

**NORTH DAKOTA ONE-CALL, INC.**

**REQUEST FOR PROPOSALS**

**for**

**ONE-CALL NOTIFICATION CENTER**

**April 2020**

Approved:



Brenda E. Derrig  
Secretary North Dakota One Call Board

4-16-2020

Date

Request for Proposals  
For  
One-Call Notification Center

**CONTENTS**

	Page No.
I. Introduction.....	1
A. Authority .....	1
B. Purpose of Request.....	1
II. Definitions.....	1
III. General Instructions .....	2
A. Questions .....	2
B. Submittal .....	2
C. Schedule .....	3
D. Selection Committee .....	3
E. Selection Criteria .....	3
F. Terms & Conditions.....	4
G. Proposal Format & Content.....	5
IV. System Specifications .....	9
A. General.....	9
B. System Memory .....	10
C. Notice Specifications .....	11
D. System Specification .....	12
E. Reports.....	13
F. System Reliability .....	14
G. Response Time .....	15
H. Notification Center Operation.....	16
I. Advertising/Public Relations.....	16
J. Billing and Collection.....	17
K. Board Meetings .....	17
L. In-State Representative.....	17
M. Base Map Updates.....	18
V. Contractual Specifications.....	18
A. Insurance Requirements .....	18
B. Contractual Period and Termination.....	18
C. Hold Harmless.....	19
D. Amendments .....	20
E. Law.....	20
F. Renewal .....	20
G. Performance Surety Bond.....	21

**APPENDIX**

- A. North Dakota Century Code Chapter 49-23  
    One-Call Excavation Notice System
- B. Articles of Incorporation  
    North Dakota One-Call, Inc.
- C. Call Center Activity Log
- D. Cost Proposal

**NORTH DAKOTA ONE-CALL, INC.**  
**REQUEST FOR PROPOSALS**  
**FOR**  
**ONE-CALL NOTIFICATION CENTER**

---

**I. INTRODUCTION**

A. Authority

North Dakota One-Call, Inc., a North Dakota Corporation, organized under Chapter 10-24, North Dakota Century Code (NDCC), is mandated to operate a One-Call Excavation Notice System according to Chapter 49-23 NDCC.

B. Purpose of Request

North Dakota One-Call, Inc. requests proposals from qualified notification center firms to operate a One-Call Excavation Notice System according to Chapter 49-23 NDCC and further defined within the provisions of this Request for Proposals (RFP). The existing One-Call Center has been in operation since January 28, 2000. The intent of this RFP is to select a firm to provide operational responsibility of the One-Call Center for the State of ND for a three-year contract period beginning February 27, 2021. Any new firm selected through this proposal process will be provided existing one-call database information and 1-800 telephone number from which to develop a seamless changeover from the present center firm. The firm shall provide an in-state representative and all labor, equipment, hardware, software, communications, and office space necessary to utilize existing call center information to assume full operational responsibility for the One-Call Notification Center.

**II. DEFINITIONS**

Terms used in this RFP which are not defined in the North Dakota Century Code 49-23-01 (Appendix A) are as follows:

- A. "Attendant" means the agent or employee of the Notification Center responsible for receiving notification of excavation from an excavator and/or inputting this information into the Notification Center's database.
- B. "Firm" means agent responsible for operations of the Notification Center.
- C. "Location Request" means any communication received by the Notification Center from an excavator regarding a proposed excavation. Request priorities are defined as follows:
  - 1. Emergency - Notifications requiring immediate attention, in which life, health, property or essential public services may be endangered.
  - 2. Meet – Notifications where projects too large or complicated to explain and beginning work date and time is at least 2 but not more than 10 full business days from the time the Notification Center receives the notice of intent to excavate.
  - 3. Modify – Notifications for updating a ticket where information on the ticket will be changing.
  - 4. Respot – Notifications for updating a ticket where no information will change.

5. Routine - Notifications where the beginning work date and time is at least 2 but not more than 10 full business days from the time the Notification Center receives the notice of intent to excavate.
  6. Survey – Notifications for information, design, or purposes other than excavation and beginning work is at least 5 but not more than 10 full business days from the time the notification center receives the notice.
- D. “Notice” means the transmission of information to the operator’s receiver.
- E. “Receiver” means the equipment to be owned, operated and maintained by each operator which shall be interfaced with the Notification Center’s computer software and hardware whereby a notice can be transmitted to the operator in one of the following formats as chosen by each operator:
1. A telephone or WATS line via a number designated by the operator.
  2. A device capable of receiving notices and returning responses over a switched or wireless telephone network.

### III. GENERAL INSTRUCTIONS

A. Questions

Any questions or comments regarding this proposal should be submitted in writing to:

North Dakota One-Call, Inc.

Brenda E. Derrig  
Email: [bderrig@FargoND.gov](mailto:bderrig@FargoND.gov)

or

Ron Ness  
Email: [rness@kwh.com](mailto:rness@kwh.com)

B. Submittal

1. Proposals shall be marked as follows:

Proposal for One-Call Operations Center  
for  
North Dakota One-Call, Inc.

2. Proposals shall be submitted to:

North Dakota One-Call, Inc.  
c/o Brenda E. Derrig  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Tel: 701/241-1549  
e-mail: [bderrig@FargoND.gov](mailto:bderrig@FargoND.gov)

3. Number of submittals:

Full proposal	2 Hard Copies and digital file
Executive Summary	2 Hard Copies and digital file

4. Due date: 2:00 p.m. May 29, 2020

C. Schedule

- |                                      |                                       |
|--------------------------------------|---------------------------------------|
| 1. Advertise RFP                     | April 20 and 27, 2020                 |
| 2. Proposal Deadline                 | 2:00 p.m. May 29, 2020                |
| 3. Select Finalists                  | June 11, 2020                         |
| 4. Notify Finalists for Interviews   | July 1, 2020                          |
| 5. Interview with Finalists          | August 12 and 13, 2020                |
| 6. Final Selection                   | August 13, 2020                       |
| 7. Contract Approval                 | November 12, 2020                     |
| 8. Notice to Proceed                 | November 12, 2020                     |
| 9. Assume One-Call Center Operations | February 27, 2021                     |
| 10. Contract Period                  | February 27, 2021 – February 26, 2024 |

D. Selection Committee

Nine (9) member Board.

E. Selection Criteria

The Selection Committee will evaluate and validate all qualifying proposals. The proposal evaluation process will permit the Selection Committee to identify the proposal that best meets the needs of North Dakota One-Call, Inc. Selection will rely on the Committee's assessment of the proposal's compliance with the requirements and intent of this Request for Proposals. The assessment will be based on the following criteria:

1. Ability to meet functional requirements (30 pts)
2. Cost (20 pts)
3. Delivery schedule (10 pts)
4. Previous experience and reliability of other systems previously installed and presently operating (20 pts)
5. Marketing and advertising plan (20 pts)

Each proposal will be evaluated on the above criteria by the Selection Committee. After RFP review, the Committee will select finalists to schedule oral interviews if deemed necessary. The Committee will determine which firm would best provide services requested by the RFP.

F. Terms and Conditions

1. Until the last day for answering questions, North Dakota One-Call, Inc. personnel reserve the right to amend this document. All parties sent a copy of this document will be sent notification of all such amendments.
2. North Dakota One-Call, Inc. reserves the right to accept or reject any one or all proposals or to waive such technical errors in any proposal as may be deemed best for the interest of the Notification Center's operation.
3. No verbal contract or agreement is valid.
4. After a contract is awarded, North Dakota One-Call, Inc. personnel and their designated representatives will work with the firm to develop a detailed system design.
5. North Dakota One-Call, Inc. personnel and their designated representatives have final approval with respect to:
  - a. System operation
  - b. System edits performed and processed
  - c. Man/Machine interface formats and procedures
  - d. Message and report formats
6. North Dakota One-Call, Inc. has the option to cancel the contract if schedule target dates or performance requirements are not met.
7. North Dakota One-Call, Inc. reserves the right to reject any or all proposals or to award the contract to the next most qualified firm if the successful firm does not execute a contract within 45 days after the award of the proposal.
8. North Dakota One-Call, Inc. reserves the right to request clarification of information submitted and to request additional information of one or more applicants.
9. Any proposal may be withdrawn up until the date and time set above for the opening of the proposals (See IIIC). Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of 120 days, to provide to North Dakota One-Call, Inc. the services set forth in the attached specifications, or until one or more of the proposals have been approved by the Board.
10. If, through any cause, the firm shall fail to fulfill in timely and proper manner the obligations agreed to, North Dakota One-Call, Inc. shall have the right to terminate its contract by specifying the date of termination in a written notice to the firm at least 60 working days before the termination date. In this event, the firm shall be entitled to just and equitable compensation for any satisfactory work completed.
11. Any agreement or contract resulting from the acceptance of a proposal shall be on forms either supplied by or approved by North Dakota One-Call, Inc. and shall

contain, as a minimum, applicable provisions of the Request for Proposal. North Dakota One-Call, Inc. reserves the right to reject any agreement that does not conform to the Request for Proposal and any North Dakota requirements for agreements and contracts.

12. The firm shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of North Dakota One-Call, Inc.
13. This RFP contains estimates of ticket volume, operators, excavators, etc. These numbers are estimates and should not be considered as the absolute basis for RFP submittal. The firms shall submit cost proposals based on their best estimate of One-Call activity.
14. Future legislative actions may supersede certain conditions of this RFP.

