGD.

WTP is also pursuing an SRF loan for overall Residuals Facility improvements, according to the Financial Model for the Water Utility. If this loan is in place soon enough, the Pretreatment Bypass may be included in the SRF loan. Since the sludge from the MWTP is current operational issue, the Pretreatment Bypass project is high priority and needs to be completed as soon as possible.

This task order is not-to-exceed \$197,685. The following is the scope, estimated hours, and cost breakdown for this task order:

<u>Phase</u>	<u>Task Number and Task Name</u>	<u>Est. Hours</u>	<u>Amount</u>
040	Final Design Phase Services		
	01 Project Management	64	\$ 15,810
	02 Engineering, Drawings, and Specifications	782	\$156,806
050	Bidding or Negotiating Phase Services		
	01 Pre-Bidding Administration	80	\$ 16,966
	02 Post-Bidding Administration	29	\$ 8,103
	Total	955	\$197,685

Plan of Financing

In the 2024 budget, cash funding was approved for Residuals improvements. This request was intended to help construct infrastructure to handle sludge from the MWTP. WTP is also pursuing an SRF loan for overall Residuals Facility improvements, according to the Financial Model for the Water Utility. If this loan is in place soon enough, the Pretreatment Bypass may be included in the SRF loan.

SUGGESTED MOTION:

Approve Task Order No. 29 with AE2S in the amount of \$197,685 for design and bidding Pretreatment Bypass Infrastructure in the 1997 Lime Softening WTP.

Your consideration in this matter is greatly appreciated.

This is Water Consulting Task Order No. 29, consisting of 3 pages.

Water Consulting Task Order No. 29

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

1. Background Data

- A. Effective Task Order Date: November 15, 2023
- B. Owner: City of Fargo (Water Utility)
- C. Engineer: Advanced Engineering and Environmental Services, LLC (AE2S)
- D. Engineer Project No.: P00803-2023-007
- E. Specific Project (title): Fargo LSWTP Pretreatment Bypass
- F. Specific Project (description):

Project includes Final Design and Bidding Phase Services for the Fargo LSWTP Pretreatment Bypass project. The project includes the design of a piping system to allow raw water to bypass the pretreatment of the lime softening water treatment plant (LSWTP) and be diverted directly to the primary softening basin splitter box. The general project components consist of a pipe connection to the pretreatment rapid mix influent chamber, an 8-foot by 10-foot enclosure, flow control weir, and a pipeline to connect these components to the existing raw water bypass pipe.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are detailed in Attachment No. 1 and include the services (and related terms and conditions) set forth in the following sections of Exhibit A, as attached to the Agreement referred to above, such sections being hereby incorporated by reference:
 - Final Design Phase (Exhibit A, Paragraph A1.03)
 - Bidding or Negotiating Services (Exhibit A, Paragraph A1.04)
- B. Resident Project Representative (RPR) Services: None.
- C. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Owner's Responsibilities

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

4. Task Order Schedule

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

- Task Order approval – November 2023
- Final Design Phase – March 2024
- Bidding Phase – Spring 2024

5. Payments to Engineer

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

Phase	Task Number and Task Name	Payment Method	Estimated Hours	Amount
040	Final Design Phase Services	Method A		
	01 Project Management		64	\$15,810
	02 Engineering, Drawings, and Specifications		782	\$156,806
050	Bidding or Negotiating Phase Services	Method A		
	01 Pre-Bidding Administration		80	\$16,966
	02 Post-Bidding Administration		29	\$8,103
Total			955	\$197,685

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

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

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

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

8. **Attachments:**

Attachment No. 1 – Scope of Services for Water Consulting Task Order No. 29

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

10. Terms and Conditions

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

The Effective Date of this Task Order is November 15, 2023.

