

FARGO CITY COMMISSION AGENDA
Monday, September 16, 2024 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, September 3, 2024).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Agreement for Special Improvements with ARD Properties LLC (Improvement District No. BN-24-B1).
- 2. Applications for Games of Chance:
 - a. Carl Ben Eielson PTA for raffles on 10/17/24, 10/22/24, 3/6/25 and 3/11/25.
 - b. New Life Center for a raffle on 10/8/24.
- 3. Final Balancing Change Order No. 2 in the amount of \$ 0.00 for Project No. UR-24-H1.
- 4. Memorandum of Offer to Landowner for Permanent Easement (Street and Utility) and Easement (Temporary Construction Easement) with Tones LLC (Project No. FP-19-A).
- 5. Change Order No. 1 in the amount of \$284,983.47 and associated time extensions for Improvement District No. BN-23-F1.
- 6. Change Order No. 2 in the amount of \$2,475.00 and associated time extension for Improvement District No. BN-23-J1.
- 7. Create Improvement District No. FP-19-A (Southwest Regional Pond - Phase 2).
- 8. Facilities Management Policies.
- 9. Resolutions Authorizing the Issuance of Taxable Annual Appropriation Bonds, Series 2024F and 2024G, Approving Certain Actions, and Approving Forms of Documents Required Connection Therewith.
- 10. Items from the FAHR Staff Meeting:
 - a. Notice of Grant Award Amendment from the ND Department of Health and Human Services in the amount of \$99,200.00 for WIC and associated budget adjustment (CFDA #10.557).
 - b. Submission of a Plat Application to the City of West Fargo.
 - c. Request to advertise a Request for Proposal (RFP) for Advisory Services and Commercial Realtors to list the property west of the Fargo Landfill for sale.
 - d. Amendment No. 1 with KLJ Engineering LLC in the amount of \$42,375.00 for Phase 2 of the City Hall Deck Repairs.

- e. Interim compensation for City Administrator Michael Redlinger, as has been identified by the Metro Flood Diversion Authority (MFDA), along with the respective bill back to the MFDA for a net \$0.00 impact to the City of Fargo.

- 11. Contracts for Fire Station No. 5 Renovation Project:
 - a. General Construction contract to Roers Construction Joint Venture, LLC.
 - b. Electrical Construction contract to Grotberg Electric, Inc.
 - c. Mechanical Construction contract to Laney's, Inc.

- 12. Grant Agreement with the ND Department of Health and Human Services, Office of Refugee Support Services for TB Care Coordination Services (CFDA #93.566).

- 13. Vacate the Findings of Fact, Conclusions and Order for property located at 1710 1st Avenue South.

- 14. Amended Findings of Fact, Conclusions and Order for property located at 909 4th Street North.

- 15. Funding Approval and HOME Investment Partnerships Agreement with the US Department of Housing and Urban Development.

- 16. Resolution approving Plat of College Third Addition.

- 17. Consent to change the name of the Badges of Unity Fund to the Fargo Police Foundation.

- 18. Quitclaim Deed with The Park District of the City of Fargo (South Ridge First Addition).

- 19. Bid award to Northern Truck Equipment in the amount of \$195,525.00 for the purchase of a hook and hoist refuse truck (RFP24297).

- 20. Bills.

REGULAR AGENDA:

- 21. Recommendations for appointments to the following Commission and Authority:
 - a. Civil Service Commission.
 - b. Fargo Dome Authority.

PUBLIC HEARINGS - 5:15 pm:

- 22. **PUBLIC HEARING** – Legacy I Eighth Addition (6155 24th Street South); approval recommended by the Planning Commission on 6/4/24:
 - a. Zoning Change from GO, General Office with a C-O, Conditional Overlay to GO, General Office with a C-O, Conditional Overlay and SR-5, Single-Dwelling Residential.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of Legacy I Eighth Addition.

- 23. **PUBLIC HEARING** – Legacy I Eighth Addition (6155 24th Street South); approval recommended by the Planning Commission on 6/4/24:
 - a. Zoning Change from GO, General Office with a C-O, Conditional Overlay to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay and a request to repeal the C-O, Conditional Overlay.
 - b. 1st reading of rezoning Ordinance.

- c. PUD, Planned Unit Development Master Land Use Plan.
- 24. **PUBLIC HEARING** – Harwood’s 4th Addition (806 7th Street North); approval recommended by the Planning Commission on 7/2/24:
 - a. Zoning Change from MR-3, Multi-Dwelling Residential to SR-5, Single-Dwelling Residential.
 - b. 1st reading of rezoning Ordinance.
 - c. Plat of Harwood’s 4th Addition.
- 25. **PUBLIC HEARING** – Public Comment on the 2025 Preliminary Budget and recommended tax levies.
- 26. Recommendation for budget-related position eliminations.
- 27. Application for Property Tax Exemption for Improvements Made to Buildings:
 - a. Janine Saxerud, 1416 West Gateway Circle South (5 years).
- 28. Liaison Commissioner Assignment Updates.
- 29. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**

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

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

①

MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Agreement for Special Improvements – ARD Properties, LLC

DATE: September 9, 2024

ARD Properties LLC (Trent Duda) requested municipal improvements in Interstate Business District Addition. Attached is the Agreement for Special Improvements relating to improvement district #BN-24-B1. ARD Properties LLC has executed this agreement and provided the necessary Letter of Credit.

Recommended Motion:

Approve the agreement for special improvements between the City of Fargo and ARD Properties LLC for municipal improvements in Interstate Business District Addition Improvement District #BN-24-B1.

AGREEMENT FOR SPECIAL IMPROVEMENTS

THIS AGREEMENT, Made and entered into this 5 day of September, 2024, by and between THE CITY OF FARGO, a municipal corporation, hereinafter "CITY"; and ARD Properties LLC., hereinafter "DEVELOPER",

WHEREAS, DEVELOPER has made request of CITY for Sanitary Sewer, Water Main, Asphalt Pavement and Incidentals hereinafter "Utilities", in Interstate Business District Addition, hereinafter "Development";

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

WHEREAS, CITY will create Special Improvement District Number BN-24-B1 hereinafter "SID #BN-24-B1", for the purpose of constructing said Utilities; and

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

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

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

1. CITY agrees to create SID #BN-24-B1 for purpose of constructing Utilities in the Development, to finance the Utilities through its municipal bonding authority, and to levy special assessments against said property for the payment of the bonds sold to finance the Utilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dated the day and year first above written.


THE CITY OF FARGO, a municipal corporation

By _____
Tim Mahoney, Mayor

ATTEST:

Steven Sprague, City Auditor

DEVELOPER

By  _____
Its president _____

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APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (4-2023)

20

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

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

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

ORGANIZATION INFO

Name of Organization or Group Carl Ben Eielson PTA		Dates of Activity (Does not include dates for the sales of tickets) <i>Oct 17 + 22 2024 March 6 + 11 2025</i>	
Organization or Group Contact Person Darla Bakko	E-mail carlbenpta@gmail.com	Telephone Number 701-361-8377	
Business Address 1601 13th Ave S	City Fargo	State ND	ZIP Code 58103
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Carl Ben Eielson Middle School	County Cass
Site Physical Address 1601 13th Ave S	City Fargo
	State ND
	ZIP Code 58103

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)
October 17th and 22nd March 6th and 11th 50/50 raffle

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

Game Type	Description of Prize	Exact Retail Value of Prize
50/50 Raffle	<i>4 days @ 500.00 each day</i>	<i>2000</i>
Total (limit \$40,000 per year)		<i>\$ 2,000</i>

Intended Uses of Gaming Proceeds
Students programs, teachers request, community picnic

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

Yes No

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

Yes No

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

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

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

Yes No

Name Darla Bakko	Title President CBE PTA	Telephone Number 701-361-8377	E-mail Address carlbenpta@gmail.com
Signature of Organization or Group's Top Official <i>Darla Bakko</i>		Title President CBE PTA	Date 9-9-24



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

(26)

Ad
cc

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

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

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

ORGANIZATION INFO

Name of Organization or Group New Life Center		Dates of Activity (Does not include dates for the sales of tickets) 10/08/2024	
Organization or Group Contact Person Amy Gedrose	E-mail amy.gedrose@fargonlc.org	Telephone Number 701-532-4421	
Business Address 1902 3rd Ave N	City Fargo	State ND	ZIP Code 58102
Mailing Address (if different) PO Box 1067	City Fargo	State ND	ZIP Code 58107

SITE INFO

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

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

Paddle Game Raffle at annual fundraising event on Tuesday, October 8, 2024.

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

Game Type	Description of Prize	Exact Retail Value of Prize
Paddle Raffle	University of North Dakota Hockey Tickets, basket filler items	600.00
Paddle Raffle	One night hotel stay, restaurant gift cards, basket filler items	600.00
Paddle Raffle	One night hotel stay, restaurant gift cards, basket filler items	600.00
Total (limit \$40,000 per year)		\$ 1,800.00

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds
All proceeds will benefit New Life Center programs and operations.

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

Yes No

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

Yes No

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

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

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

Yes No

Printed Name of Organization Group's Permit Organizer Amy Gedrose	Telephone Number 701-315-0323	E-mail Address amy.gedrose@fargonlc.org
Signature of Organization Group's Permit Organizer 	Title Office Manager	Date 09/10/2024

3

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. UR-24-H1 Type: Negative Final Balancing Change Order #1

Location: Citywide Date of Hearing: 9/9/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/16/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Rick Larson</u>

The Committee reviewed the accompanying correspondence from Project Manager, Rick Larson, related to Negative Final Balancing Change Order #2 in the amount of \$0.00 to reconcile the final quantities as measured in the field.

Staff is recommending approval of Negative Final Balancing Change Order #2.

On a motion by Tim Mahoney, seconded by Brenda Derrig, the Committee voted to recommend approval of Negative Final Balancing Change Order #2 to Key Contracting.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #2 to Key Contracting.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Utility Funds

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

COMMITTEE

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

ATTEST:

C: Kristi Olson



 Nathan Boerboom, P.E., C.F.M.
 Assistant City Engineer

Memorandum

To: Members of PWPEC
From: Rick Larson, Project Manager
Date: September 9, 2024
Re: Project No. UR-24-H1 – Final Balancing Change Order #2

Background:

Attached is the Final Balancing Change Order #2 in the amount of \$0.00. The Contractor met the requirements of the contract and it has been accepted by the City. This FBCO reconciles the estimated quantities used in the contract with the final quantities as measured in the field. This Project is funded by Waste Water Utility Funds.

Original Contract:	\$	44,500.00
Change Order #1	\$	4,085.00
FBCO #2:	\$	<u>0.00</u>
Total Contract w/Incentive:	\$	48,585.00

Recommended Motion:

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

RJL/jmg

Attachment
C: Tom Knakmuhs



CHANGE ORDER REPORT
SANITARY SEWER REPAIR & INCIDENTALS
PROJECT NO. UR-24-H1
CITY WIDE

Final Balancing
Change Order

Change Order No 2 **Change Order Date** 8/13/2024
Contractor Key Contracting Inc

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

EXPLANATION OF CHANGE Change Order # 2

Final Balancing Change Order

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

Summary

Source Of Funding

Net Amount Change Order # 2 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Sanitary Sewer Utility Funds

\$0.00

\$4,085.00

\$44,500.00

\$48,585.00

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

APPROVED

For Contractor

Title

Thomas P. Martin

President

APPROVED DATE

Department Head

Mayor

Attest

William Beck
For Tom Knutson

4

September 6, 2024

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

**Re: Memorandum of Offer to Landowner
Permanent & Temporary Easements – Project #FP-19-A**

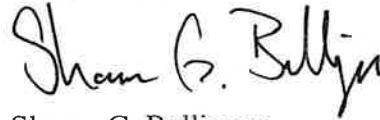
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a permanent & temporary easement in association with Project #FP-19-A. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize the purchase of a permanent and temporary easement from **Tones, LLC** in association with Project #FP-19-A.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Nathan Boerboom
Kasey McNary

MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project FP-19-A1	County Cass	Parcel(s) 01-3511-00040-000
Landowner Tones LLC		
Mailing Address 5522 36 ST S Fargo, ND 58104		


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

See attached exhibit(s).