G. Proposal Format and Content

Proposals shall include the following sections at a minimum:

1. Introduction and Executive Summary (bound separately)
2. Response to Specific Questions
3. Summary of Technical Process & Proposed Equipment and Software
4. Project Staff & Management Plan
5. Description of Similar Projects
6. References
7. Proof of Insurance
8. Cost Proposal
9. Implementation Schedule
10. Location of Notification Center

Detailed requirements and directions for preparation of each section are outlined below:

1. Introduction and Executive Summary

Provide the following information relative to your firm:

- a. Firm name and business address, including telephone number and website address if available.
- b. Year established (include former firm names and year established, if applicable).
- c. Type of ownership and parent firm, if any.
- d. Project manager's name, mailing address, and telephone number, project manager's experience.

In the Executive Summary, highlight the major facts and features of the proposal, including any conclusions, assumptions, and recommendations you desire to make. The Executive Summary should be designed specifically for review by executives who may not possess a technical background.

2. Specific Questions

In your response to each of the following questions, please cite the question before each answer:

- a. Who will serve as the firm's authorized negotiator?

Give name, title, address, email address, and telephone number of the firm's authorized negotiator. The person cited shall be empowered to make binding commitments for the firm.

- b. Provide workload and manpower summary to define firm's ability to meet project timeline.

- c. One of the primary concerns of small utility operators in rural regions is the potential to be flooded with requests for utility locates. Limiting unnecessary locate requests is very important. These utilities are not staffed to verify extraneous locate requests, and for that reason, North Dakota One-Call, Inc. has generally concluded that more precise screening through mapping polygons will assist in reducing unnecessary locate requests. Please respond to the following issues:

- 1) Indicate installed user base for your polygon mapping product line, to include length of use and contact people.

- 2) Indicate other possible innovative means that could be utilized to address member concerns related to unnecessary locate requests.

- 3) Please address the following issues related to the basemapping used for your system:

- a) What basemap system does your system use?

- b) Can digital basemaps provided by operators be incorporated into your system? Describe in detail how they are incorporated. Do they lose positional accuracy if a highly accurate city map is combined with a less accurate background map?

- c) How does your system incorporate polygon creation to positional accuracy greater than the background map? For instance, a rural area may have a relatively loosely positioned basemap, but a rural water line may be located with highly accurate GPS points. Will your system require adjusting of the inaccurate basemap to fit the precise location of the utility or vice versa?



- d) What additional software will be required by each operator to utilize polygon mapping through your system?
- d. The North Dakota One-Call Board is comprised of volunteers. As such, the Board will rely solely on the selected firm to provide all services required to get a notification center up and operational. The Board's role will be to provide policy direction for implementation by the firm and provide oversight to ensure all provisions of the RFP and contract are adhered to. Please indicate your understanding of the Board's role and that your proposal reflects necessary skills and resources to complete the full implementation.
- e. Does your proposal reflect equivalent systems for both in-state and out-state located notification centers? Please detail the advantages and disadvantages of in-state versus out-state centers.
- f. Describe data input, verification, quality control and quality assurance processes for inputting new data and updating existing data. Describe format of submittals to operators for data verification.
- g. Present schedule for data translation, input, verification, testing and startup.
- h. Provide an analysis of the sample data provided in this RFP as to capability with firm's systems and description of conversion processes required to translate into a usable database for One-Call Center operations.
- i. Indicate if 24-hour operations will be provided from a single site or if multiple sites are proposed to accommodate call demand and/or "after hours" operations. Provide specific detail on each call center location and proposed hours of operation.
- j. Provide specific detail about available on-line services offered via e-mail and internet. Also provide description and time frame for pending on-line applications. List users of all such systems.
- k. Describe present capabilities for providing automated positive response for locate ticket verification. List users of all such systems.

3. Summary of Technical Process

Discuss and clearly explain the methodology that your firm proposes to use to satisfactorily achieve the required services on this project. Include all aspects of technical analysis, projections, advanced technology and software, backup and disaster protection provisions. Address any unique situations that may affect timely, satisfactory completion of this project.

4. Project Staff and Management Plan

Provide a complete project staff description in the form of a graphic organization chart, a staff summary that addresses individual roles and responsibilities, and one-page resumes for all project participants. It is critical that firms commit to particular levels of individual staff members' time to be applied to work on this project. Variance

from these commitments must be requested in writing from North Dakota One-Call, Inc. and reviewed/approved in terms of project schedule impact.

5. Similar Project Experience

Description of similar types of notification centers completed or currently under contract. Indicate call volumes, hours of operation and staffing levels.

6. References

References of three clients for whom similar work has been completed.

7. Proof of Insurance

The respondent is required to provide certificate of insurance with North Dakota One-Call, Inc. being listed as a named insured.

8. Cost Proposal (COST PROPOSAL FORM, APPENDIX D)

- a. Each proposal submitted shall represent a fair and reasonable price for the work to be performed.
- b. The proposal must be signed and presented on the prescribed format in a sealed envelope. No proposal shall be prepared in pencil or other media capable of erasure.
- c. Base Cost - The base cost proposal shall be on a per ticket (locate) basis. Cost per locate shall include all costs associated with labor, materials, equipment, software and miscellaneous necessary to develop and operate a One-Call Notification Center. Costs will be billed to both locate requesting excavators and locating operators. An administration fee of \$0.05 per billable ticket shall be reimbursed to the Board. There will also be an advertising fee of \$0.10 per billable ticket for advertising budget. The advertising fee includes all costs associated with proposed public relations and advertising to promote the Notification Center to all owners, operators, excavators and citizens. A billable ticket shall be defined as three contiguous city blocks within an urban area, or an area of four contiguous quarter sections or five linear miles in a rural area.
- d. Options and Credits – If not already included as part of the Base Cost, the firm shall include cost proposals on a per ticket (locate) basis for the following optional services to be evaluated by the Board:
  - 1) Excavator Mobile Phone App.
  - 2) Member Updates of Facility Location: The capability for an operator to provide facility location updates directly to the system. Provisions must be made to allow center personnel to review the updates prior to integration with the on-line database.
  - 3) Remote Ticket Entry: The capability for members to enter tickets directly into the system.

- 4) In-State Notification Center.
- 5) Ticket Management System.
- 6) Dual fee schedule based on type of notice:
  - a) Automated ticket
  - b) Telephone notification
- 7) Minimum billing recommendations for small ticket volume excavators and operators.
- 8) Other options or features as recommended by the firm to improve service features or save cost. Options shall be sufficiently detailed to indicate impacts to provisions within this RFP.
- 9) Website Administration/Hosting.

9. Implementation Schedule

The implementation schedule shall establish a timeline for developing the Notification Center from the Notice to Proceed to full operation. The schedule shall detail specifics concerning:

- a. Hardware and software acquisition and setup
- b. Data collection, translation, posting, and verification
- c. Operator and excavator notification and training

Any new firm shall coordinate data conversion processes with the present call center firm. (One-Call Concepts)

10. Location of Notification Center

Specify location of proposed One-Call Notification Center (City, State, County).

**IV. SYSTEM SPECIFICATIONS**

A. General

See Appendix for information on existing One-Call Center usage, locate requests, operators and excavators.

1. Ticket Volume: The system must be capable of receiving a minimum of 250,000 location requests per year and transmitting a minimum of 1,400,000 notices per year. Based on firm's experience, give an estimate of calls anticipated.
2. Operators: The system will have an estimated 500 operators.
3. Excavators: The estimated number of companies/organizations that will be frequent callers into the system is 2,000. A frequent caller will call at least twice a month.

4. Growth: The system is expected to grow in volume and members in the coming years. Therefore, it is imperative that the system allow for easy and rapid growth.

B. System Memory

1. The system must be capable of supporting a minimum of 350,000 quarter sections and statewide 911 addressing system by jurisdiction.
2. The system shall have the capability to store address information for a minimum of 500 operators. This information includes operator name, address, phone number, emergency phone number, principal contact and a two-line remarks field.
3. The system shall have the capability to store location information in the following formats:
  - a. Store information by 1/4 section for all operators.
  - b. Store information by city for all operators.
  - c. Store information by city and street name for all operators.
  - d. Store information by platted lot number for new developments.
  - e. Import and store graphic and attribute data from standard mapping and GIS software packages for advanced locate query analysis.
  - f. Store information by polygons with the ability to exclude an area enclosed by a polygon.
4. The system shall allow the Attendant to submit the locate information to the GIS mapping system for comparison with the member database(s). The Attendant will display a map of the desired area with a quarter section grid overlay. The street names will automatically be labeled at this level. The Attendant will work with the caller to pinpoint the location of the excavation site and the Attendant will draw a polygon around the dig area. If the excavation polygon intersects with a member's polygon or quarter section database, only the operators that have databases (facility polygons) intersecting with the excavation polygon will be sent the locate request.
5. The system shall have the capability to store information for a minimum of 4,000 excavators. The information to be stored includes point of contact, excavator name, address, phone number, ID number, type of business and a two-line remarks field.
6. The system shall have the capability to store information for a minimum of 500 receivers. This information is used to direct location requests to the operators.
7. The system shall have the capability to store five years of location request information on-line and shall have the capability to periodically archive location request information to appropriate media.
8. The system shall have the capability to search the archives and reload archived location requests.
9. Any request for retrieval of archived data is to be billed directly to the requester.
10. The Notification Center shall have the capability to receive location requests utilizing the following methods:

- a. Voice message utilizing the switched telephone network or a WATS line.
  - b. Interactive Voice Response System.
  - c. Computer capable of transmitting over the internet.
  - d. Wireless mobile application.
11. The firm shall have specific quality control procedures for ensuring completeness of information of notifications received via remote means (i.e. email or internet) or any other method of receipt that does not involve Attendant interaction.
12. The firm must provide a record retention program to the board, which meets the Board's approval, capable of retaining center records for 7 years.