OWNER: City of Fargo (Water Utility)

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

By: _____

By:  _____

Name: Troy B. Hall

Name: Brian R. Bergantine, PE

Title: Water Utility Director

Title: Project Quality Director

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Troy B. Hall

Name: Richard Wagner

Title: Water Utility Director

Title: Senior Project Manager

Address: 435 14th Ave S
Fargo, ND 58103

Address: 4170 28th Ave S
Fargo, ND 58104

E-Mail Address: THall@FargoND.gov

E-Mail Address: Richard.Wagner@AE2S.com

Phone: (701) 476 - 6741

Phone: (701) 364 - 9111

Attachment No. 1 to Water Consulting Task Order No. 29

Fargo LSWTP Pretreatment Bypass

November 15, 2023

Scope of Services

The Project entails engineering services for the design and bidding of a piping system that will allow a portion of the raw water to bypass the pretreatment basins of the lime softening water treatment plant (LSWTP) and be diverted directly to the primary softening basin splitter box. This Scope of Services provides for the final design and bidding phase services to support the work for a weir flow control gate, a 42-inch pipe bypass pipe, hydraulic calculations, an 8-foot by 10-foot pipe enclosure structure with foundation system, electrical components, and civil site piping. The following is a detailed breakdown of this Scope of Services to Water Consulting Task Order No. 29.

Phase 040 – Final Design Phase Services

In accordance with Paragraphs A1.03 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Final Design Phase services under Water Consulting Task Order No. 29:

The tasks or deliverables to be provided in the Final Design Phase will include preparing project plans and specifications for the Project and result in completion of final bidding documents for Water Consulting Services Task Order No. 29. One (1) set of bidding documents will be prepared for the Project. Throughout the Final Design Phase, design deliverables shall be prepared in the form of the following milestones:

- Intermediate Design Submittal
- Pre-Final Design Submittal
- Final Bid Documents

The milestone design deliverables are anticipated to include the following key components:

Intermediate Design Submittal (60% Submittal)

ENGINEER shall provide intermediate design engineering services which shall consist of the following tasks and deliverables:

- Incorporate project kick-off meeting decisions and components requested by OWNER.
- Prepare preliminary contract front-end documents (using Engineers Joint Contract Documents Committee (EJCDC) and Construction Specification Institute (CSI) format)
- Prepare major commodity specifications.
- Prepare intermediate design drawings.
- Prepare sections and details showing project work areas.
- Prepare preliminary opinion of probable construction cost.
- Provide preliminary project schedule.
- Conduct internal quality control review and refinement of deliverables before submittal to OWNER.

- Provide one (1) electronic copy, in PDF format, of the Intermediate Design deliverables to OWNER for review at least one week prior to review meeting.
- Conduct an Intermediate Design Workshop with the OWNER to obtain OWNER'S comments on work product.

Pre-Final Design Submittal (90% Submittal)

This task will consist of the work items necessary to continue to refine the project documents towards final completion. The OWNER's comments obtained during review of the intermediate design documents will be incorporated into the design documents. ENGINEER shall refine the drawings, details, notes, and appurtenances during this task and the specifications will be completed in greater detail. ENGINEER shall submit the pre-final design documents (90%) to the OWNER'S key project stakeholders for review. The tasks and deliverables anticipated are as follows:

- Provide final review set of contract drawings.
- Provide final review set of technical specifications and construction contract documents.
- Update opinion of probable construction cost.
- Provide project schedule update.
- Conduct internal quality control review and refinement before submittal to OWNER.
- Provide one (1) electronic copy, in PDF format, of the pre-final design deliverables to OWNER for review at least one week prior to review meeting.
- Conduct a pre-final design review workshop with key City staff to thoroughly review the pre-final design submittal.
- Refine documents according to mutual agreement between OWNER and ENGINEER.