I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 107,455.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	_____
Easement and Access Control	\$	<u>107,455.00</u>
Improvements on Right of Way*	\$	_____
Damages to Remainder	\$	_____
Total Offer	\$	<u>107,455.00</u>

*Description of Damages to Remainder are as follows:



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



 Shawn G. Bullinger
 Land Acquisition Specialist, City of Fargo

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



Timothy J. Mahoney
 MAYOR

 SIGNATURE

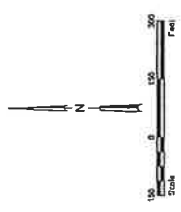
 DATE

Description - Permanent Easement:

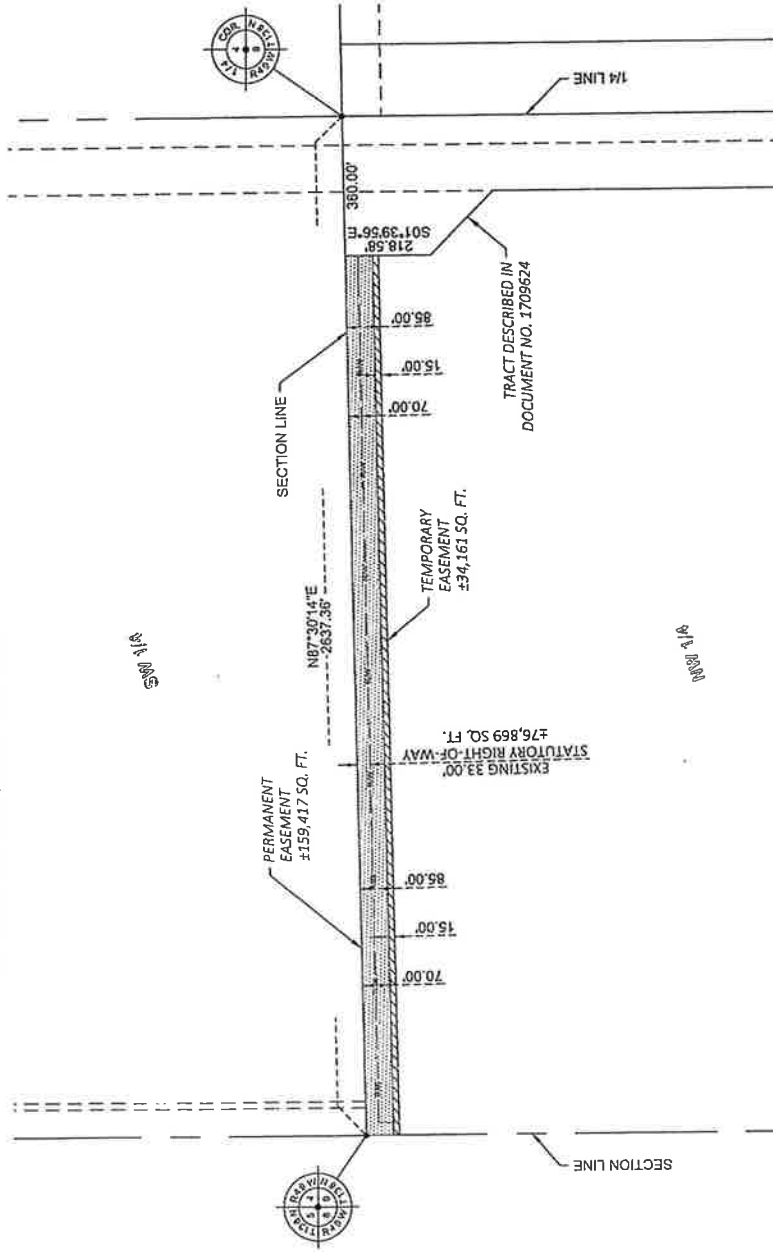
The North 70.00 feet of the Northwest Quarter of Section 9, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota.
 Excepting that part lying easterly of a line that bears South 01°39'56" East from a point on the northerly line of said Northwest Quarter, said point lying 360.00 feet westerly of the northeast corner of said Northwest Quarter.
 Said tract contains 159,417 square feet, more or less.

Description - Temporary Easement:

The South 15.00 feet of the North 85.00 feet of the Northwest Quarter of Section 9, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota.
 Excepting that part lying easterly of a line that bears South 01°39'56" East from a point on the northerly line of said Northwest Quarter, said point lying 360.00 feet westerly of the northeast corner of said Northwest Quarter.
 Said tract contains 34,161 square feet, more or less.



FOUND IRON MONUMENT
 3/4" I.D. IRON PIPE SET
 MEASURED BEARING N88°06'54"E
 MEASURED DISTANCE 151.04'
 MEASURED BEARINGS SHOWN ARE BASED ON THE CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.
 MEASURED DISTANCES SHOWN ARE GROUND DISTANCES IN TERMS OF U.S. SURVEY FEET.



Drawn by TRK	DATE 7-15-24	 HOUSTON engineering, inc.	CITY OF FARGO PART OF THE NW 1/4, SECTION 9, T138N, R49W, OF THE 5TH PM, CASS COUNTY, NORTH DAKOTA	EASEMENT EXHIBIT PROJECT NO. 8059-0168	SHEET 1 OF 1
Checked by JAS	Scale AS SHOWN				

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Land Surveyor in the State of North Dakota.
 JAMES A. SCHLEMAN
 License No. LS-6086
 Date: 7/16/94

PERMANENT EASEMENT
(Street and Utility)

KNOW ALL MEN BY THESE PRESENTS that **Tones LLC**, a North Dakota limited liability company, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of laying, constructing, operating, maintaining and repairing a street and all other public utilities, together with the customary appurtenances including location of any and all utilities, said parcel being more particularly described as follows:

The South 70.00 feet of the Southeast Quarter of Section 4, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, LESS the East 100.00 feet thereof.

Said tract contains 177,601 square feet, more or less.

The easement area is pictorially represented on Exhibit A attached hereto and incorporated herein by reference.

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee’s officers, contractors, agents and employees may at any and all times when necessary or convenient to

do so, go over and upon said above described- parcel of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said street and customary appurtenances including location of any and all utilities, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above described- premises, and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcel so as to interfere in any manner with the construction, operation, maintenance or repair of said street including location of any and all utilities or customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said street and public utilities and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 26th day of August, 2024.

GRANTOR:

Tones LLC



By: Don Dabbert, Jr
Its: Member

STATE OF North Dakota)
COUNTY OF Cass)

On this 26th day of August, 2024, before me, a notary public in and for said county and state, personally appeared Don Dabbert, to me known to be the Member of **Tones LLC**, and executed the within and foregoing instrument, and acknowledged the same.

LAUREN N. JOHNSON
Notary Public
State of North Dakota
(SE My) Commission Expires July 28, 2026



Notary Public

My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
James A. Schlieman (LS-6086)
Houston Engineering
1401 21st Ave N
Fargo, ND 58102
(701) 237-5065

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street N
Fargo, ND 58102
(701) 232-8957

Description - Permanent Easement:

The North 70.00 feet of the Northwest Quarter of Section 9, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota.

Excepting that part lying easterly of a line that bears South 01°39'56" East from a point on the northerly line of said Northwest Quarter, said point lying 380.00 feet westerly of the northeast corner of said Northwest Quarter.

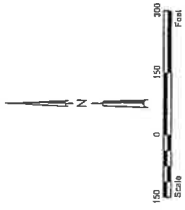
Said tract contains 159,417 square feet, more or less.

Description - Temporary Easement:

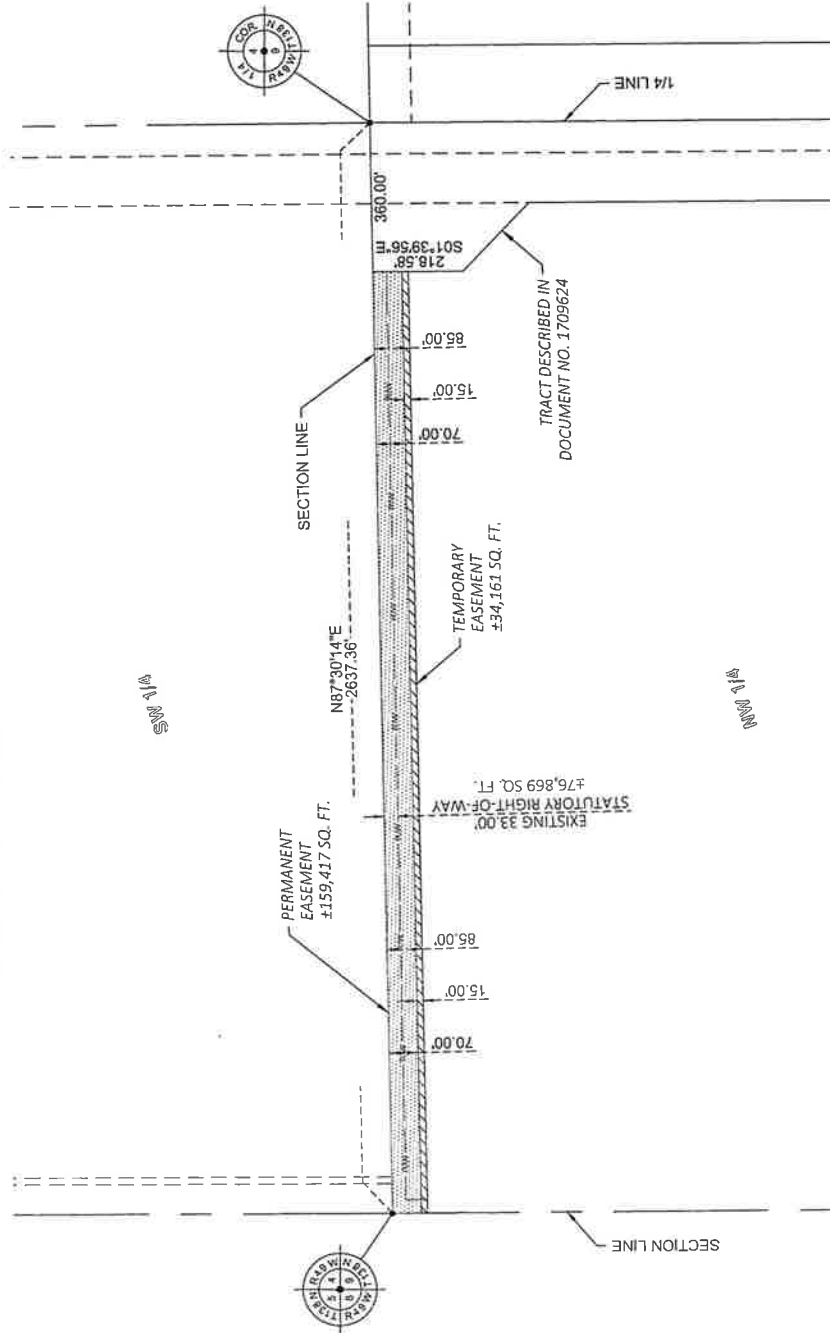
The South 15.00 feet of the North 85.00 feet of the Northwest Quarter of Section 9, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota.

Excepting that part lying easterly of a line that bears South 01°39'56" East from a point on the northerly line of said Northwest Quarter, said point lying 380.00 feet westerly of the northeast corner of said Northwest Quarter.

Said tract contains 34,161 square feet, more or less.



FOUND IRON MONUMENT
 3/4" I.D. IRON PIPE SET
 MEASURED BEARING N88°06'54"E
 MEASURED DISTANCE 151.04'
 MEASURED BEARINGS SHOWN ARE BASED ON THE CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.
 MEASURED DISTANCES SHOWN ARE GROUND DISTANCES IN TERMS OF U.S. SURVEY FEET.



I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Land Surveyor in the State of North Dakota.
 James A. Schlieman
 ND REG. NO. 6086

HOUSTON
 engineering, inc.