C. Notice Specifications

1. The following is a description of the minimum information that must be contained on the notice:
- a. Notice identification number
  - b. Date and time entered
  - c. Date and time of excavation
  - d. Ticket type
  - e. Attendant's initials
  - f. \*Specific street address
  - g. \*County, township, range, section and 1/4 section - the location shall be described by coordinates measured in feet from the nearest quarter or section corner and a route description to a rural site from the nearest street/road intersection
  - h. City/town/village
  - i. Specific location of work (narrative form)
  - j. Firm or caller's name, address, email and telephone number
  - k. Contact and Alternate Contact's name, and telephone number
  - l. Date and time of ticket expiration
  - m. Type and extent of excavation
  - n. Depth of excavation
  - o. Notified operator's name and telephone number
  - p. Are explosives to be used?
  - q. Site identification
  - r. City limits
  - s. Excavator and locator attachments
  - t. Submittal method
  - u. Ticket status
  - v. Notification polygon
  - w. Work being done for

\*The most descriptive and specific of these entries is required.

2. The system must assign a unique sequential number for each notice generated.

3. The system shall have the following notice classifications:
  - a. Routine - Send original notice with its unique identification number
  - b. Emergency – Send original notice with its unique identification number
  - c. Survey – Send original notice with its unique identification number
  - d. Meet – Send original notice with its unique identification number
  - e. Retransmit - Resend unmodified notice with its original identification number to the original system selected receivers
  - f. Modified - Resend modified notice with new identification number and excavation date and time
  - g. Cancellation - Resend unmodified notice with its original identification number to the original system selected receivers
  - h. Correction – Resend modified notice under original identification number with corrected information to the original system selected receivers
  - i. Respot - Resend original notice with new identification number and new excavation date and time
4. The normal format of the notice shall be such that the information will fit on a standard 8½ x 11 inch sheet of printer paper.

D. System Specifications

1. The system shall have the capability to broadcast a narrative message to all or selected receivers.
2. The system must notify the Attendant if a receiver or receivers are experiencing trouble and not successfully receiving transmissions.

The Attendant shall notify the affected operator of the transmission problem via voice communication. Additionally, at the end of each working day, the system shall automatically generate and send a receiver summary to each output receiver. This summary shall contain the following:

- a. A listing of each notice by system and receiver identification number sent to that receiver for the day.
  - b. The total number of notices, by type and ticket number, entered into the system for the receiver for the day.
3. The system shall allow the Attendant the following input capabilities:
  - a. On-line capability to update the excavator database with new excavators.
  - b. Retention of excavator information from one location request screen to the next screen.
  - c. Retrieval of any notice previously entered into the system within the five year on-line storage period.
4. Notices and broadcast messages shall be processed for transmission immediately upon entry into the system. The transmission shall be in accordance with the following rules:

- a. Emergency notices shall be transmitted immediately via the normal notification process and followed-up with automated and/or personal contact via telephone.
  - b. Routine notices and broadcast messages shall be queued for transmission on a first come first serve basis.
  - c. Queued transmission shall occur after a certain time has elapsed or a certain number of notices are waiting in the queue. The time and number of notices shall be selectable by the Center manager.
  - d. The notices shall be transmitted to those operators identified in the Notified Utilities data field.
  - e. Notices shall be retained in the system until they have been successfully transmitted and then for an additional 5 years.
5. The system shall alert the Attendant as to which notices need to be called to the member operators. The system shall keep a daily log of those notices awaiting voice notification.
6. The system shall allow Center personnel to update the databases through the addition of new data, deletion of existing data, and/or modification of existing data. This update should be completed within 24 hours after the updates are received at the Center. Confirmation of completion of the update activity is to be returned to the specific operator within 24 hours after completion of the update.
7. The system shall be capable of printing address lists and address labels from the operator and excavator data files.
8. The system shall have the following minimum monitoring capabilities:
  - a. Query the total number of notices queued for transmission for a specific receiver.
  - b. Query the total number of notices transmitted thus far for the day for a specific receiver.
  - c. Query receivers and circuits for their status.
  - d. Test for successful transmission to a specific receiver.
  - e. Print all data displayed to a terminal.

E. Reports

1. The system shall provide a variety of statistical and administrative reports as used at other one-call notification centers. The firm shall provide a list of all reports included in the system, a statement as to the purpose of each, a brief description of each, and a sample of each.

2. The minimum requirements for the reports include:
  - a. A beginning of the day report on the status of each receiver.
  - b. An end of the day report providing a daily activity summary for the Notification Center and for each receiver, including a list of ticket numbers distributed throughout the day.
  - c. A hard copy audit trail for all notices transmitted.
  - d. Monthly summaries for both the Center and each receiver.
  - e. The capability to generate ad-hoc reports.
  - f. Monthly report of in-state representative activities.
  - g. Weekly Notification Center operations report.
  - h. Monthly financial report of accounts receivable (AR), credits, AR aging, etc.
  - i. Quarterly report on advertising activities with expenditures.
  - j. Quarterly AR aged invoice report in summary form.
  - k. Annual Notification Center operations report with three-year comparison.
3. Statistical reports of call activity shall be maintained and made available to the Board on request to include but not be limited to:
  - a. Responsiveness and compliance with 60-second response requirement
  - b. Volume and breakdown on request type, i.e. phone, Interactive Voice Response, mobile app, internet, etc.
  - c. Locate site breakdown, i.e. location by address, quarter section, general location, etc.
  - d. Downtime report
  - e. Advertising and public relations activities

4. Monthly Financial Summary Report

This report will be provided by the Notification Center monthly.

The purpose of this report shall be to provide an analysis of the total receipts and expenditures of the Notification Center for the prior month and year-to-date.

F. System Reliability

1. Due to the critical nature of the service provided by one-call notification centers, it is mandatory that the hardware/software system be highly reliable. If the system does go down, the down time and loss of data must be minimized. The means available to achieve reliability include, but are not limited to: hardware design, redundancy of key components (disk drives, central processing units, etc.), distributed processing, maintenance concept, and system operating procedures.



2. To help ensure system reliability, the system must, as a minimum, incorporate the following:
  - a. 99.9% system up time.
  - b. The loss of other components of the system such as printers, receivers, input terminals and system error edit programs must not affect system operations.
  - c. The capability to back up and restore data daily.
  - d. Easy recovery procedures and continued processing from system down time without data loss.
  - e. Safeguards to avoid lost audit trail or report information.
  - f. Emergency operations backup plan for system failures extending past 2 hours.

G. Response Time

The firm shall maintain Notification Center operations in a time-responsive manner for receiving excavation requests and distributing locate notices. The firm shall specify provisions for monitoring such responsiveness based on number of incoming and outgoing communications lines, and the following measures of effectiveness based on peak volume demands (based on 5-hour average - 7:00 am to 12:00 p.m.):

1. Firm will acquire and maintain a sufficient number of incoming telephone lines, equipment and personnel, at its expense, to ensure that 95% of all incoming calls do not encounter a busy signal. Calls may be taken by an Attendant, Interactive Voice Response system, or by automated answering which will have a prerecorded message and provide for sequential response by an Attendant. Calls taken by automated answering (or on hold) shall have an average answer time by an Attendant of no more than 60 seconds during normal working hours. The prerecorded message for automated answering shall be approved by the Board and subject to change at the sole discretion of the Board.
2. Statistical reports of call activity shall be maintained and made available to the Board on request to substantiate compliance with the 60-second requirement.
3. Firm shall also be prepared to initiate and pay any costs associated with a telephone company central office traffic study to ensure that the number of telephone lines into the One-Call Notification Center are sufficient. Said study shall be made upon request from the Board.
4. The "800" number shall cover the entire state of North Dakota and all area codes abutting North Dakota borders in other states. The One-Call Center number to be used with the center operations contract is 1/800/795-0555. The firm shall provide for the 811 national abbreviated dialing code as designated by the Federal Communication Commission.

5. Firm will refer all utility location requests for areas outside of North Dakota to the proper one-call center or operator(s) if known.
6. The firm shall electronically record all telephone calls (incoming and outgoing) involving locate requests, and recordings of said calls shall be maintained for a period of 7 full years plus the current year. Each locate request will be numbered sequentially for each year and will have a number unique to that request with no two requests having the same ticket number. Copies of recordings and locate tickets will be made available to operators or excavators on request. A complete duplicate set of recordings of telephone calls and locate requests for each complete year will be maintained in off-site storage archival for recovery purposes.