Final Bidding Document Submittal (100% Submittal)

These submittals will be used as the bidding documents and include or address pre-final review comments, as appropriate. ENGINEER shall prepare and submit an electronic copy (PDF) and three (3) sets of Final (100 Percent) Bidding Documents to the OWNER for review. ENGINEER shall also submit three (3) copies of the Bidding Documents to the NDDEQ for review and approval. One (1) approved copy will be retained by the NDDEQ, one (1) approved copy will be retained by the OWNER, and one (1) approved copy will be retained by the ENGINEER. ENGINEER shall meet with the OWNER to discuss review comments, if any, from the regulatory agencies. The Final Bidding Documents deliverables are as follows:

- Provide final review set of drawings for the Fargo LSWTP Pretreatment Bypass, signed and sealed as appropriate.
- Provide final review set of technical specifications and construction contract documents for the Fargo LSWTP Pretreatment Bypass, signed and sealed as appropriate.
- Provide final opinion of probable construction cost.

For presentation of scope of services, the Fargo LSWTP Pretreatment Bypass Final Design Phase will be split into the following Tasks: (1) Project Management and Administration and (2) Engineering, Drawings, and Specifications.

Task 01 – Project Management and Administration

ENGINEER shall perform general Project administration activities including progress monitoring, scheduling, general correspondence, office administration, and invoicing. These activities include

maintaining contact and liaison with the OWNER and Project staff; providing OWNER with monthly Project financial status updates; ensuring that the needs of the OWNER are met in a timely manner, and monitoring Project budgets and schedules.

Task 02 – Engineering, Drawings, and Specifications

Services to be provided under this Task shall include the tasks and deliverables as detailed in the milestone deliverable descriptions, including the development of front-end EJCDC documents and technical specifications. More specifically, the Fargo LSWTP Pretreatment Bypass is anticipated to include the following key components and assumptions:

- Review the existing LSWTP plans for bypass connection locations and pipe routing.
- Review previous WTP projects and photos to identify location of existing yard piping and possible site interferences. A site survey will not be conducted.
- Conduct site visits, as necessary, to confirm and collect additional information for final design.
- Develop headloss calculations between the pretreatment rapid mix chamber and the primary softening basin splitter box to identify the likely flow rate range achievable through the proposed bypass pipeline system assuming the new bypass piping size will be 42-inch diameter.
- Identify areas requiring demolition or items to be relocated to allow new appurtenances to be constructed.
- Prepare a layout for an adjustable weir at the pretreatment rapid mix chamber.
- Prepare a process pipe layout for a 42-inch pipe routed from the pretreatment rapid mix chamber, through the raw water influent basin, penetrating the LSWTP exterior wall, and underground to the existing bypass piping.
- Prepare civil design elements associated with the underground pipe routing including connection to the existing bypass piping, valve requirements, pavement replacement, curb and gutter replacement, and finish grading.
- Identify routing constraints including other utilities and existing pipelines. Discuss routing options with the Owner prior to Intermediate Design.
- Coordinate with City Engineering Department to identify setback requirements for pipe enclosure.
- Identify construction and work limits for the project along with construction entrance locations and controls.
- Prepare design elements for an 8-foot by 10-foot enclosure to house the 42-inch pipe. The enclosure is assumed to consist of a foundation system or connection to the existing structure, concrete floor and substructure, brick face that is similar to the existing WTP, a mono-slope roof, and other finish details similar to the existing structure.
- Develop pipe support system for the 42-inch pipe.
- Prepare electrical design elements for the enclosure which include lighting, electric heat, and minor devices such as intrusion alarm.
- Review project phasing considerations with the Owner to limit WTP operational disruptions.

Phase 050 – Bidding or Negotiating Phase Services

In accordance with Paragraphs A1.04 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Bidding or Negotiating Phase services under Water Consulting Task Order No. 29:

Task 01 – Pre-Bidding Administration

Pre-bidding administration services will be provided to assist the OWNER in soliciting bids for construction, responding to plan holder questions, preparing and certifying addenda for distribution, and attending the bid opening for the Fargo LSWTP Pretreatment Bypass.

Task 02 – Post-Bidding Administration

Post-bidding administration services will include reviewing the bids for errors and discrepancies, preparing a recommendation letter to the Utility Committee and City Commission, preparing the Notice of Award(s) to the successful contractor(s), and preparing the contract documents for the Fargo LSWTP Pretreatment Bypass.