Checked by: JAS
 Date: 7-15-24
 Scale: AS SHOWN

CITY OF FARGO
 PART OF THE NW 1/4, SECTION 9, T138N, R49W, OF THE 5TH PM,
 CASS COUNTY, NORTH DAKOTA

EASEMENT EXHIBIT
 A
 PROJECT NO. 6059-0168

SHEET
 1 OF 1

EASEMENT
(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that **Tones LLC**, a North Dakota limited liability company, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a temporary construction easement under, over, upon and in the lands hereinafter described for the purpose of grading and storing clay/topsoil during a street and utility project, together with the customary appurtenances, said tracts being described as follows:

The North 15.00 feet of the South 85.00 feet of the Southeast Quarter of Section 4, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota LESS the East 100.00 feet thereof.

Said tract contains 38,055 square feet, more or less.

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

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with said parcels to be used for grading and storing clay/topsoil during

a street and utility project and all other construction activities during the construction phase of said project, and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcels so as to interfere in any manner with the said parcels during the construction phase. Grantee, at its own expense, shall leave the premises in as good condition as they were prior to the time construction activities began.

This Easement shall terminate on August 31, 2026, or upon completion of the construction project, whichever occurs later.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this 26th day of August, 2024.

GRANTOR:


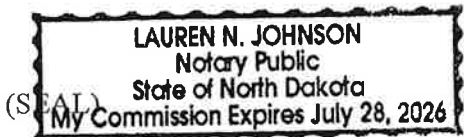
Tones LLC



By: Don Dabbert, d
Its: Member

STATE OF North Dakota)
)
COUNTY OF Cass)

On this 26th day of August, 2024, before me, a notary public in and for said county and state, personally appeared Don Dabbert, to me known to be the Member of **Tones LLC**, the Grantor described in, and that he executed the within and foregoing instrument, and acknowledged the same.



Notary Public
My Commission Expires:

GRANTEE:

City of Fargo, North Dakota, a North Dakota
Municipal Corporation

Timothy J. Mahoney, Mayor

ATTEST:

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

On this _____ day of _____, 2024, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively, of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

Notary Public
My Commission Expires:

The legal description was prepared by:
James A. Schlieman (LS-6086)
Houston Engineering
1401 21st Ave N
Fargo, ND 58102
(701) 237-5065

This document prepared by:
Kasey D. McNary (ND# 06590)
Assistant City Attorney
SERKLAND LAW FIRM
10 Roberts Street N
Fargo, ND 58102
(701) 232-8957

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

5

Improvement District No. BN-23-F1 Type: Change Order #1 & Time Extension
 Location: Dakota Commerce Center North Addition Date of Hearing: 9/9/2024

<u>Routing</u>	<u>Date</u>
City Commission	9/16/2024
PWPEC File	X
Project File	Jason Satterlund

The Committee reviewed the accompanying correspondence from Project Manager, Jason Satterlund, related to Change Order #1 in the amount of \$284,983.47 for additional work and the associated time extension, which is for the modification of the sanitary sewer system resulting from the discovery of unanticipated soil conditions.

Staff has worked with the Contractor to establish the costs for the modifications to the sanitary system. These modifications include both cost savings and the addition of more sanitary sewer pipe, leading to an overall increase in construct costs of \$134,983.47. Additionally, there is an estimated \$150,000 required to restock materials that cannot be used in the modifications resulting in a total change order amount of \$284,983.47.

These modifications have caused a delay in the project by 2.5 months. Consequently, the milestones, substantial, and final completion dates have been adjusted as shown below.

Original Completion Dates	Revised Previously	Revised This Memo
Milestone 1 – 21 Consecutive Working Days Milestone 2 – November 2, 2024 Milestone 3 – December 13, 2024 Milestone 4 – May 1, 2025 Substantial – July 1, 2025 Final – August 1, 2025		Milestone 1 – unchanged Milestone 2 – Nov. 15, 2024 Milestone 3 – July 1, 2025 Milestone 4 – July 1, 2025 Substantial – August 15, 2025 Final – September 15, 2025

Staff is recommending approval of Change Order #1 in the amount of \$284,983.47, which increases the total contract amount to \$10,441,031.03, and the associated time extension to Dakota Underground.

On a motion by Ben Dow, seconded by Susan Thompson, the Committee voted to recommend approval of Change Order #1 in the amount of \$284,983.47 and the associated time extension to Dakota Underground.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #1 in the amount of \$284,983.47 and the associated time extension to Dakota Underground.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Water Reclamation Funds & Special Assessment

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


COMMITTEE

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

Present	Yes	No	Unanimous
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark Williams
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nathan Boerboom
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


Nathan Boerboom, P.E., C.F.M.
Assistant City Engineer

Memorandum

To: Members of PWPEC
From: Jason Satterlund, Project Manager
Date: September 9, 2024
Re: Improvement District No. BN-23-F1 – Change Order #1 & Time Extension
(Sanitary Sewer Modification)

Background:

Improvement District No. BN-23-F1 is to provide City infrastructure for the development of new commercial properties within and surrounding Dakota Commerce Center North Addition.

Dakota Underground is the Prime Contractor on this project.

Change order #1 in the amount of \$284,983.47 is for modification of the sanitary sewer system resulting from the discovery of unanticipated soil conditions.

The bidding documents included a geotechnical evaluation report conducted at the proposed sanitary sewer lift station site. Engineering anticipated that these soil conditions were contained to a relatively small area surrounding the proposed sanitary sewer lift station site. However, once construction commenced, it became evident that the soil conditions shown in the geotechnical report extended well beyond the boundaries initially anticipated.

Given the unexpected conditions, proceeding with the initial plan would have likely led to significant costs to the City of Fargo when future maintenance is required, particularly due to the depth and quality of the soil. To mitigate these potential problems, the sanitary sewer system has been modified to better accommodate the soil conditions and ensure a more durable and maintainable infrastructure in the future.

The key modification to the sanitary sewer system was relocating the lift station from the southeast corner of the Dakota Commerce Center North (DCCN) Addition to the northwest corner. This relocation allows the lift station to be shallower in depth and avoids the poor soil conditions in the southeast corner. The reduced depth results in cost savings for the installation of both the lift station and the sanitary sewer pipe. However, the relocation to the northwest corner will increase project costs due to the need for additional sanitary sewer pipe to service the first phase of DCCN. It's important to note that this sanitary sewer pipe would have been required to support future phases of DCCN, and therefore will reduce costs for those future phases.

We have worked with the Contractor to establish the costs for the modifications to the sanitary system. These modifications include both cost savings and the addition of more sanitary sewer pipe, leading to an overall increase in construction costs of \$134,983.47. Additionally, there is

an estimated \$150,000 required to restock materials that cannot be used in the modifications. We will continue to work with the Contractor to minimize this cost as we further determine which material can be reused, but do not expect the cost to exceed \$150,000. The total change order value of \$284,983.47 results in a net increase of 2.81%, bringing the revised contract amount to \$10,441,031.03.

Please note that these modifications to the sanitary system do not affect the other portions of the project, including the water main, storm sewer, and concrete paving. These components, along with their associated costs, remain unchanged.

These necessary modifications have caused a delay in the project by 2.5 months. Consequently, the milestones, substantial, and final completion dates have been adjusted as detailed below.

The additional cost will be special assessed to the benefitting properties.

Recommended Motion:

Approve Change Order #1 for the modification of the sanitary sewer system in the amount of \$284,983.47 and to revise the milestone, substantial, and final completion dates as shown below:

Original Completion Dates	Revised Previously	Revised This Memo
Milestone 1 – 21 Consecutive Working Days Milestone 2- November 2, 2024 Milestone 3 – December 13, 2024 Milestone 4 – May 1, 2025 Substantial – July 1, 2025 Final – August 1, 2025		Milestone 1 – unchanged Milestone 2- Nov. 15, 2024 Milestone 3 – July 1, 2025 Milestone 4 – July 1, 2025 Substantial – August 15, 2025 Final – September 15, 2025

Attachments



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

Additional SS

1:9,028 9/6/2024 7:04 PM

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



CHANGE ORDER REPORT
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-23-F1

ON 48TH AVENUE NORTH BETWEEN COUNTY HIGHWAY 81 AND 37TH STREET NORTH, ON COUNTY HIGHWAY 81 FROM 44TH AVENUE NORTH TO 48TH AVENUE NORTH, ON 41ST STREET NORTH FROM 48TH AVENUE NORTH TO 1100' NORTH, ON 37TH STREET NORTH FROM 46TH AVENUE NORTH TO 950' NORTH OF 48TH AVENUE NORTH.

Change Order No	1	Change Order Date	5/20/2024
Contractor	Dakota Underground Co Inc		

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

EXPLANATION OF CHANGE Change Order # 1

Sanitary Sewer Modifications
 Revised Milestones:

Milestone #2: November 15, 2024

- Temporary crushed concrete connection suitable for semi-truck traffic between the existing asphalt on 37th Street and the new concrete pavement on 46th Avenue.
- Winter stabilization of exposed soils.
- New 27" and 24" gravity sanitary sewer pipe on 37th Street shall be receiving flows previously diverted from the existing 10" sanitary sewer force main.
- If work is started between stations 25+00 and 30+00 on 48th Avenue North or between stations 103+00 to 106+00 on or adjacent to Highway 81, the paving, including curb and gutter and driveways must be completed in the 2024 construction season.
- Failure to meet Milestone 2 will result in liquidated damages being applied in the amount of \$1000 per calendar day.
- Liquidated damages will not be suspended due to inclement weather and will continue until Milestone 2 has been achieved.

Milestone #3: July 1, 2025

- Installation and testing of all underground utilities.
- Contractor shall provide concrete paved access to the entire frontage of 4001 48th Avenue North (including driveways) from either 37th Street North or Highway 81 including a completed turn lane.
- Failure to meet Milestone 3 will result in liquidated damages being applied in the amount of \$2500 per calendar day.