H. Notification Center Operation

1. Notification Center services shall be provided 24 hours per day, 7 days per week, including holidays.
2. Any calls received by the Notification Center which are of an unusual or emergency nature, but which fall outside of the normal function of the Notification Center, shall be referred to the individual operators by furnishing the caller with the telephone numbers of the affected operators. Each operator shall furnish the Center with a 24-hour telephone number (or numbers) to be used in such situations.
3. An operator may direct the One-Call Notification Center to require the excavator to personally contact the operator. In such instance, the Center shall furnish the excavator with information necessary to contact the operator.
4. The Notification Center shall inform the excavator during the request for locate all operators who will be notified of the proposed excavation, along with specific operator requirements such as operator oversight during all excavation activities.
5. At the option of the operator, the Notification Center shall furnish the excavator with a telephone number for contacting the operator directly whenever an emergency message is received.

I. Advertising/Public Relations

1. The firm shall assist in advertising and promoting the Center to excavators, homeowners, operators, and other potential users of the One-Call Notification Center.
2. Costs associated with the direct costs of the advertising campaign will be funded through a per ticket fee collected by the firm and other funds obtained by the Board through grants or other sources. The per ticket advertising fee shall be set annually by the Board, collected by the firm in the normal billing process and paid to the Board on a monthly basis. The advertising campaign funds shall be used as approved by the Board.

Costs associated with the salary and travel expenses of the "In-State Representative" are not considered advertising expenses. These "In-State Representative" costs shall be funded by the firm through the base cost per ticket fee.

3. The firm shall submit to the Board annually a public relations program for the following year designed to maximize the use and effectiveness of the Notification Center.
4. The firm shall actively pursue new participating operators. The firm shall actively pursue excavators not using the Notification Center to encourage their participation. Firm shall report to the Board each month a list of all operators and excavators contacted, the methodology used and the result of such contact.
5. The firm shall be available at any reasonable time to promote the Notification Center.

J. Billing and Collection

1. All billing and collection activities to or from the operators and excavators for the services provided by the Center shall be the sole responsibility of the firm. The billing shall be performed monthly and shall be based on the number of location requests transmitted to each individual operator or excavator, times an approved fee per locate request. (Example: 70 locate requests x \$1.75 per request = \$122.50).
2. The billing shall be performed monthly with an invoice submitted to each operator and excavator for an amount equal to the number of locate requests transmitted to their receiver(s) times the approved fee per request transmitted. The invoice shall be forwarded to the operator by the 10th of the month following the previous months locate requests and shall be due upon receipt and payable prior to the 10th of the month following invoicing. A late fee of 10% per month shall be collected by the firm for past due accounts. (Net 30 days) Quarterly excavator billings and minimum invoice standards are contractor options subject to Board approval.
3. The firm may take legal action that he deems necessary to recover delinquent accounts.
4. Billings shall be based on actual ticket numbers, not on attempted transmissions.
5. Any new firm shall transfer all database, billings and other information from existing systems at the One-Call Center to the firm operating equipment and property.

K. Board Meetings

The firm shall attend Board meetings and any special meetings with the Board as requested by and at the location designated by the Board. The In-State Representative shall attend all scheduled Board meetings. The Call Center Operations Manager shall attend Board meetings as needed and be available via conference call for specific periods during all scheduled Board meetings.

L. In-State Representative

The firm shall provide a full time In-State Representative to report on Notification Center operations, educate and assist operators and excavators, promote the Notification Center, receive and respond to complaints and system deficiencies and other Notification Center operations needs. All costs associated with the In-State Representative shall be included in the base cost per billing (cost per ticket). Travel expenses, per diem, etc. shall be included in the base cost billing.

M. Base Map Updates

The firm shall be responsible for maintaining and updating the base map used as the basis for locate query analysis. Base map updates shall be incorporated as needed to reflect changes that have occurred through municipal growth or other changed condition. Use of industry standard base map products may minimize costs and meet the update requirements of this section.

V. **CONTRACTUAL SPECIFICATIONS**

A. Insurance Requirements

1. Firm agrees to furnish and maintain, during the term of its contract and at its expense, policies of insurance covering:
  - a. The legal liability of the firm or its sub-contractors to pay claims or premiums under the Workers Compensation Laws of the state where employees of the firm or its sub-contractors are engaged in work under this contract for personal injuries or death to the employees.
  - b. Comprehensive General Liability in the amounts of:  
Bodily injury - \$5,000,000 each person and \$10,000,000 each accident.  
  
Property Damage - \$5,000,000 each accident and in the aggregate.  
  
Comprehensive Automobile Liability Bodily Injury - \$250,000 each person and Property Damage of \$500,000 each accident.
  - c. The firm shall also obtain and maintain an additional insured endorsement, naming the firm as insured with the same limits of liability, coverage and exclusions as required above for the firm.
  - d. Professional Liability Insurance (Errors and Omissions) on a claims made basis with limits of not less than \$5,000,000 and not more than \$50,000 deductible per claim. In addition, firm shall provide the company (North Dakota One-Call, Inc.) with a bank letter of credit or payment bond acceptable to the company in the amount of \$45,000 to serve as the first layer of insurance against Errors and Omissions claims.
  - e. The firm shall provide the company (North Dakota One-Call, Inc.) with a copy of the firm's insurance certificate, naming the company as an additional insured.

B. Contractual Period and Termination

1. The initial contract between company (North Dakota One-Call, Inc.) and firm shall be for a 3-year period (February 27, 2021 to February 26, 2024) unless otherwise terminated.

2. Both parties understand the need for the Center to be in continuous operation, and in the event of termination of the firm as the operator of the Center, the firm shall cooperate and facilitate the transfer of the operations. Effective upon the date of the termination of this contract, the firm shall:
  - a. Transfer all remaining supplies which the company shall elect to receive the firm's actual cost of such supplies to be paid by the company.
  - b. Provide the company or successor firm with the database of the members' underground facilities in the grid system and the database of the indexing system by transferring the data in any format the company may specify within 14 days following the notice of termination.
  - c. Transfer to the company or successor firm all documentation that the firm shall have been required to maintain as of the date of termination under the provisions of this contract.
  - d. Relinquish any and all rights to the published One-Call telephone numbers, web site domains, and other such documents and information pertaining to the Center as the firm shall possess and the company shall reasonably request.
3. Any provision in this contract to the contrary notwithstanding, it is agreed by the firm that the Board has the option to cancel this contract in the event of any material breach of or default under this contract by the firm by giving the firm written notice of such termination; (a) prior to the expiration of sixty (60) days after the Board gives the firm written notice of the breach or default and the Board's intent to terminate the contract term if the breach or default is not cured prior to the expiration of such sixty (60) day period; or (b) after the breach or default has been cured. Due to the need for the Notification Center to be in continuous operation, the firm agrees to operate the Notification Center for a maximum of 180 days from the date of notice of termination, under the terms of this contract and at the fee schedule in effect of the time of termination, if a successor firm cannot assume the Notification Center's operation within sixty (60) days from the date of the termination notice.

C. Hold Harmless

1. The firm hereby assumes the entire responsibility and liability for any and all damages or injury of any kind or nature (including death resulting therefrom) to all persons and to all property (including property of members), or loss of use thereof, caused by, resulting from, arising out of or incurred in connection with the failure of the firm to comply with any provision of this contract including, without limitation, the firm's failure:
  - a. To properly notify an excavator who has called the Center during normal business hours that there are underground facilities of a member or members located within the grid or grids where the excavator has notified the firm he intends to demolish, excavate, or both; or to notify such member or members of the intended demolition, excavation, or both.
  - b. The firm agrees to indemnify and save harmless the company (North Dakota One-Call, Inc., its directors, officers, employees, and agents) and the

members (their directors, officers, employees, and agents) from and against any and all loss, damage or injury that they may sustain as a result of any failure on the part of the firm, including reasonable attorney fees and other costs of defending any claims, provided:

- 1) The excavator has properly notified the firm of where he intends to demolish, excavate, or both; and
  - 2) The member or operators have notified the firm in the manner provided in this contract that they have underground facilities located within said grid or grids.
2. The firm shall not be responsible for acts or omissions of the excavator or members in locating or staking the underground facilities within said grid or grids and by entering into this contract shall not be deemed thereby as having assumed any liability for any damage or injury of any kind or nature to any person or for any property (including property of members), or loss of use thereof, caused by, resulting from, arising out of or incurred in connection with such acts or omissions on the part of excavator or members, except as provided above.

D. Amendments

Any amendment of the contract or the specifications shall be in writing signed by the company (North Dakota One-Call, Inc.) and the firm.

E. Law

1. The parties to the contract expressly agree that the laws of the State of North Dakota shall govern the validity, construction, interpretation and effect of the contract. The firm shall comply with all statutes, regulations, ordinances, and resolutions of all federal, state, county and local governments and of any and all of the departments and bureaus thereof, applicable to the operation of its business.
2. Firm shall determine the applicability of, and assure compliance with, all relevant federal, state and local statutes, rules, regulations, orders, ordinances, and other laws governing employment or the provision of services, whether public or private, including but not limited to all statutes, rules, regulations, orders, ordinances, and other laws governing affirmative action, discrimination, minority set-asides, minimum wages, maximum hours, North Dakota One-Call, Inc. prevailing wages, wage payments, wage deductions, occupational safety, workers' compensation, unemployment compensation, and insurance continuation.

F. Renewal

North Dakota One-Call, Inc. shall have the right to renew its contract with the firm on the renewal terms and conditions contained in the proposal.

If this agreement is not terminated or continues beyond its termination date, the agreement shall be renewed on a year-to-year basis on the terms and conditions set forth herein.

G. Performance Surety Bond

The firm shall provide as part of the contract a performance bond in the amount of one years estimated Center revenue as based on cost proposal (per ticket billing) and estimated ticket volume.

# **APPENDIX**



# **APPENDIX A**

## **North Dakota Century Code Chapter 49-23 One-Call Excavation Notice System**

## **CHAPTER 49-23**

### **ONE-CALL EXCAVATION NOTICE SYSTEM**

#### **49-23-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Abandoned" means no longer in service and physically disconnected from a portion of the facility or from any other facility that is in use or still carries services.
2. "Board" means the board of directors of the nonprofit corporation governing the notification center under section 49-23-03.
3. "Careful and prudent manner" means:
  - a. Manually excavating within twenty-four inches [60.96 centimeters] of the outer edges of any underground facility on a horizontal plane as located and marked by the owner or operator; and
  - b. Supporting and protecting the uncovered facility.
4. "Damage" means:
  - a. Substantial weakening of structural or lateral support of an underground facility;
  - b. Penetration, impairment, or destruction of any underground protective coating, housing, or other protective device; or
  - c. Impact with or the partial or complete severance of an underground facility to the extent that the facility operator determines that repairs are required.
5. "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, and demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.
6. "Emergency responder" means a fire department, a law enforcement officer, or other emergency rescue service.
7. "Excavation" means any operation in which earth, rock, or other materials in or below the ground is moved or otherwise displaced by means of hand or power tools, power equipment, or explosives and includes grading, trenching, digging, ditching, drilling, augering, tunneling, boring, scraping, and cable or pipe plowing and driving. The term does not include:
  - a. Opening a grave in a cemetery.
  - b. Plowing, cultivating, planting, harvesting, and similar operations in connection with agricultural activities, unless any of these activities disturbs the soil to a depth of eighteen inches [45.72 centimeters] or more.
  - c. Gardening and landscaping unless it disturbs the soil to a depth of twelve inches [30.48 centimeters] or more.
  - d. Normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch.
  - e. Normal repair and maintenance of track and track bed by a railroad on its own right of way.
8. "Excavator" means a person who conducts excavation.
9. "Holiday" means New Year's Day, Martin Luther King Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. When a holiday falls on a Saturday, it is observed on the preceding Friday as if the Friday were the actual holiday, and when a holiday falls on a Sunday, it is observed on the following Monday as if the Monday were the actual holiday.
10. "Local governmental unit" means a county, township, or city.
11. "Locate" means an operator's markings of an underground facility showing the approximate horizontal location, including all lines, line direction, intersections, tees, and lateral facilities.
12. "Locate period" means the later of:
  - a. The forty-eight hour period beginning at 12:01 a.m. of the day after the location request was submitted to the notification center; excluding any Saturday, Sunday, or holiday; and any twenty-four hour extension provided through the notification center; or

- b. The period between the submission of a location request to the notification center and the noted date and time of excavation.
- 13. "Nonprofit corporation" means a corporation established under chapter 10-33.
- 14. "Notification center" means a center that receives notice from an excavator of planned excavation or any other request for location and transmits this notice to a participating operator.
- 15. "Operator" means a person who owns or operates an underground facility, including a master meter operator with underground facilities, or a state or local governmental entity. The department of transportation is considered an operator for the department's facilities buried on the department's rights of way. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property.
- 16. "Positive response" means notification by the operator to the notification center that underground facilities within the area covered by a location request have been marked or cleared.
- 17. "Tangible marking materials" means any material perceptible by touch used to mark the location of an underground facility, including flags, stakes, poles, or other materials inserted into or affixed to the ground. The term does not include paint, chalk, or other liquid ink-based materials applied to the ground.
- 18. "Underground facility" means an underground line, pipeline, cable, facility, system, and its appurtenances used to produce, store, convey, gather, transmit, or distribute communications, data, electricity, power, television signals, heat, gas, oil, petroleum products, carbon dioxide, water, steam, sewage, hazardous liquids, and other similar substances. Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.
- 19. "Unexpected occurrence" includes a fire, flood, earthquake or other soil or geologic movement, riot, accident, damage to a subsurface installation requiring immediate repair, or sabotage.
- 20. "Water" includes potable water, wastewater, and storm water.

#### **49-23-02. Notice to excavators and underground facility operators.**

A local governmental entity that issues permits for an activity involving excavation shall display an excavator's and operator's notice at the location where permits are obtained. An excavator's and operator's notice and a copy of this chapter must be furnished to each person obtaining a permit for excavation. The notification center shall prescribe an excavator's and operator's notice. The notice must inform excavators and operators of their obligation to comply with this chapter. The center shall furnish to local governmental units:

- 1. A copy of the notice and this chapter;
- 2. A copy of the display required under this section; and
- 3. The telephone number and mailing address of the notification center.

#### **49-23-03. Notification center - Participation - Establishment.**

- 1. An operator shall participate in and share in the costs of the statewide notification center operated by a vendor selected under this section.
- 2. A person doing business as an excavator or operator under this chapter shall participate in and share in the costs of a statewide notification center on a per-call basis. An operator, installing the operator's own facilities, may not be charged as an excavator.
- 3. An operator shall participate in and share the costs of the one-call excavation notice system by:
  - a. Submitting the information required by the notification center to allow the center to notify the operator of excavation activity;
  - b. Updating the information provided to the notification center on a timely basis;
  - c. Installing and paying for equipment reasonably requested by the notification center to facilitate receipt of notice of excavation from the center;

- d. Paying the costs charged by the notification center on a timely basis; and
  - e. Receiving and responding to excavation notices, including emergency notices.
4. A nonprofit corporation, North Dakota one-call, incorporated, shall govern the notification center.
- a. The board of directors of North Dakota one-call, incorporated must consist of nine members representing the participants in the center. The members of the board of directors must be chosen and serve for terms as provided in the bylaws of the corporation. One member of the board of directors must be chosen by representatives of each of the following participant groups:
    - (1) Telecommunications service providers.
    - (2) Gas distribution lines operators.
    - (3) Oil or gas transmission or gathering lines operators.
    - (4) Electrical transmission and distribution operators.
    - (5) Rural water systems.
    - (6) Cities of five thousand or more population.
    - (7) Cities of fewer than five thousand population.
    - (8) Cable television service providers.
    - (9) Excavators.
  - b. The board shall establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board, and any agreement shall be reviewed by the board at least once every three years, with an opportunity to receive new bids, if desired, by the board. An operator may submit a bid and be selected to contract to provide the notification center service.
  - c. Members of the board and any of its agents are immune from any liability of any kind based on any acts or omissions in the course of the performance of responsibilities in an official capacity except for bodily injury arising out of accidents caused by or contributed to by the negligence of the board member or agent.
  - d. The board shall aid the state's attorneys of the various counties in the enforcement of this chapter and the prosecution of any violations. The board may institute a civil action for an injunction to enjoin violations of this chapter without proof that anyone suffered actual damages.

#### **49-23-04. Excavation.**

- 1. Except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice before beginning any excavation. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice. The notice must contain:
  - a. The name, address, and telephone number of the person making the notification;
  - b. The name, address, and telephone number of the excavator;
  - c. The date and time when excavation is scheduled to begin;
  - d. The depth of planned excavation;
  - e. The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring;
  - f. Whether the use of explosives is anticipated and any other information as may be required by the notification center; and
  - g. The location of the excavation by any one or more of the following means:
    - (1) A specific street address;
    - (2) A reference to a platted lot number of record;
    - (3) An identifiable roadway or roadway intersection; or

- (4) A specific quarter section by section number, range, township, and county. In this case, the location shall be further described by coordinates measured in feet from the nearest one-fourth corner or section corner.
2. Unless otherwise exempted, the ticket request must include site identification information by one or more of the following means: white marking, digital white lining, project staking, geographic information system shape file, detailed drawing, map, or other means agreed upon by the parties to the ticket. Site identification under this subsection is not required if:
    - a. The precise location of excavation can be clearly and adequately identified on the location notice and is limited to a single street address or a platted lot number of record;
    - b. The precise location of excavation can be clearly and adequately identified on the location notice and the excavation is an emergency excavation; or
    - c. Prior to any excavation, the excavator requests and conducts a meeting with the affected operators at the location of the excavation.
  3. A request for location is limited to an area not exceeding three contiguous city blocks within an urban area or an area of four contiguous quarter sections or five linear miles [8.05 kilometers] in a rural area.
  4. An excavator may begin excavation in a location when the excavator has received notice that all facilities have been located or cleared or at the expiration of the location period or extension of the location period.
  5. The notification center shall:
    - a. Provide a toll-free telephone number and assign an inquiry identification number to each excavation notice and retain a record of all excavation notices received for at least six years.
    - b. Immediately transmit the information contained in an excavation notice to every operator that has an underground facility in the area of the proposed excavation.
    - c. Inform the persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be given.
    - d. Establish procedures for assuring positive response from the affected operator in all emergency excavation notices.
    - e. Establish procedures to receive from operators and convey to ticket holders positive response when operators have located or cleared underground facilities identified within the area of a location request.
  6.
    - a. An operator with underground facilities within the area of a location request shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator within the location period or as agreed by the parties.
    - b. For purposes of this section, the approximate horizontal location of the underground facilities is a strip of land two feet [60.96 centimeters] on either side of the underground facilities. An operator of a facility required to be locatable is responsible for the costs of location. If an excavator is unable to locate a facility within two feet on either side of the operator's facility location markings and requests assistance from the operator to locate the facility, but the operator fails to provide the requested assistance within a reasonable time, the operator is responsible for the excavator's reasonable costs incurred to locate the facility. This subdivision does not apply to an underground facility to convey water installed before August 1, 2013.
    - c. When an operator cannot establish the exact location of the underground facility to convey water, the operator shall mark the location as accurately as possible and the excavator may proceed with caution. When excavation operations approach the estimated location of the underground facility to convey water, the exact location of the facility must be determined by safe and acceptable means. The uncovered facility must be supported and protected to prevent damage.