- Contractor shall provide a completed sanitary sewer lift station including a start-up with City staff (Contractor(s), and system integrators utilizing both Cass County Electric Cooperative supplied utility power and generator power. This shall include all work included in the contract for bid items F&I Lift Station and F&I Lift Station Electrical. All pumps, gates, and electrical features shall be fully operational.
- Failure to meet milestone #4 will result in liquidated damages being applied in the amount of \$500 per calendar day.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Change Order 1	16	F&I Manhole GB	EA	0	0	0	17	17	\$4,200.00	\$71,400.00
	17	F&I Manhole 4' Dia Reinf Conc	EA	0	0	0	13	13	\$7,500.00	\$97,500.00
	18	F&I Manhole 6' Dia Reinf Conc	EA	0	0	0	4	4	\$16,000.00	\$64,000.00
	19	Remove Manhole	EA	0	0	0	1	1	\$10,000.00	\$10,000.00
	20	F&I Manhole w/Ext Drop 4' Dia Reinf Conc	EA	0	0	0	2	2	\$12,500.00	\$25,000.00
	21	F&I Manhole w/Int Drop 6' Dia Reinf Conc	EA	0	0	0	2	2	\$19,000.00	\$38,000.00
	22	F&I Insulation 4" Thick	SY	0	0	0	75	75	\$40.00	\$3,000.00
	23	F&I Lift Station	LS	0	0	0	1	1	\$1,060,000.00	\$1,060,000.00
	24	Connect Pipe to Exist Pipe	EA	0	0	0	6	6	\$4,850.00	\$29,100.00
	25	F&I Pipe SDR 26 - 6" Dia PVC	LF	0	0	0	401	401	\$36.00	\$14,436.00
	26	F&I Pipe SDR 26 - 8" Dia PVC	LF	0	0	0	320	320	\$58.00	\$18,560.00
	27	F&I Pipe SDR 26 - 12" Dia PVC	LF	0	0	0	1818	1818	\$100.00	\$181,800.00
	28	F&I Pipe SDR 26 - 15" Dia PVC	LF	0	0	0	42	42	\$155.00	\$6,510.00
	29	F&I Pipe SDR 26 - 27" Dia PVC	LF	0	0	0	864	864	\$260.00	\$224,640.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	30	F&I Pipe SDR 35 - 12" Dia PVC	LF	0	0	0	2364	2364	\$70.00	\$165,480.00
	31	F&I Pipe SDR 35 - 24" Dia PVC	LF	0	0	0	925	925	\$163.00	\$150,775.00
	32	Remove Pipe All Sizes All Types	LF	0	0	0	1885	1885	\$25.00	\$47,125.00
	33	F&I Pipe w/GB SDR 26 - 6" Dia PVC	LF	0	0	0	194	194	\$60.00	\$11,640.00
	34	F&I Pipe w/GB SDR 26 - 8" Dia PVC	LF	0	0	0	675	675	\$127.00	\$85,725.00
	35	F&I Pipe w/GB SDR 26 - 12" Dia PVC	LF	0	0	0	38	38	\$310.00	\$11,780.00
	36	F&I Pipe w/GB SDR 26 - 27" Dia PVC	LF	0	0	0	67	67	\$370.00	\$24,790.00
	37	F&I Pipe w/GB SDR 35 - 12" Dia PVC	LF	0	0	0	92	92	\$370.00	\$34,040.00
	38	F&I Pipe w/GB SDR 35 - 24" Dia PVC	LF	0	0	0	20	20	\$280.00	\$5,600.00
	39	F&I Force Main - Locator Pedestal	EA	0	0	0	4	4	\$360.00	\$1,440.00
	40	F&I Force Main - Fittings	LB	0	0	0	394	394	\$31.00	\$12,214.00
	41	F&I Force Main 8" Dia	LF	0	0	0	2602	2602	\$52.00	\$135,304.00
	42	F&I Force Main 10" Dia	LF	0	0	0	30	30	\$78.00	\$2,340.00
	43	F&I Hydrant - Restrained Joint	EA	0	0	0	2	2	\$7,300.00	\$14,600.00
	44	Relocate Water Main 12" Dia	EA	0	0	0	1	1	\$14,500.00	\$14,500.00
	45	F&I Pipe C900 DR 18 - 6" Dia PVC	LF	0	0	0	28	28	\$42.00	\$1,176.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	46	F&I Tapping Sleeve & Valve 12"x6"	EA	0	0	0	1	1	\$9,200.00	\$9,200.00
	47	F&I Tapping Sleeve & Valve 16"x6"	EA	0	0	0	1	1	\$11,000.00	\$11,000.00
	48	Connect Sewer Service	EA	0	0	0	8	8	\$1,050.00	\$8,400.00
	49	F&I Pipe 24" Dia Corr Steel	LF	0	0	0	40	40	\$80.00	\$3,200.00
	50	F&I Flared End Section 24" Dia Corr Steel	EA	0	0	0	2	2	\$775.00	\$1,550.00
	51	Topsoil - Strip & Spread	LS	0	0	0	1	1	\$29,727.00	\$29,727.00
	52	Embankment	CY	0	0	0	1052	1052	\$4.00	\$4,208.00
	53	F&I Woven Geotextile	SY	0	0	0	620	620	\$4.00	\$2,480.00
	54	F&I Crushed Conc - 12" Thick	SY	0	0	0	620	620	\$26.00	\$16,120.00
	55	F&I Traffic Surface Gravel	Ton	0	0	0	350	350	\$30.00	\$10,500.00
	56	Special Bid Item A	LS	0	0	0	1	1	\$150,000.00	\$150,000.00
									Change Order 1 Sub Total	\$2,808,860.00
Sanitary Sewer	57	F&I Driveway 7" Thick Reinf Conc	SY	115	115	115	-115	0	\$95.00	-\$10,925.00
	58	F&I Manhole GB	EA	14	14	14	-14	0	\$4,200.00	-\$58,800.00
	59	F&I Manhole 4' Dia Reinf Conc	EA	12	12	12	-12	0	\$7,500.00	-\$90,000.00
	60	F&I Manhole 6' Dia Reinf Conc	EA	1	1	1	-1	0	\$20,000.00	-\$20,000.00
	61	Remove Manhole	EA	1	1	1	-1	0	\$10,000.00	-\$10,000.00
	62	F&I Manhole w/Ext Drop 4' Dia Reinf Conc	EA	1	1	1	-1	0	\$16,000.00	-\$16,000.00
	63	F&I Manhole w/Int Drop 6' Dia Reinf Conc	EA	4	4	4	-4	0	\$27,770.00	-\$111,080.00
	64	F&I Lift Station	LS	1	1	1	-1	0	\$1,175,000.00	-\$1,175,000.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	65	F&I 1-1/4" Trench Found Rock 4" thru 12" Dia	LF	1980		1980	-1980		\$0.01	-\$19.80
	66	F&I 1-1/4" Trench Found Rock 14" thru 24" Dia	LF	73		73	-73		\$0.01	-\$0.73
	67	Connect Pipe to Exist Pipe	EA	4		4	-4		\$4,850.00	-\$19,400.00
	68	F&I Pipe SDR 26 - 6" Dia PVC	LF	120		120	-120		\$36.00	-\$4,320.00
	69	F&I Pipe SDR 26 - 8" Dia PVC	LF	206		206	-206		\$58.00	-\$11,948.00
	70	F&I Pipe SDR 26 - 12" Dia PVC	LF	1642		1642	-1642		\$115.00	-\$188,830.00
	71	F&I Pipe SDR 35 - 12" Dia PVC	LF	1885		1885	-1885		\$75.00	-\$141,375.00
	72	F&I Pipe SDR 26 - 15" Dia PVC	LF	52		52	-52		\$158.00	-\$8,216.00
	73	F&I Pipe SDR 35 - 24" Dia PVC	LF	73		73	-73		\$190.00	-\$13,870.00
	74	F&I Pipe SDR 26 - 27" Dia PVC	LF	965		965	-965		\$310.00	-\$299,150.00
	75	Remove Pipe All Sizes All Types	LF	1870		1870	-1870		\$25.00	-\$46,750.00
	76	F&I Pipe w/GB SDR 26 - 6" Dia PVC	LF	120		120	-120		\$62.00	-\$7,440.00
	77	F&I Pipe w/GB SDR 26 - 8" Dia PVC	LF	595		595	-595		\$127.00	-\$75,565.00
	78	F&I Pipe w/GB SDR 26 - 12" Dia PVC	LF	86		86	-86		\$400.00	-\$34,400.00
	79	F&I Pipe w/GB SDR 35 - 12" Dia PVC	LF	95		95	-95		\$211.00	-\$20,045.00

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	80	F&I Pipe w/GB SDR 26 - 15" Dia PVC	LF	20		20	-20		\$375.00	-\$7,500.00
	81	F&I Force Main - Locator Pedestal	EA	2		2	-2		\$360.00	-\$720.00
	82	F&I Force Main - Fittings	LB	1092		1092	-1092		\$31.00	-\$33,852.00
	83	F&I Force Main 10" Dia	LF	30		30	-30		\$78.00	-\$2,340.00
	84	F&I Force Main 16" Dia	LF	756		756	-756		\$105.00	-\$79,380.00
	85	F&I Force Main w/GB 16" Dia	LF	115		115	-115		\$230.00	-\$26,450.00
	86	Connect Sewer Service	EA	3		3	-3		\$1,050.00	-\$3,150.00
	87	F&I Woven Geotextile	SY	245		245	-245		\$4.00	-\$980.00
	88	F&I Crushed Conc - 12" Thick	SY	245		245	-245		\$26.00	-\$6,370.00
									Sanitary Sewer Sub Total	-\$2,523,876.53

Summary.

Source Of Funding

Net Amount Change Order # 1 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Special Assessments, Water Reclamation

\$284,983.47

\$0.00

\$10,156,047.56

\$10,441,031.03

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

CONTRACT DATES

Current Substantial Completion Date

7/1/2025

Current Final Completion Date

8/1/2025

Additional Days Substantial Completion

45

Additional Days Final Completion

45

New Substantial Completion Date

8/15/2025

New Final Completion Date

9/15/2025

Interim Completion Dates

FOR
TOM KNAPP MUDS



APPROVED DATE

Department Head

Mayor

Attest



Dakota Underground Company

Project Manager

APPROVED

For Contractor

Title

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE



Improvement District No. BN-23-J1 Type: Change Order #2 & Time Extension

Location: 46th Ave N, 33rd St – 37th St Date of Hearing: 9/9/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/16/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Jason Satterlund</u>

The Committee reviewed the accompanying correspondence from Project Manager, Jason Satterlund, related to Change Order #2 in the amount of \$2,475.00 for additional work and the associated time extension, which revises the Final Completion date to accommodate delivery and installation of the street light poles.

Staff is recommending approval of Change Order #2 in the amount of \$2,475.00, which brings the total contract amount to \$2,517,958.37 and the associated time extension.

On a motion by Tim Mahoney, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #2 and the associated time extension to Northern Improvement, Inc.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #2 in the amount of \$2,475.00, bringing the total contract amount to \$2,517,958.37 and the associated time extension which revises the Final Completion date to accommodate delivery and installation of the street light poles.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Special Assessments

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

COMMITTEE

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

ATTEST:

C: Kristi Olson


 Nathan Boerboom, P.E., C.F.M.
 Assistant City Engineer

Memorandum

To: Members of PWPEC

From: Jason Satterlund, Project Manager

Date: September 4, 2024

Re: Improvement District No. BN-23-J1 – Change Order #2 and time extension to allow installation of street light poles and fixtures

Background:

Improvement District BN-23-J1 is for New Utility and Paving Construction of 46th Avenue North between 33rd and 37th Streets North as well as a portion of 33rd Street, north of 46th Avenue.

Northern Improvement, Inc. is the Prime Contractor for this project.

Change Order #1 was for additional work as requested by the Developer resulting in a change of the substantial and final completion dates.

The first item of change order #2 is for additional work by the subcontractor to locate the existing watermain on 33rd St. The existing stub ended up 22' further back than staked. The Contractor was forced to fill in their excavation in order to reach farther back. In doing so, it brought existing private utility lines into play resulting in delays in both laying the pipe and backfilling. Engineering agrees with the time submitted and recommends approval.

The second item is a request by the prime contractor to extend the completion dates to allow for installation of supplier delayed street light poles. As stated in the attached email from Sun Electric, the street light poles have an estimated ship date of December 20, 2024 due to a nationwide supply issue on "T-bases", a component of the street light pole. The recommendation is to keep the substantial completion date the same and move the installation of the street light poles and fixtures to the final completion with a revised date of February 14, 2025.

The additional cost will be special assessed to the benefitting properties.

Recommended Motion:

Approve Change Order #2 for the additional work to locate the existing water main in the amount of \$2,475.00 and to move installation of the street light poles and fixtures to the revised final completion date as shown below:

Original Completion Dates	Revised Previously	Revised This Memo
Substantial – August 15, 2024 Final – September 16, 2024	Substantial – Aug. 23, 2024 Final – Sept. 23, 2024	February 14, 2025

From: [Phil Duginski](#)
To: [Jason Satterlund](#)
Cc: [Ryan Tougas](#)
Subject: BN-23-J1 Street Light Pole Delivery
Date: Friday, August 9, 2024 10:08:44 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Jason,

Please see the following email from Ryan at Sun Electric regarding the estimated delivery date for the street light poles for this project.

We request that the street lighting on the project be exempt from the project completion date due to the delay in the street light pole delivery.

Thank you,
Phil Duginski
Northern Improvement Company

From: Ryan Tougas <rtougas@suninc.us>
Sent: Thursday, August 8, 2024 10:46 AM
To: Phil Duginski <pduginski@nicnd.com>
Subject: BN-23-J1

Phil,

The light poles on this project have an ESD of 12/20/24. Below is the response we got back from the manufacturer regarding paying extra to expedite.