- d. Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American public works association.
- e. If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the excavator.
- f. After facilities are located by an operator, an excavator shall notify the notification center if:
  - (1) The excavator postpones the excavation commencement time stated in the excavation notice by more than forty-eight hours, or any extension of that period, or cancels the excavation;
  - (2) The markings have been obliterated or obscured;
  - (3) Weather conditions have impeded visibility of the markings;
  - (4) The site shows evidence of recent excavation; or
  - (5) The excavator has other reason to believe the markings are incorrect or missing.
- g. An excavator may not use a location more than twenty-one days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.
- h. If excavation has not occurred within the initial twenty-one days of the locate, the excavator shall request that the facility be relocated before excavating unless other arrangements have been made with the underground facility owner. Upon the third locate request at the same excavation site where no excavation has occurred after the initial two locates, the excavator is responsible for reasonable costs associated with relocating facilities in that location. If the issue of whether excavation has occurred is disputed for purposes of this section, the excavator bears the burden of proof that excavation has occurred.
- i. If a relocate request is made for an area which includes areas where excavation has been completed, a request for relocate must be modified from the original locate request to reflect only the area to be excavated during each subsequent twenty-one-day period, otherwise the excavator is responsible for reasonable costs associated with relocating facilities in the location.
- j. An excavator that makes repeated location requests within the area of a previously made location request due to the excavator's failure to reasonably maintain and remove markings under subsection 3 of section 49-23-05 or failure to follow prudent and careful digging practices required by subsection 5 of section 49-23-05 is responsible for reasonable costs of location and removal if the public service commission determines the additional location request was caused by the excavator's failure described in this subdivision.
- k. If in the course of excavation the excavator is unable to locate the underground facility or discovers that the operator of the underground facility has incorrectly located the underground facility, the excavator shall promptly notify the operator or, if unknown, the one-call notification center.
- l. A facility owner, excavator, or other person may not present or presume that an underground facility is abandoned, or treat an underground facility as abandoned, unless the facility has been verified as abandoned by reference to installation records or by testing. The notification center shall establish a method of providing personnel from a facility owner qualified to safely inspect and verify whether a facility is abandoned or inactive if necessary. An inactive facility must be considered active for purposes of this section.
- m. An underground facility owner shall make all new facilities locatable.
- n. An operator that has completed marking of the excavation area or has determined there are no facilities in the area identified in the ticket shall provide positive response to the notification center in compliance with the notification center's procedures established under subsection 5 for assuring positive response from operators.



7. If an excavation is being made in a time of emergency, all reasonable precautions must be taken to protect the underground facilities. In an emergency, the excavator shall give notification in compliance with this chapter, as soon as practical, that an emergency exists. As soon as practical, each operator shall provide all location information that is reasonably available to the excavator.

#### **49-23-04.1. Survey.**

1. An individual making a request for location for information, design, or purposes other than excavation shall contact the notification center for a survey location. The survey notice must contain:
  - a. The name, address, and telephone number of the person making the notification;
  - b. The name, address, and telephone number of the surveyor;
  - c. The date and time information will be captured;
  - d. The depth of any planned future excavation;
  - e. The type and extent of any planned future excavation, including whether it involves tunneling or horizontal boring;
  - f. Whether the use of explosives is anticipated;
  - g. Any other information the notification center requires;
  - h. The location of the area to be surveyed by one of the following means:
    - (1) A specific street address;
    - (2) A reference to a platted lot number of record;
    - (3) An identifiable roadway or roadway intersection; or
    - (4) A specific quarter section by section number, range, township, and county. In this case, the location must be further described by coordinates measured in feet from the nearest quarter section corner or section corner.
2. Unless otherwise exempted, the ticket request must include site identification information by one or more of the following means: white marking, digital white lining, project staking, geographic information system shape file, detailed drawing, map, or other means agreed upon by the parties to the ticket. Site identification under this subsection is not required if:
  - a. The precise location of planned future excavation can be clearly and adequately identified on the location notice and is limited to a single street address or a platted lot number of record; or
  - b. Prior to any survey, the excavator requests and conducts a meeting with the affected operators at the location of the survey.
3. The notification center shall:
  - a. Immediately transmit the information contained in a survey notice to every operator that has an underground facility in the survey area; and
  - b. Inform the individual who made the survey location request of the names of participating operators of underground facilities to whom the notice will be given.
4. Within five days; excluding Saturdays, Sundays, and holidays; an operator with a facility within the survey area shall locate or mark the facilities physically, provide location information electronically, or meet with the ticket holder.
5. Meetings may be held at the discretion of the ticket holder.
6. Electronic information may be exchanged at the discretion of the operator.
7. The survey ticket holder shall assume ownership of materials used to mark the facility, use reasonable efforts to maintain markings until the survey information has been captured, and remove all tangible marking materials used to mark the facility and the site area upon completion of the capture.
8. The survey ticket holder is responsible for the reasonable costs of any relocate after a survey location has been properly located and marked.

#### **49-23-05. Precautions to avoid damage.**

To avoid damage to and minimize interference with underground facilities in and near the excavation area, a ticket holder shall:

1. Maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility.
2. Provide support in a manner approved by the operator for underground facilities in and near the construction area, including backfill operations to protect the facilities. Backfill must be of a material equal to or better in both quality and quantity to the existing backfill.
3. Assume ownership of materials used to mark the facility, use reasonable efforts to maintain markings during excavation, and remove all tangible marking materials used to mark the underground facility and site area upon completion of the excavation.
4. Assume the cost of excavation to expose the facility unless otherwise indicated by owner of facility.
5. Conduct the excavation in a careful and prudent manner.
6. Properly manage spoil material to prevent shifting or falling material that could damage belowground facilities.

**49-23-06. Damage to facilities - Penalty.**

1. a. If any damage occurs to an underground facility or its protective covering, the excavator shall notify the operator as soon as reasonably possible. When the operator receives a damage notice, the operator shall dispatch, as soon as reasonably possible, personnel to the damage area to investigate. If the damage endangers life, health, or property, the excavator responsible for the work shall take immediate action to protect the public and property and to minimize the hazard until arrival of the operator's personnel or until emergency responders have arrived and taken charge of the damaged area.
- b. An excavator shall delay backfilling in the immediate area of the damaged underground facilities until the damage has been investigated by the operator, unless the operator authorizes otherwise. The repair of damage must be performed by the operator or by qualified personnel authorized by the operator.
- c. An excavator is guilty of a class A misdemeanor if the excavator damages an underground facility or its protective covering and knew or reasonably should have known the damage occurred and:
  - (1) The excavator does not notify the operator as soon as reasonably possible; or
  - (2) The excavator backfills in violation of subdivision b.
2. a. If an excavator fails to comply with this chapter or damages an underground facility, the excavator is liable for all damages caused by the failure to comply with this chapter and for all damages to the facilities and must reimburse the operator for the cost of location, repair and restoration, loss of product, and interruption of service occurring because of the damage or injury to the facilities, together with reasonable costs and expenses of suit, including reasonable attorney's fees.
- b. Reimbursement to the operator under this subsection is not required if the damage to the underground facility was caused by the sole negligence of the operator or the operator failed to comply with sections 49-23-03 and 49-23-04.

**49-23-07. Effect on local ordinances.**

A person with a permit for excavation from the state or a local governmental unit is subject to this chapter. This chapter does not affect or impair local ordinances, charters, or other provisions of law requiring permits to be obtained before excavating.



## **APPENDIX B**

### **Articles of Incorporation North Dakota One-Call, Inc.**

460189  
RECEIVED

APR 22 1996

ARTICLES OF INCORPORATION

OF

NORTH DAKOTA ONE-209615 7 INC. 0

Sec. of State

11,143,600

5

MAR 29 1996 53925

We, the undersigned natural persons of the age of eighteen years or more, acting as incorporators of a corporation organized under Ch. 10-24, North Dakota Century Code, adopt the following Articles of Incorporation for such corporation:

ARTICLE I

The name of said corporation shall be: North Dakota One-Call, Inc.

ARTICLE II

The period of its duration is perpetual.