The main reason the poles have the long lead time is due to the national supply issue on T-bases. Akron Foundry (out of Ohio) makes the t-bases used by Hapco, Valmont, P&K, Millerbernd and most other pole manufacturers. That is where the bottleneck is. To make things more interesting, most of the poles used in DOT projects around the country require these t-bases. It is truly a supply/demand issue. Because of this, Hapco is not able to expedite these orders.

Please relay this information to the city.

Thanks

| Ryan Tougas



Project Manager Sun Electric Inc.


M: 701-361-1954

E: rtougas@suninc.us

A: 411 39th St N. Fargo, ND 58102

P: 701-281-9140

W: www.sunelectricND.com

 Create your own Signature



Correction to existing watermain on 33rd Street and 46th Ave North to existing watermain in east ditch was not where it was staked. Johnson & Schock had to go 23 feet farther south to connect to the 12" watermain. At this time we accrued an additional 3 hours of crew time plus 23 extra feet of 12" water main for down time and exploratory digging @ \$750/hour = \$2,250.

\$2250.00	JOHNSON & SCHOCK
\$ 225.00	10% PRIME MARKUP
<hr/>	
\$2475.00	TOTAL AMOUNT

Summary

Source Of Funding	Special Assessments
Net Amount Change Order # 2 (\$)	\$2,475.00
Previous Change Orders (\$)	\$85,460.30
Original Contract Amount (\$)	\$2,430,023.07
Total Contract Amount (\$)	\$2,517,958.37

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

CONTRACT DATES

Current Substantial Completion Date	8/23/2024	Current Final Completion Date	9/23/2024
Additional Days Substantial Completion	0	Additional Days Final Completion	144
New Substantial Completion Date	8/23/2024	New Final Completion Date	2/14/2025

Interim Completion Dates

APPROVED
 For Contractor
 Title

Phil Dugnet
 PHIL DUGNET
 VICE PRESIDENT

APPROVED DATE
 Department Head
 Mayor
 Attest

Kevin Boehm
 KEVIN BOEHM FOR TOM KENNEDY

7

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

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

Southwest Regional Pond - Phase 2

Improvement
District No.

FP-19-A

Call For Bids	<u>September 16</u>	, <u>2024</u>
Advertise Dates	<u>September 25 & October 2</u>	, <u>2024</u>
Bid Opening Date	<u>October 23</u>	, <u>2024</u>
Substantial Completion Date	<u>August 1</u>	, <u>2026</u>
Final Completion Date	<u>August 31</u>	, <u>2026</u>

- X PWPEC Report (Attach Copy)
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Special Assessments)
- X **SRF** Language Included

Project Engineer Robert Hasey

Phone No. (701) 241-1545

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

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

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. FP-19-A4

Type: 2024 CIP Revision

Location: Southwest Metro Pond Phase 2

Date of Hearing: 9/9/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/16/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Rob Hasey</u>

The Committee reviewed a communication from Project Manager, Rob Hasey, regarding the addition of Improvement District No. FP-19-A4 to the 2024 CIP.

During the 2021 construction season the first phase of the Southwest Metro Pond was constructed. The second and final phase of the Southwest Metro Pond will serve as the regional retention pond for properties in the assessment district.

Engineering is seeking the addition of FP-19-A4 to the 2024 CIP.

On a motion by Tim Mahoney, seconded by Steve Sprague, the Committee voted to recommend approval of adding Improvement District No. FP-19-A4 to the 2024 CIP.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the addition of Improvement District No. FP-19-A4 to the 2024 CIP.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Special Assessments

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

COMMITTEE

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

ATTEST:

C: Kristi Olson



 Nathan Boerboom, P.E., C.F.M.
 Assistant City Engineer



**ENGINEER'S REPORT
SOUTHWEST REGIONAL POND - PHASE 2
IMPROVEMENT DISTRICT NO. FP-19-A
64TH AVENUE SOUTH BETWEEN VETERANS BOULEVARD
AND 45TH STREET**

Nature & Scope

Phase 2 for this project is for the construction of underground utilities & final pond excavation for the southwest regional pond located between Veteran's Boulevard and 45th Street South from 52nd Avenue South to 70th Avenue South.

Purpose

Phase 1 of the southwest regional pond was constructed in 2021. Phase 2 will complete the planned excavation for this stormwater pond system that will provide retention on a regional basis for properties in the Improvement District.

Special Assessment District

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

Feasibility

The estimated cost of construction is \$15,700,315.00. The cost breakdown is as follows:

Base Bid			
Construction Cost			\$15,700,315.00
Fees			
Admin	4%		\$628,012.60
Contingency	5%		\$785,015.75
Engineering	4%		\$628,012.60
Interest	4%		\$628,012.60
Legal	3%		\$471,009.45
Total Estimated Cost			\$18,840,378.00
Funding			
Special Assessments		100.00%	\$18,840,378.00

Miscellaneous Costs			
Permanent ROW and Easements			\$3,100,000.00
Outside Engineering			\$570,000.00
Total Miscellaneous Costs			\$3,670,000.00
Funding			
Special Assessments		100.00%	\$3,670,000.00

Project Funding Summary			
Special Assessments		100.00%	\$22,510,378.00
Total Estimated Project Cost			\$22,510,378.00

We believe this project to be cost effective.



Kevin Gorder
 Kevin Gorder, PE
 Division Engineer



**LOCATION AND COMPRISING
SOUTHWEST REGIONAL POND - PHASE 2
IMPROVEMENT DISTRICT NO. FP-19-A
64TH AVENUE SOUTH BETWEEN VETERANS BOULEVARD
AND 45TH STREET**

LOCATION:

An area of land located between 52nd Avenue South, west of Interstate 29, ¼ of a mile south of 76th Avenue South and east of 57th Street South.

COMPRISING:

Bound on the north by 52nd Avenue South.

Bound on the east by Interstate 29.

Bound on the south a distance of ¼ of a mile south of 76th Avenue South.

Bound on the west by 57th Street South.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota and its Extra-Territorial Area.



CITY OF FARGO ENGINEERING
DEPARTMENT

LOCATION & ASSESSMENT AREA

SOUTHWEST REGIONAL POND - PHASE 2

IMPROVEMENT DISTRICT NO. FP-19-A



FUTURE BENEFITING AREA OUTSIDE CITY LIMITS



Memorandum

To: Board of City Commissioners
From: Bekki Majerus, Director of Facilities Management
Date: September 11, 2024
Re: Facilities Management Policies

Dear Commissioners,

Over the course of the nearly three years that I have worked at City Hall, a few reoccurring themes have come up related to how staff should respond to certain requests and/or situations. In an effort to provide consistent guidance to employees the following three policies have been developed:

- Public Access and Video Recording in City of Fargo Facilities
- Securing Public Buildings After Hours
- Surveillance Video Release Policy

These policies have been developed after several conversations with stakeholders, discussions with the City Attorney and three separate reviews by the members of the Mayor's Cabinet. Once approved, these policies will be distributed to all City of Fargo employees as guidance in circumstances such as those outlined in the documents. The intent is to empower employees to respond to and ensure consistent response to situations related to these policies.

Attached:
Public Access and Video Recording City of Fargo Facilities Policy
Security Public Buildings After Hours Policy
Surveillance Video Release Policy

Requested Action:

Approve the following policies: Public Access and Video Recording in City of Fargo facilities, Securing Public Buildings After Hours, Surveillance Video Release Policy.



POLICY NAME	Public Access and Video Recording in City of Fargo Facilities		POLICY NO.	
EFFECTIVE DATE		DATE OF LAST REVISION	8/5/2024	VERSION NO. 2
ADMINISTRATOR RESPONSIBLE			CONTACT INFORMATION	

INTRODUCTION

The purpose of the policy is to establish protocols to accommodate the public recording inside City of Fargo facilities in public areas.

SCOPE

This policy applies to all City of Fargo employees on City of Fargo property.

PUBLIC ACCESS AND VIDEO RECORDING IN CITY OF FARGO FACILITIES

Members of the public have a broad right to film interactions with public officials and city staff — including police officers — conducting business in public areas where there is no reasonable expectation of privacy. Recordings can be made of restricted areas if the individual is recording from a public non-restricted area-i.e. through glass lobby windows or doors into workspaces.

The City of Fargo can also act to prevent filming in areas of its facilities that are not open to the public. This would include areas behind secured access doors, bathrooms, “employee only” areas, and areas where public access would pose a security risk to people or property. This restriction does not apply if the recording individual is invited into the restricted area by an authorized person. The City of Fargo can also act to prevent filming in areas of its facilities where there is an expectation of privacy. These facilities would include Fargo Cass Public Health’s clinic and WIC lobbies. Finally, the City of Fargo can prohibit filming in areas where there is a federal or state law or rule that applies such as the municipal court courtroom.

No city employee is required to give interviews or provide personal information. Employees are generally not required to identify themselves unless there is a department policy requiring such disclosure i.e. police officers.

VERSION HISTORY				
VERSION	APPROVED BY	REVISION DATE	DESCRIPTION OF CHANGE	AUTHOR
1		1/21/2024	Policy Creation	Facilities Management
2		7/8/2024	Policy Modified	City Attorney's Office
3		8/5/2024	Policy Modified	City Attorney's Office



POLICY NAME	Securing Public Buildings After Hours		POLICY NO.	
EFFECTIVE DATE		DATE OF LAST REVISION	7/8/2024	VERSION NO. 2
ADMINISTRATOR RESPONSIBLE		CONTACT INFORMATION		

INTRODUCTION

The purpose of this policy is to provide consistent guidance for who is responsible for securing the City of Fargo’s Public Building’s doors following public meetings and when those doors should be secured.

SCOPE

This policy applies to all City of Fargo buildings open to the public and all City of Fargo employees.

SECURING PUBLIC BUILDINGS AFTER HOURS POLICY

PROCEDURES

CITY HALL

City Hall Regular Business Hours: Monday – Friday 7:45 AM to 4:30 PM, closed on Holidays.

When a public meeting is scheduled to extend past 4:30 PM, Monday – Friday at City Hall,

- The Northwest entrance will remain open for 15 minutes past the start time of the meeting or until 4:30 PM whichever is later.
- The South entrance will remain open for the duration of the meeting and will be locked upon the close of the meeting.
- At the close of a public meeting, citizens must clear the Commission Chambers or other meeting room no more than 15 minutes after the close of the meeting.
- At the close of a public meeting, citizens must leave City Hall no more than 20 minutes after the close of the meeting.
- Once a citizen has left the building after the doors have been secured, they are not allowed to re-enter until the next business day.

OVERRIDE OF REGULAR DOOR SCHEDULES

To schedule an override of the regular door schedule, please contact fpo@fargond.gov at least 24 business hours prior to your request and indicate the date(s) and time(s) of the override request.

RESPONSIBLE PARTY

When a public meeting is scheduled to extend past 4:30 PM at City Hall, the Facility Protection Officer on duty is responsible to lock and unlock the doors per this policy.

SKY COMMONS (CIVIC CENTER)

Civic Center Regular Business Hours: Monday – Friday 7:45 AM to 4:30 PM, closed on holidays.

When a public meeting is scheduled to extend past 4:30 PM, Monday – Friday at Sky Commons (Civic Center),

- The Southeast entrance will remain open for the duration of the meeting and locked upon the close of the meeting.
- At the close of the public meeting, citizens must clear the building no more than 20 minutes after the close of the meeting.
- Once a citizen has left the building after the doors have been secured, they are not allowed to re-enter until the next business day.

OVERRIDE OF REGULAR DOOR SCHEDULES

To schedule an override of the regular door schedule, please contact fpo@fargond.gov at least 24 business hours prior to your request and indicate the date(s) and time(s) of the override request.