ARTICLE III

The purposes for which the corporation is organized are:

1. To establish and oversee a notification center that receives notices from excavators of planned excavations, or any other requests for location, and transmits this notice to a participating operator as required under Ch. 49-23, North Dakota Century Code, or any successor law;
2. To acquire real and personal property, or either, by purchase, lease, or otherwise;
3. To mortgage, sell, transfer, lease, and assign real and personal property, or either;
4. To solicit, apply for, and accept gifts, and to solicit, apply for, and accept grants, including governmental grants, in the form of money or otherwise, in order to implement and assist in the ongoing activities of the notification center as provided for under Ch. 49-23, North Dakota Century Code;

5. To do and perform any and all acts that may be necessary, proper, and expeditious in the successful conduct of the corporation and its affairs;

6. To carry on any and all acts necessary to carry out the powers enumerated in North Dakota Century Code §10-24-05, or any successor statute.

#### ARTICLE IV

The corporation is not organized for profit and shall have no capital stock.

#### ARTICLE V

Provisions for the regulation of the internal affairs of the corporation, including provisions for distribution of assets on dissolution or final liquidation, are none.

#### ARTICLE VI

The address of the registered agent of the corporation is: 422 North Second Street, Bismarck, North Dakota, 58501.

The name of the initial registered agent at such address is: Curt Peterson.

#### ARTICLE VII

The number of directors constituting the initial Board of Directors of the corporation is eight and the names and addresses of those persons who are to serve as initial directors are:

<u>Name</u>	<u>Address</u>
Kevin Alishouse	1130 20th Ave., SW, Minot, ND 58701
Dave Koland	1120 College Dr. #100, Bismarck, ND 58501
Mark H. Bittner	3621 17th Street S., Fargo, ND 58104

Perry Oberg	907 Main, Washburn, ND 58577
Curt Peterson	422 North 2nd Street, Bismarck, ND 58501
Dick Schwann	212 16th Avenue SW, Minot, ND 58701
Douglas Foy	1206 5th Ave. S., Grand Forks, ND 58201
David Crothers	3201 Nygren Dr., Mandan, ND 58554

ARTICLE VIII


The name and address of each incorporator is:

<u>Name</u>	<u>Address</u>
Kevin Alishouse	1130 20th Ave. SW, Minot, ND 58701
Harold Anderson	P. O. Box 147, Brookings, SD 57006
David Crothers	3201 Nygren Dr., Mandan, ND 58554
Douglas Foy	1206 5th Ave. South, Grand Forks, ND 58201
Val Ganje	300 N. 4th Str., Bismarck, ND 58501
Loren Hiatt	116 N. 4th Str., Ste. 150, Bismarck, ND 58501
Joel Heitkamp	16543-94 1/2 Str. SE, Hankinson, ND 58401
Mark Johnson	425 N. 5th Str., Bismarck, ND 58501
James Kerzman	Rte. 3, Box 36, Mott, ND 58646
Dave Koland	1120 College Dr., #100, Bismarck, ND 58501
Perry Oberg	907 Main, Washburn, ND 58577
Curt Peterson	422 N. 2nd Str., Bismarck, ND 58501
Mark Larson	227 West Main, West Fargo, ND 58078
Deborah R. Schmidt	200 N. 3rd Str., Fargo, ND 58102
Thomas C. Smith	902 Main Ave. E., West Fargo, ND 58078
Kenneth A. Wagner	2210 2nd Ave. E., Williston, ND 58801
John Westby	Rte. 1, Box 13, Velva, ND 58790

We, the above-named incorporators, have read the foregoing Articles of Incorporation, know the contents thereof, and believe the statements made therein to be true.

Dated this 15<sup>th</sup> day of March, 1996.

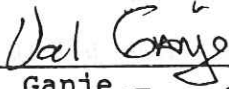
  
 Kevin Alishouse

  
 Harold Anderson

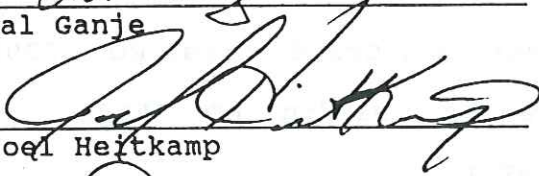




David Crothers



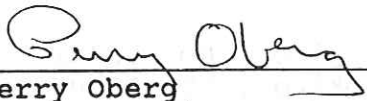
Val Ganje




Joel Heitkamp



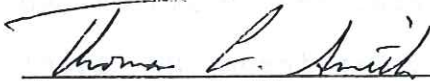
James Kerzman



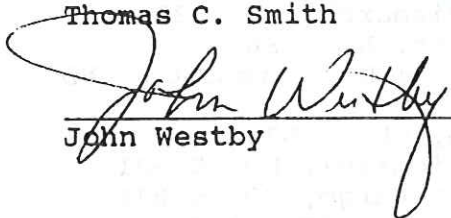
Perry Oberg



Mark Larson



Thomas C. Smith



John Westby



Douglas Foy



Loren Hiatt



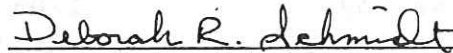
Mark Johnson



Dave Koland



Curt Peterson



Deborah R. Schmidt



Kenneth A. Wagner





REGISTERED AGENT  
CONSENT TO SERVE  
SECRETARY OF STATE  
SFN 7974 (3-95)

RECEIVED

APR 22 1996

Sec. of State

FOR OFFICE USE ONLY

ID #	11,143,600
WO #	460189
Approved By	
Filed	4-22-96
By	NS

SEE REVERSE SIDE FOR FILING AND MAILING INSTRUCTIONS

1. FILING FEE: \$10.00

2. Name of the Corporation, Limited Liability Company, or Limited Liability Partnership for Which the Registered Agent is to Serve

North Dakota One-Call, Inc.

3.A. Name of the Registered Agent

Curt Peterson

B. Registered Agent is (Check One)

- ☒ An Individual North Dakota Resident  
☐ A Corporation  
☐ A Limited Liability Company  
☐ A Limited Liability Partnership

C. Social Security/Federal ID # of Registered Agent

SSN: 501-50-2802

4. The designated registered agent hereby consents to act in that capacity for the above named corporation, limited liability company, or limited liability partnership until removed or resignation is submitted in accordance with North Dakota statutes.

Signature of Registered Agent

4/17/96

Date

CORRESPONDENCE

11,143,600

**BASIN ELECTRIC  
POWER COOPERATIVE**

1717 EAST INTERSTATE AVENUE  
BISMARCK, NORTH DAKOTA 58501-0564  
PHONE: 701/223-0441  
FAX: 701/224-5336



RECEIVED

April 19, 1996

APR 22 1996

Ms. Clara J. Jenkins, Supervisor  
Corporations Division  
North Dakota Secretary of State  
600 East Boulevard Avenue  
Bismarck, North Dakota 58505

Sec. of State

Re: North Dakota One-Call, Inc.  
ID#: 11,143,6000  
WO#: 460189

Dear Ms. Jenkins:

Basin Electric Power Cooperative (**Basin Electric**) is the owner of a reserved corporate name, Dakota One-Call, Inc., and a trade name, Dakota One-Call, under the statutes administered by your agency. We have been advised that the North Dakota Secretary of State's office has refused to process the Articles of Incorporation of North Dakota One-Call, Inc., due to the similarity between these names and have been requested to consent to use of the name North Dakota One-Call, Inc.

As the registered owner of the similarly reserved corporate name and trade name, Basin Electric hereby consents to the use of North Dakota One-Call, Inc.

If you need anything further, please feel free to contact me.

Very truly yours,

Michael J. Hinman  
General Counsel

mjh/jjw

cc: Dick Weber  
Larry Ness

NORTH DAKOTA  
Filed 4-22-96

Secretary of State




NS



## REGISTERED AGENT/OFFICE CHANGE

Complete numbers 13 through 16 only if changing the name of the registered agent and/or address of the registered agent listed in number 1.

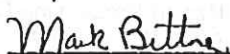
Registered agent provisions are found in the North Dakota Century Code, Sections 10-33-12 and 10-33-13.

13. Name of the new registered agent* (or new name of current registered agent)			
Mark Bittner			
14 a New address of the registered agent named in number 4 (It cannot only be a post office box; It must be the agent's physical address.) If applicable for mailing purposes, a post office box can be added to the physical address			
200 3rd St N		PO Box	
Fargo	ND	58102	
City	State	Zip	
b. Change of address is: (check one)			
<input checked="" type="checkbox"/> New location for current registered agent or the appointment of a new registered agent.			
<input type="checkbox"/> Postal reassignment, rezoning, or implementation of 911 address			
c. Is the address in number 5a the same address as the principal place of business for the organization named in number 2?			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
15. If a new registered agent has been named in number 13, an officer or other individual authorized by the corporation may sign the following certification. If only the address of the current registered agent is changing, their registered agent may sign the certification.			
<p>"As required by state law, I certify that the new registered agent named in number 13, if applicable, was appointed by a resolution, as required by state law and was adopted by the governing board of the corporation; that the new address in number 14, if applicable, for the current or newly appointed registered agent is the same address as that for the business office where the registered agent can be located during normal business hours. I further certify that I know that the information supplied in this form is true and correct and that I am authorized to sign it:</p>			
 Signature			Treas.   1/5/05 Date

-----

### CONSENT OF NEWLY APPOINTED REGISTERED AGENT

Complete this section only if a new registered agent has been appointed in number 13.