RESPONSIBLE PARTY

When a public meeting is scheduled to extend past the 4:30 PM at Sky Commons (Civic Center), the meeting organizer or designee is responsible to ensure the Sky Commons doors, southeast interior doors to the stairway Civic Center southeast exterior doors are locked at the close of the meeting. To do this:

- The meeting organizer or designee must contact the Facility Protection Officers at fpo@fargond.gov at least 24 business hours prior to the meeting to request a schedule override for the meeting times. They must also request access rights to lock the door be added to their card access. This access allows the user to override the schedule and lock the doors by swiping their badge twice (“double swipe”).
- If the meeting ends at the scheduled time or the organizer or designee remains onsite until the doors lock per the schedule, no action needs to be taken.
- In the event the meeting ends before the scheduled time, the meeting organizer will use the double swipe at the designated readers to override the schedule and lock the doors. The Facility Protection Officers at City Hall can demonstrate the double swipe function if you are not familiar.
- The access will be removed from the badge following the meetings.

ALL OTHER PUBLIC BUILDINGS

Hours may vary, please refer to specific building administration for detailed building schedules.

When a public meeting is scheduled to extend past the close of a public building,

- The main entrance must remain open for the duration of the public meeting. All other doors will lock according to the schedule.



POLICY NAME	Surveillance Video Release Policy	POLICY NO.	
EFFECTIVE DATE		DATE OF LAST REVISION	8/5/2024
		VERSION NO.	2
ADMINISTRATOR RESPONSIBLE		CONTACT INFORMATION	

INTRODUCTION

The purpose of this policy is to define the process for requesting the release of surveillance video obtained from City of Fargo’s security cameras.

SCOPE

This policy applies to all City of Fargo security cameras to include those that share spaces with private business such as parking ramps conjoined with privately owned real estate. This policy will apply to all requests to the City of Fargo for surveillance video from its security cameras.

SURVEILLANCE VIDEO RELEASE POLICY

DEFINITIONS

Surveillance Video. All video taken from the City of Fargo’s security cameras which are part of the security system of the City of Fargo’s public facilities.

PROCEDURES

The City of Fargo’s surveillance video directly relates to the physical or electronic security of its public facilities and is part of the City of Fargo’s security plan. Accordingly, any video taken on any of its security cameras constitutes surveillance video and shall only be disclosed under the following conditions:

Requests from a criminal justice agency

If a criminal justice agency (as defined by North Dakota Century Code section 44-04-18.7(5) – including but not limited to the Fargo Police Department and City Prosecutor’s Office) requests surveillance video as part of an investigation, the criminal justice agency will be provided the surveillance video.

Requests from City of Fargo internal entities and employees:

Requests from City of Fargo internal departments/employees for surveillance video for which they do not have direct access, shall be made by the Department Director to the Facility Protection Officers. If there is any question regarding whether the surveillance video should be provided to the Department Head, the issue will be decided by administration.

Requests from Private Businesses and Citizens:

If a citizen and/or private entity makes an open record request for surveillance video, the request is to be directed to the Communications Department for a response. Under no circumstances will any surveillance video be provided in response to an open records request.

If a citizen and/or private entity serves a subpoena demanding surveillance video, the subpoena should be immediately provided to the City Attorney’s office. The City Attorney’s office will handle all responses to subpoenas.

If there are any questions regarding whether the requested video constitutes surveillance video, any questions will be referred to the City of Fargo Attorney’s office. Additionally, if it is known that the request for surveillance video regards a lawsuit involving the City and/or potential claim against the City, the request should be referred to the City of Fargo Attorney’s office.

It should be noted that some video playback may require specific software to enable viewing. It is not the responsibility of the City of Fargo to provide proprietary viewing software as that will be the responsibility of the viewer.

VERSION HISTORY


VERSION	APPROVED BY	REVISION DATE	DESCRIPTION OF CHANGE	AUTHOR
1		1/21/2024	Policy Creation	Facilities Management
2		8/5/2024	Policy Modified	City Attorney’s Office



9

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

TO: Board of Commissioners

FROM: Susan Thompson, Director of Finance 

RE: Resolution Authorizing the Issuance of Taxable Annual Appropriation Bonds, Series 2024F, prescribing the form of the bond, and Resolution Authorizing the Issuance of Annual Appropriation Bonds, Series 2024G, prescribing the form of the Bond.

DATE: September 16, 2024

The Finance Department is planning to issue bonds for various capital projects, including the NP Parking Garage, acquisition and improvement of the Police Department Building as well as other various administrative and public facilities. We expect to close on these issuances in October.

You previously approved preliminary resolutions authorizing us, with our Financial Advisor, Baker Tilly, to engage D.A. Davidson as underwriter and, together, prepare certain documents in connection with these Bonds. Now, Bond Counsel has prepared Bond Resolutions that allows the Finance team to issue bonds pursuant to the specific issuance criteria that you are asked to authorize as well as set various terms related to each issuance.

Please review and approve the resolutions authorizing the issuance of bonds and prescribing the form of each of the bonds for these projects.

Suggested Motion:

1. Approve the Resolution authorizing the issuance of taxable annual appropriation bonds, Series 2024F, approving certain actions related to the issuance, and approving the form of the documents in connection with the Taxable Bonds.
2. Approve the Resolution authorizing the issuance of annual appropriation bonds, Series 2024G, approving certain actions related to the issuance, and approving the form of the documents in connection with the Bonds.

RESOLUTION AUTHORIZING THE ISSUANCE OF
TAXABLE ANNUAL APPROPRIATION BONDS, SERIES 2024F, APPROVING CERTAIN
ACTIONS,
AND APPROVING FORMS OF
DOCUMENTS REQUIRED IN CONNECTION THEREWITH

WHEREAS, pursuant to Section 40-05-01 Subd 2 of the North Dakota Century Code and Article 3-0802 of the Issuer's Home Rule Charter (collectively the "Act") (as the same may from time to time be amended the "Act"), the City of Fargo, North Dakota (the "Issuer") is authorized and empowered, among other things, to issue its bonds to finance the acquisition, construction, improvement, betterment, extension, and equipping of a public facility or undertaking (the "Project"); and

WHEREAS, the Issuer will issue its Taxable Annual Appropriation Bonds, Series 2024F (the "Series 2024F Bonds") to finance the Project, a reserve fund deposit, capitalized interest, if any, and certain costs of issuance of the Series 2024F Bonds; and

WHEREAS, repayment of the Series 2024F Bonds will be subject to the appropriation annually by the Issuer of amounts sufficient to pay debt service on the Series 2024F Bonds for the following fiscal year of the Issuer, all as further set forth herein; and

WHEREAS, the Series 2024F Bonds do not constitute public debt under any constitutional or statutory provision of the State of North Dakota, and upon a failure to appropriate moneys sufficient to pay debt service, the Series 2024F Bonds will be cancelled and the Issuer will have no further obligation for payment of any amounts relating to the Series 2024F Bonds; and

WHEREAS, the Series 2024F Bonds shall be payable solely from legally available funds of the Issuer appropriated annually and the reserve fund established for the Series 2024F Bonds, to the extent available, and shall not be payable from, or be secured by any pledge of, any other funds, revenues, assets or taxing power of the Issuer.

BE IT RESOLVED by the governing body of City of Fargo, Cass County, North Dakota, as follows:

**ARTICLE I
DEFINITIONS**

In addition to the words and terms defined elsewhere in this Resolution, the following words and terms as used herein shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Act" means Section 40-05-01 Subd 2 of the North Dakota Century Code and Article 3-0802 of the Issuer's Home Rule Charter, as from time to time amended.

"Authorized Investments" means any investments which at the time are legal investments under the laws of the State and the Issuer's Home Rule Charter, as amended from time to time.

“**Bondholder,**” “**holder,**” and “**owner of the Series 2024F Bonds**” mean the registered owner of any Series 2024F Bond.

“**Bond Counsel**” means Dorsey & Whitney LLP or any nationally recognized municipal bond counsel selected by the Issuer.

“**Bond Purchase Agreement**” means the contract for the acquisition of the Series 2024F Bonds between the Issuer and the Original Purchaser.

“**Bond Register**” means the registration books of the Issuer kept by the Registrar to evidence the registration and transfer of the Series 2024F Bonds.

“**Budget Deadline**” shall have the meaning given to such term in Section 2.03 herein.

“**Business Day**” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in the State of North Dakota or the State of New York are authorized by law or executive order to close or (b) a day on which the New York Stock Exchange is authorized or obligated by law or executive order to close.

“**Debt Service Fund**” means the fund created by Section 3.04 hereof.

“**Event of Non-Appropriation**” shall have the meaning given such term in Section 2.03 hereof.

“**Fiscal Year**” means a calendar year, or, in the event that the Issuer no longer makes appropriations for a calendar year, such twelve month period for which the Issuer appropriates funds.

“**Government Obligations**” means direct obligations of the United States of America and obligations on which the timely payment of principal and interest is fully guaranteed by the United States of America.

“**Independent Counsel**” means legal counsel not employed by the Issuer.

“**Interest Payment Date**” means with respect to the Series 2024F Bonds each June 1 and December 1, commencing on the date set forth in the Bond Purchase Agreement, provided that if such day shall not be a Business Day, payment shall be made on the next succeeding Business Day with the same force and effect as if made on the date such payment was due.

“**Mandatory Sinking Fund Redemption**” has the meaning given such term in Section 4.01 hereof.

“**Maximum Annual Debt Service Requirement**” means the largest payment of principal of, and interest on, the Series 2024F Bonds scheduled to be paid in the then current Fiscal Year or any future Fiscal Year.

“**Officer’s Certificate**” means a certificate signed by an Authorized Officer.

“Optional Redemption Fund” means the fund created in Section 3.06 hereof.

“Original Purchaser” means D.A. Davidson & Co., as original purchaser of the Series 2024F Bonds.

“Outstanding Series 2024F Bonds” or **“Series 2024F Bonds Outstanding”** means all Series 2024F Bonds which have been duly authenticated and delivered by the Registrar, except a) Series 2024F Bonds cancelled after purchase in the open market or because of payment at or redemption prior to maturity; b) Series 2024F Bonds for the payment or redemption of which cash or Government Obligations shall have been theretofore deposited with the Registrar (whether upon or prior to the maturity or redemption date of any such Series 2024F Bonds) in accordance with this Resolution; provided that if such Series 2024F Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Registrar shall have been made therefor, or waiver of such notice satisfactory in form to the Registrar shall have been filed with the Registrar; c) Series 2024F Bonds in lieu of which others have been authenticated under this Resolution; d) Series 2024F Bonds owned by the Issuer; and e) Series 2024F Bonds cancelled and deemed fully satisfied upon an Event of Non-Appropriation as permitted in this Resolution.

“Paying Agent” means U.S. Bank Trust Company, National Association in St. Paul, Minnesota or its designated successor pursuant to this Resolution to receive and disburse the principal of and interest and premium, if any, on the Series 2024F Bonds.

“Project” means the improvement and equipping of municipal facilities, and also including a reserve fund deposit for the Series 2024F Bonds, the costs of issuance of the Series 2024F Bonds, and the funding of interest on the Series 2024F Bonds, as necessary.

“Record Date” means the fifteenth day of the month (whether or not a Business Day) next preceding an Interest Payment Date.

“Registrar” means U.S. Bank Trust Company, National Association or any successor bond registrar for the Series 2024F Bonds.

“Series 2024F Bonds” means the not to exceed \$10,000,000 in aggregate principal amount of the City of Fargo, North Dakota Taxable Annual Appropriation Bonds, Series 2024F, initially authorized to be issued by the Issuer pursuant to the terms and conditions of Section 2.01 hereof.

“Subsequent FY” shall have the meaning given to such term in Section 2.03 herein.

“State” means the State of North Dakota.

“Termination Date” means the December 1 immediately following the Budget Deadline after an Event of Non-Appropriation.

“Written Request” means a certificate, signed by the City Auditor or Director of Finance of the Issuer or such other person authorized in a certificate signed by the Director of Finance or City Auditor.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles. Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof. All references in this Resolution to designated Articles, Sections and other subdivisions are to the designated Articles, Sections and other subdivisions of this Resolution as originally executed. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

ARTICLE II THE SERIES 2024F BONDS

2.01 The Series 2024F Bonds shall be issued in accordance with the parameters set forth in this Resolution and in accordance with and upon the terms and conditions set forth in the Bond Purchase Agreement by and between the Issuer and the Original Purchaser. Any of the Mayor, City Auditor, or Director of Finance (the “Authorized Officers”) is hereby authorized to execute and deliver the Bond Purchase Agreement, the award of the sale by the Director of Finance to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement. In the absence of the Authorized Officers, each of the Deputy Mayor and the Deputy City Auditor, as the case may be, is authorized to execute the Bond Purchase Agreement, but provided, further, however, that in no event shall the aggregate principal amount of the Series 2024F Bonds be greater than \$10,000,000, nor shall the true interest cost of the Series 2024F Bonds be greater than 6.25% per annum.