16. The new registered agent is: (check one)	
<input checked="" type="checkbox"/> A North Dakota resident	
<input type="checkbox"/> A corporation	
<input type="checkbox"/> A limited liability company	
17. An individual appointed as registered agent must sign a consent to serve in that capacity. When a corporation or limited liability company is named as registered agent, an officer or someone authorized by the organization may sign on behalf of the corporation or limited liability company.	
<p>"The undersigned, as the newly appointed registered agent, agrees to act as the registered agent for this nonprofit corporation until a change, or resignation, is submitted to the Secretary of State under the provisions of North Dakota law."</p>	
 Signature of registered agent named in number 13	1/3/05 Date

Send the document and filing fee to:

Annual Report Processing Center  
 Secretary of State  
 State of North Dakota  
 PO Box 5513  
 Bismarck ND 58506-5513



**REGISTERED AGENT/OFFICE CHANGE**

Complete numbers 13 through 17 only if changing the name of the registered agent and/or address of the registered agent listed in number 1.

Registered agent provisions are found in the North Dakota Century Code, Sections 10-33-12 and 10-33-13.

Name of the new registered agent: (or new name of current registered agent)

*Chad Olson*

- 14 a. New address of the registered agent named in number 1 or address of the new registered agent named in number 13. (It cannot only be a post office box: it must be the agent's physical address. If applicable for mailing purposes, a post office box can be added to the physical address.)

*208 2nd Ave NE*

Physical Address

PO Box

*Steele*

City

*ND*

State

*58482*

Zip

- b. Change of address is: (check one)

- ☒ New location for current registered agent or the appointment of a new registered agent.  
☐ Postal reassignment, rezoning, or implementation of 911 address.

- c. Is the address in number 14a the same address as the principal place of business for the organization named in number 17

- ☒ Yes ☐ No

15. If a new registered agent has been named in number 13, an officer or other individual authorized by the corporation may sign the following certification. If only the address of the current registered agent is changing, the registered agent may sign the certification.

"As required by state law, I certify that the new registered agent named in number 13, if applicable, was appointed by a resolution, as required by state law and was adopted by the governing board of the corporation; that the new address in number 14, if applicable, for the current or newly appointed registered agent is the same address as that for the business office where the registered agent can be located during normal business hours. I further certify that I know that the information supplied in this form is true and correct and that I am authorized to sign it:

*Ronald Ness*

Signature

*2-22-08*

Date

**CONSENT OF NEWLY APPOINTED REGISTERED AGENT**

Complete this section only if a new registered agent has been appointed in number 13.

16. The new registered agent is: (check one)

- ☒ A North Dakota resident  
☐ A corporation  
☐ A limited liability company

17. An individual appointed as registered agent must sign a consent to serve in that capacity. When a corporation or limited liability company is named as registered agent, an officer or someone authorized by the organization may sign on behalf of the corporation or limited liability company.

"The undersigned, as the newly appointed registered agent, agrees to act as the registered agent for this nonprofit corporation until a change, or resignation, is submitted to the Secretary of State under the provisions of North Dakota law."

*Chad Olson*

Signature of registered agent named in number 13

*2/22/08*

Date

Send the document and filing fee to:

Annual Report Processing Center  
 Secretary of State  
 State of North Dakota  
 PO Box 5513  
 Bismarck ND 58506-5513

Fax: 701-328-2992

## **APPENDIX C**

### **Call Center Activity Log**

# North Dakota Overview 2018-2019

	Incoming Tickets		Percent of Change	Outgoing Messages		Percent of Change	Outgoing/Incoming Messages		Billable Calls		Percent of Change	Percent Operator (%)		Percent Excavator (%)		Perecent Other (%)	
	2018	2019		2018	2019		2018	2019	2018	2019		2018	2019	2018	2019	2018	2019
January	4,098	4,565	11%	25,584	27,860	9%	6:1	6:1	25,009	27,218	9%	12.45	10.89	84.97	87.73	2.58	1.38
February	3,751	3,085	-18%	22,729	19,354	-15%	6:1	6:1	21,900	18,772	-14%	11.36	12.22	86.03	86.39	2.61	1.39
March	4,139	5,059	22%	24,915	30,962	24%	6:1	6:1	24,289	30,035	24%	11.07	12.77	85.77	84.50	3.16	2.73
April	11,318	15,327	35%	63,477	83,789	32%	6:1	5:1	62,022	81,585	32%	13.05	11.50	72.89	75.15	14.06	13.35
May	26,311	23,033	-12%	139,748	125,279	-10%	5:1	5:1	136,518	122,545	-10%	11.65	11.79	71.30	72.98	17.05	15.23
June	22,320	22,038	-1%	120,170	119,477	-1%	5:1	5:1	117,506	117,020	0%	10.39	11.48	76.21	75.83	13.40	12.69
July	22,029	21,316	-3%	116,664	117,960	1%	5:1	6:1	113,891	115,311	1%	12.13	10.40	77.05	78.50	10.82	11.10
August	23,195	21,129	-9%	122,196	115,500	-5%	5:1	5:1	119,496	113,478	-5%	12.61	10.59	78.53	79.22	8.86	10.19
September	20,422	19,234	-6%	107,349	104,300	-3%	5:1	5:1	104,942	102,240	-3%	11.89	10.25	78.13	79.96	9.98	9.79
October	20,687	19,198	-7%	110,863	105,878	-4%	5:1	6:1	108,077	103,658	-4%	11.95	10.54	81.31	82.35	6.74	7.11
November	9,916	9,884	0%	56,111	55,763	-1%	6:1	6:1	54,914	54,377	-1%	11.33	9.57	84.80	86.05	3.87	4.38
December	4,653	5,263	13%	27,511	31,228	14%	6:1	6:1	26,838	30,541	14%	10.60	9.16	87.30	88.77	2.10	2.07
Total	174,857	171,150	-2%	937,317	937,350	0%	5:1	5:1	917,420	918,799	0%						
Average												11.71	10.93	80.36	81.45	7.94	7.62

	Percent Routine (%)		Percent Modify (%)		Percent Respot (%)		Percent Emergency (%)		Percent Meet (%)		Percent Survey (%)		Percent Extended (%)	
	2018	2019	2018	2019	2018	2019	2018	2019	2018	2019	2018	2019	2018	2019
January	58.20	61.03	3.78	3.64	24.33	24.27	7.59	6.59	0.24	0.07	5.86	4.40	0.00	0.00
February	62.68	52.41	3.79	3.89	21.94	27.84	6.50	9.47	0.16	0.06	4.93	6.32	0.00	0.00
March	56.99	60.19	3.38	4.05	24.16	20.20	6.98	9.69	0.68	0.34	7.76	5.53	0.05	0.00
April	81.33	79.88	3.21	3.82	9.92	10.27	2.67	3.26	0.56	0.22	2.31	2.56	0.00	0.00
May	85.97	82.39	2.68	2.83	8.69	10.95	1.39	2.04	0.51	0.24	0.76	1.54	0.00	0.00
June	81.30	80.57	2.79	2.76	12.94	13.42	1.80	1.64	0.18	0.22	0.99	1.40	0.00	0.00
July	79.49	75.76	3.07	2.99	14.31	17.53	2.04	2.11	0.25	0.25	0.83	1.37	0.00	0.00
August	79.53	75.89	2.65	3.01	14.91	18.08	1.75	1.85	0.18	0.18	0.98	0.99	0.00	0.00
September	79.84	74.01	2.86	3.00	14.19	18.42	1.64	2.06	0.36	0.32	1.12	2.19	0.00	0.00
October	76.65	72.15	3.04	3.09	15.79	20.21	1.68	2.37	0.21	0.22	2.62	1.95	0.00	0.00
November	68.81	65.53	2.91	3.27	21.68	25.24	3.16	2.98	0.18	0.25	3.26	2.72	0.00	0.00
December	60.00	52.31	3.80	3.04	26.28	33.44	5.01	5.47	0.17	0.40	4.73	5.34	0.00	0.00
Average	72.57	69.34	3.16	3.28	17.43	19.99	3.52	4.13	0.31	0.23	3.01	3.03	0.01	0.00

# **APPENDIX D**

## **Cost Proposal**

## COST PROPOSAL FORM

The cost proposal shall be based on a One-Call System with mapping and polygon screening capabilities. The cost per billable ticket shall include billing excavators on a per locate request at the same rate as the per ticket cost to operators. Total billings are defined as follows:

Total Billings = Locate Requests (Excavators) + Locate Tickets (Operators)

Firm \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

### **Cost Proposal (Per Billing)**

### **In-State Center**

### **Out-of-State Center**

#### **Base Cost (Routine)**

Reimbursement to ND One-Call, Inc.	\$0.05	\$0.05
Advertising Budget	\$0.10	\$0.10
Total Base Cost (Routine)	_____	_____

#### **Base Cost (Emergency – Telephone Notification)**

Reimbursement to ND One-Call, Inc.	\$0.05	\$0.05
Advertising Budget	\$0.10	\$0.10
Total Base Cost (Telephone Notice)	_____	_____

#### **Options (Per Billing)**

Other – Please Define:

_____	_____	_____
_____	_____	_____
_____	_____	_____

#### **Credits (Per Billing)**

Other – Please Define:

_____	_____	_____
_____	_____	_____
_____	_____	_____