The Series 2024F Bonds shall be issuable only as registered bonds in the denominations of \$5,000 and integral multiples thereof. Unless the Issuer shall otherwise direct, the Series 2024F Bonds shall be numbered from R-1 upward.

The Series 2024F Bonds shall be dated as of the date of issuance and delivery thereof, shall bear interest at the rates set forth in the Bond Purchase Agreement, calculated on the basis of a 360-day year of twelve 30-day months, payable on each Interest Payment Date, and shall mature (and be subject to Mandatory Sinking Fund Redemption, be payable solely from legally available funds of the Issuer appropriated annually and shall not be payable from, or be secured by any pledge of, any other, funds, revenues, assets or taxing power of the Issuer) in the years and in the amounts set forth in the Bond Purchase Agreement.

Each Series 2024F Bond shall, except as provided in this Section 2.03, bear interest from the Interest Payment Date next preceding the date of authentication of such Series 2024F Bond to which interest on the Series 2024F Bonds has been paid, unless (i) such date of authentication is an Interest Payment Date to which interest has been paid, in which case from such Interest Payment Date, (ii) such date of authentication is after the Record Date with respect to an Interest Payment Date and prior to such Interest Payment Date, in which case from such Interest Payment Date or (iii) no interest has been paid on the Series 2024F Bonds, in which case from the date of issuance

and delivery thereof. The Series 2024F Bonds shall not bear interest after the cancellation thereof upon an Event of Non-Appropriation.

The person in whose name any Series 2024F Bond is registered at the close of business on any Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date notwithstanding any registration of transfer or exchange subsequent to such Record Date and prior to such Interest Payment Date.

The principal of and interest on the Series 2024F Bonds shall be payable in any currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts, and such principal shall be payable upon presentation at the principal corporate trust office of the Registrar. Payment of the interest on any Series 2024F Bond shall be made to the person appearing on the Bond Register as the registered owner thereof as of the close of business of the Registrar on the Record Date for such interest payment and shall be paid (i) by check or draft of the Registrar mailed on the applicable Interest Payment Date to such registered owner at such owner's address as it appears on the Bond Register or at such other address as is furnished to the Registrar in writing by such owner not less than 15 days prior to the Interest Payment Date or (ii) as to any owner of \$1,000,000 or more in aggregate principal amount of the Series 2024F Bonds who so elects, by wire transfer of funds to such wire transfer address within the continental United States as the registered owner shall have furnished in writing to the Registrar no later than the Record Date, which wire instructions shall remain in effect until Registrar is notified to the contrary.

The Series 2024F Bonds shall be held in book-entry form.

2.02 Execution. The Series 2024F Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor or Deputy Mayor and attested by the manual or facsimile signature of its City Auditor or Deputy City Auditor and shall have impressed or printed by facsimile thereon the corporate seal of the Issuer. The facsimile signatures of said officers shall have the same force and effect as if such officers had manually signed each of said Series 2024F Bonds. In case any officer whose signature or facsimile signature shall appear on the Series 2024F Bonds shall cease to be such officer before the delivery of such Series 2024F Bonds, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

2.03 Limited Obligation, Non-Appropriation

The Series 2024F Bonds shall be payable solely from legally available funds of the Issuer appropriated annually and shall not be payable from, or be secured by any pledge of, any other funds, revenues, assets or taxing power of the Issuer. The Series 2024F Bonds shall be a valid claim of the respective owners thereof only against the funds established under this Resolution and other moneys held by the Registrar for the benefit of the Series 2024F Bondholders. Upon a failure by the Issuer to appropriate moneys sufficient to pay debt service on the Series 2024F Bonds, the Series 2024F Bonds will be cancelled as directed by the Issuer to the Registrar and the Issuer will have no further obligation for the payment of principal of, and interest on, the Series 2024F Bonds.

In the event that the Issuer adopts a budget for the following Fiscal Year with a specific line-item designated for the payment of, and in the amount of, the principal of, and interest on, the Series 2024F Bonds and annual fees of the Registrar due and payable in the following Fiscal Year, funds in such amount are deemed appropriated for the payment of debt service on the Series 2024F Bonds. The Issuer hereby covenants that, if such appropriation is made by approval of the Issuer's budget, it will not repeal, reduce or abate such appropriation or otherwise prohibit the use of such appropriated funds for the payment of debt service on the Series 2024F Bonds in the following Fiscal Year.

In the event the Issuer (i) does not adopt a budget for the following Fiscal Year ("Subsequent FY") by October 7 of each year (the "Budget Deadline") with a line-item for the payment of debt service as described above and (ii) adopts a resolution stating that no funds are being appropriated for the payment of the principal of, and interest on, the Series 2024F Bonds due in the Subsequent FY (an "Event of Non-Appropriation"), the Series 2024F Bonds shall be cancelled on the December 1 immediately following the Budget Deadline for that Fiscal Year (the "Termination Date") with the only liability of the Issuer thereon being the payment of the scheduled principal of, and interest on the Series 2024F Bonds due on such immediately following December 1, for the payment of which funds had been appropriated by inclusion in the Issuer's prior budget and any outstanding fees of the Registrar. Any funds available in the Reserve Fund after an Event of Non-Appropriation are available for payment of principal and interest on the Series 2024F Bonds, in accordance with Section 3.05 herein.

The resolution required above for non-appropriation may be included in the resolution of the Issuer with respect to the approval of the budget generally.

Upon cancellation of the Series 2024F Bonds, the Series 2024F Bonds shall no longer be outstanding and the Issuer shall not be liable for the payment of any unpaid principal of, or interest on, the Series 2024F Bonds neither the Issuer nor the Registrar shall be liable for any claims for damages or losses, direct or consequential, in connection with the cancellation of the Series 2024F Bonds.

The Series 2024F Bonds do not constitute a debt or liability of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or any political subdivision thereof. The issuance of the Series 2024F Bonds under the provisions of the Act does not, directly, indirectly or contingently, obligate the State or any political subdivision thereof to levy any form of taxation for the payment thereof or to make any appropriation for their payment, and such Series 2024F Bonds and interest payable thereon do not now and shall never constitute a debt of the State or any political subdivision thereof within the meaning of the Constitution or the statutes of the State and do not now and shall never constitute a charge against the credit or taxing power of the State or any political subdivision thereof. Neither the State nor any political subdivision thereof shall in any event be liable for the payment of the principal of or interest on the Series 2024F Bonds or for the performance of any pledge, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge, obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any political subdivision thereof. No covenant or agreement in the Series 2024F Bonds or in this Resolution and no obligation herein imposed upon the Issuer and no breach thereof shall constitute or give rise to or impose upon the Issuer a general liability or a charge upon its general credit or property.

2.04 Authentication. No Series 2024F Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Series 2024F Bond shall have been duly executed by the Registrar, and such executed certificate of the Registrar upon any such Series 2024F Bond shall be conclusive evidence that such Series 2024F Bond has been authenticated and delivered under this Resolution. The Registrar's certificate of authentication on any Series 2024F Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Registrar, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Series 2024F Bonds issued hereunder.

2.05 Form of Bonds and Temporary Bonds. The Series 2024F Bonds shall be substantially in the form set forth in Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted or required by this Resolution or deemed necessary by the Registrar and the Issuer.

Series 2024F Bonds may be initially issued in temporary form exchangeable for definitive Series 2024F Bonds when ready for delivery. The temporary Series 2024F Bonds shall be produced in such form and of such denomination or denominations as may be determined by the Issuer and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary Series 2024F Bond shall be executed by the Issuer and be authenticated by the Registrar upon the same conditions and in substantially the same manner as the definitive Series 2024F Bonds. If the Issuer issues temporary Series 2024F Bonds, it will execute and furnish definitive Series 2024F Bonds without delay and thereupon the temporary Series 2024F Bonds may be surrendered for cancellation in exchange therefor at the principal corporate trust office of the Registrar, and the Registrar shall authenticate and deliver in exchange for such temporary Series 2024F Bonds an equal aggregate principal amount of definitive Series 2024F Bonds of the same Series and maturity of authorized denominations. Until so exchanged, the temporary Series 2024F Bonds shall be entitled to the same benefits under this Resolution as definitive Series 2024F Bonds authenticated and delivered hereunder.

2.06 Delivery of Series 2024F Bonds. Upon the execution and delivery of this Resolution, the Issuer shall execute and deliver to the Registrar and the Registrar shall authenticate the Series 2024F Bonds and deliver them as may be directed by the Issuer as hereinafter in this Section 2.06 provided.

2.07 Mutilated, Lost, Stolen or Destroyed Series 2024F Bonds. In the event any temporary or definitive Series 2024F Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Registrar may authenticate a new Series 2024F Bond of like form, date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Series 2024F Bond, such mutilated Series 2024F Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed Series 2024F Bond, there shall be first furnished to the Issuer and the Registrar evidence of such loss, theft or destruction satisfactory to the Issuer and the Registrar, together with indemnity satisfactory to them. In the event any such Series 2024F Bond shall have matured, instead of issuing a replacement Series 2024F Bond the Issuer may pay the same without surrender thereof. The Issuer and the Registrar may charge the holder or owner of such Series 2024F Bond with their reasonable fees and expenses in this connection.

2.08 Bond Register; Transfer and Exchange of Series 2024F Bonds; Persons Treated as Owners. The Bond Register shall be kept by the Registrar at its principal corporate trust office. At reasonable times and under reasonable regulations established by the Registrar, the Bond Register may be inspected and copied by the Issuer.

Upon surrender for registration of transfer of any Series 2024F Bond at the principal corporate trust office of the Registrar, the Issuer shall execute and the Registrar shall authenticate and deliver in the name of the transferee or transferees a new fully registered Series 2024F Bond or Series 2024F Bonds of the same maturity and of authorized denomination for the aggregate principal amount which the registered owner is entitled to receive. Any Series 2024F Bond or Series 2024F Bonds may be exchanged at said office of the Registrar for a like aggregate principal amount of Series 2024F Bond or Series 2024F Bonds of the same maturity of other authorized denominations. The execution by the Issuer of any Series 2024F Bond shall constitute full and due authorization of such Series 2024F Bond, and the Registrar shall thereby be authorized to authenticate, date and deliver such Series 2024F Bond.

All Series 2024F Bonds presented for registration of transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form satisfactory to the Registrar, duly executed by the registered owner or by such owner's duly authorized attorney.

No service charge shall be imposed for any exchange or registration of transfer of Series 2024F Bonds. The Issuer and the Registrar may, however, require payment by the person requesting an exchange or registration of transfer of Series 2024F Bonds of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto, except in the case of the issuance of a Series 2024F Bond or Series 2024F Bonds for the unredeemed portion of a Series 2024F Bond surrendered for redemption.

The Issuer and the Registrar shall not be required to register the transfer of or exchange any Series 2024F Bond after notice calling such Series 2024F Bond or portion thereof for redemption has been given or during the 15-day period next preceding the first mailing of such notice of redemption of Series 2024F Bonds of the same maturity.

New Series 2024F Bonds delivered upon any registration of transfer or exchange shall be valid obligations of the Issuer, evidencing the same debt as the Series 2024F Bonds surrendered, shall be secured by this Resolution and shall be entitled to all of the security and benefits hereof to the same extent as the Series 2024F Bond surrendered.

The Issuer and the Registrar may treat the registered owner of any Series 2024F Bond as the absolute owner thereof for all purposes, whether or not such Series 2024F Bond shall be overdue, and shall not be bound by any notice, actual or constructive, to the contrary. All payments of or on account of the principal of and premium, if any, and interest on any such Series 2024F Bond as herein provided shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2024F Bond to the extent of the sum or sums so paid.

2.09 Cancellation. Any Series 2024F Bond surrendered for the purpose of payment or retirement or for exchange or registration of transfer or for replacement pursuant to Section 2.06 or Section 2.07 hereof or upon an Event of Non-Appropriation pursuant to Section 2.03 hereof, shall be cancelled upon surrender thereof to the Registrar or any Paying Agent. If the Issuer shall acquire any of the Series 2024F Bonds, the Issuer shall deliver such Series 2024F Bonds to the Registrar for cancellation and the Registrar shall cancel the same. Any such Series 2024F Bonds cancelled by any Paying Agent other than the Registrar shall be promptly transmitted by such Paying Agent to the Registrar. A certificate identifying all Series 2024F Bonds so cancelled shall be delivered by the Registrar to the Issuer. Cancelled Series 2024F Bonds may be destroyed by the Registrar unless instructions to the contrary are received from the Issuer.

Upon cancellation of the Series 2024F Bonds, the Series 2024F Bonds shall no longer be outstanding and the Issuer shall not be liable for the payment of any unpaid principal of, or interest on, the Series 2024F Bonds neither the Issuer nor the Registrar shall be liable for any claims for damages or losses, direct or consequential, in connection with the cancellation of the Series 2024F Bonds.

2.10. Securities Depository. (a) For purposes of this section the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2024F Bond, the person in whose name such Series 2024F Bond is recorded as the beneficial owner of such Series 2024F Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2024F Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Series 2024F Bonds as securities depository.

“Representation Letter” shall mean the Representation Letter pursuant to which the sender agrees to comply with DTC’s Operational Arrangements.

(b) The Series 2024F Bonds shall be initially issued as separately authenticated fully registered bonds, and one Series 2024F Bond shall be issued in the principal amount of each stated maturity of the Series 2024F Bonds. Upon initial issuance, the ownership of such Series 2024F Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the Issuer may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2024F Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2024F Bonds, selecting the Series 2024F Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Series 2024F Bonds under this resolution, registering the transfer of Series 2024F Bonds, and for all other purposes whatsoever; and neither the Registrar nor the Issuer shall be affected by any notice to the contrary. Neither the Registrar nor the Issuer shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Series 2024F Bonds under or through DTC or any Participant, or any other person which is not shown on the bond register as

being a registered owner of any Series 2024F Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2024F Bonds, with respect to any notice which is permitted or required to be given to owners of Series 2024F Bonds under this resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Series 2024F Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Series 2024F Bonds. So long as any Series 2024F Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Series 2024F Bond, and shall give all notices with respect to such Series 2024F Bond, only to Cede & Co. in accordance with DTC's Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of and interest on the Series 2024F Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Series 2024F Bond for each separate stated maturity evidencing the obligation of the Issuer to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2024F Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the Issuer determines that it is in the best interest of the Beneficial Owners that they be able to obtain Series 2024F Bonds in the form of bond certificates, the Issuer may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2024F Bonds in the form of certificates. In such event, the Series 2024F Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Series 2024F Bonds at any time by giving notice to the Issuer and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2024F Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The execution and delivery of the Representation Letter to DTC by the Issuer is hereby confirmed and ratified.

(e) In the event that any transfer or exchange of Series 2024F Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2024F Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Series 2024F Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series 2024F Bonds, or another securities depository as owner of all the Series 2024F Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Series 2024F Bonds in the form of bond certificates and the method of payment of principal of and interest on such Series 2024F Bonds in the form of bond certificates. Any successor depository must be both a "clearing corporation" as defined in North Dakota Century Code, Section 41-08-02 and a qualified and registered "clearing agency" as provided in Section 17A of the Securities Exchange Act of 1934, as amended.

**ARTICLE III
FUNDS AND ACCOUNTS**

3.01 Creation of Funds. The following funds are hereby created for the benefit of the Holders of all Series 2024F Bonds Outstanding under this Resolution:

- (a) Debt Service Fund;
- (b) Optional Redemption Fund; and
- (c) Reserve Fund.

The funds hereby created shall be held by the Registrar hereunder and subject to the terms hereof. For the purpose of internal accounting, such funds may contain one or more accounts as the Registrar shall determine.

Pending application of the monies in such funds, all amounts on deposit therein are hereby pledged to the payment of principal of and interest on the Series 2024F Bonds in accordance with the terms of this Resolution.

3.02 Deposit of Funds. The Issuer shall retain all net proceeds of the Series 2024F Bonds to pay costs of the Project, a reserve fund deposit, costs of issuance of the Series 2024F Bonds and capitalized interest, if any during construction, pursuant to this Resolution and the closing memorandum for the Series 2024F Bonds.

Any excess net proceeds retained by the Issuer after payment of all costs of the Project, and any investment earnings on all other net proceeds, shall be deposited with the Registrar, and the Registrar shall deposit such amounts to the Debt Service Fund described in Section 3.04 herein.

3.03 Source of Payment of Series 2024F Bonds. The Series 2024F Bonds herein authorized and all payments to be made by the Issuer thereon and into the various funds established under this Resolution are not general obligations of the Issuer. The Series 2024F Bonds are special, limited obligations of the Issuer payable solely from funds appropriated annually by the City Commission of the Issuer expressly for the purpose of paying debt service on the Series 2024F Bonds for the following Fiscal Year of the Issuer; the Issuer reserves the right not to appropriate such funds as set forth herein, and the failure so to appropriate funds for the payment of debt service payable on the Series 2024F Bonds in any year is not a default hereunder but shall result in cancellation of the Series 2024F Bonds pursuant to Section 2.03 hereof.

3.04 Debt Service Fund. On or before the twenty-fifth day of each May and November, commencing in November 2025, the Issuer shall deposit with the Registrar solely from expressly appropriated funds for such Fiscal Year, an amount sufficient, together with amounts already on deposit in the Debt Service Fund, to pay the principal, if any, of, and interest on, the Series 2024F Bonds on the immediately following June 1 or December 1, as the case may be. If any such twenty-fifth day is not a Business Day, the deposit herein required to be made shall be made on the next preceding Business Day. Moneys on deposit in the Debt Service Fund shall be invested as set forth in Section 3.07 hereof. Investment earnings shall be retained in the Debt Service Fund.

Moneys on deposit in the Debt Service Fund, including income earned thereon, shall be applied by the Registrar to pay principal of, and interest on, the Series 2024F Bonds as it becomes due.

Pursuant to Section 3.02, any excess net proceeds retained by the Issuer after payment of all costs of the Project, and any investment earnings on all other net proceeds, shall be deposited with the Registrar, and the Registrar shall deposit such amounts to the Debt Service Fund.

3.05 Reserve Fund. A Reserve Fund shall be established for the Series 2024F Bonds. Proceeds of the Series 2024F Bonds in an amount equal to the least of (i) maximum annual debt service on, (ii) 125% of the average annual debt service on, or (iii) ten percent of the proceeds of the Series 2024F Bonds shall be deposited in the Reserve Fund upon issuance of the Series 2024F Bonds. Funds will be transferred from the Reserve Fund to the Debt Service Fund at any time the balance on hand in the Debt Service Fund is insufficient to meet current requirements for payment of principal and interest on the Series 2024F Bonds.

Any funds available in the Reserve Fund after an Event of Non-Appropriation are available for payment of principal and interest on the Series 2024F Bonds. After an Event of Non-Appropriation, there shall be no obligation of the Issuer to replenish the amounts on deposit in the Reserve Fund.

3.06 Optional Redemption Fund. In the event of prepayment by or on behalf of the Issuer pursuant to Section 4.01 hereof, such moneys shall be deposited in the Optional Redemption Fund. Moneys on deposit in the Optional Redemption Fund shall be used first, to make up any deficiencies existing in the Debt Service Fund (in that order) and second, for the redemption or purchase of Series 2024F Bonds in accordance with the provisions of Article IV hereof.

3.07 Investment of Funds. (a) Upon receipt of a Written Request of the Issuer filed with the Registrar, moneys in the Debt Service Fund, Reserve Fund and Optional Redemption Fund shall be invested in Authorized Investments, specified by the Issuer. Such investments shall be made so as to mature on or prior to the date or dates that moneys therefrom are reasonably anticipated to be required. If the Issuer fails to give such direction and file such Written Request with the Registrar, moneys in such funds shall be invested in Government Obligations, maturing not more than fourteen days after the day such investment is made. As and when any amounts invested pursuant to this Resolution may be needed for disbursements from the Debt Service Fund, Reserve Fund or the Optional Redemption Fund, the Registrar shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such fund. The Registrar may rely upon the Written Request of the Issuer as to the suitability and legality of the directed investments. The Registrar shall have no responsibility whatsoever to determine whether any investments made pursuant to this Resolution are or continue to be Authorized Investments. The Registrar, when authorized by the Issuer, may trade with itself in the purchase and sale of securities for such investment. The Registrar shall not be liable or responsible for any loss, fee, tax, or other charge resulting from any such investments. Gains from investments shall be credited to and held in, and losses shall be charged to, the fund or account from which the investment is made.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Issuer the right to receive brokerage confirmations of security transactions as they occur. The

Issuer specifically waives such right to notification to the extent permitted by law and acknowledge that they will receive periodic transaction statements that will detail all investment transactions.

ARTICLE IV REDEMPTION OF SERIES 2024F BONDS

4.01 Redemption. Outstanding Series 2024F Bonds are subject to redemption prior to maturity (herein referred to as “Optional Redemption”) on any date on or after the optional call date as set forth in the Bond Purchase Agreement at the option of the Issuer, in whole or in part, at a redemption price of 100% of the principal amount of the Series 2024F Bonds to be redeemed plus accrued interest thereon to the date of redemption, without penalty. Partial optional redemptions of the Series 2024F Bonds shall be applied to reduce the Mandatory Sinking Fund Redemption payments in inverse order of maturity.

Series 2024F Bonds may be called for Optional Redemption by the Registrar pursuant to this Section 4.01 upon receipt by the Registrar at least 30 days prior to the redemption date of a Written Request of the Issuer requesting such redemption. Such Written Request shall specify the principal amount of the Series 2024F Bonds to be called for redemption, the redemption date, the applicable redemption price or prices, the provision or provisions above specified pursuant to which such Series 2024F Bonds are to be called for redemption and if the Series 2024F Bonds are to be redeemed in part, the maturities of such Series 2024F Bonds, and the amounts within each such maturity to be redeemed, together with any conditions to the effectiveness of such redemption. If for any reason the Registrar has not received a Written Request as to the maturities of the Series 2024F Bonds or the amounts within any maturity to be redeemed, it shall apply the funds available for redemption to redeem the Series 2024F Bonds in inverse order of maturity.

In addition to Optional Redemption, the Series 2024F Bonds are subject to mandatory sinking fund redemption, if any, as provided in the Bond Purchase Agreement (the “Term Bonds”) pursuant to and in the manner specified in Section 4.02 (herein referred to as “Mandatory Sinking Fund Redemption”).

The Term Bonds shall be subject to mandatory redemption prior to maturity at a redemption price equal to the stated principal amount thereof plus interest accrued thereon to the redemption date, without premium.

Such amounts shall be reduced (a) by the amount of Term Bonds acquired and delivered as provided hereinbelow in satisfaction of such mandatory redemption requirements and (b) in connection with a partial redemption of Series 2024F Bonds if the Issuer so elects.

In lieu of redeeming Series 2024F Bonds pursuant to this Section, the Registrar may, at the Written Request of the Issuer, use such funds otherwise available hereunder for redemption of Series 2024F Bonds to purchase for cancellation Series 2024F Bonds in the open market at a price not exceeding the redemption price then applicable hereunder. It is understood that in the case of any such redemption or purchase and cancellation of Series 2024F Bonds, the Issuer shall receive credit against its required Debt Service Fund deposits with respect to the Series 2024F Bonds of such maturity, which in the case of Series 2024F Bonds subject to mandatory sinking fund

redemption shall be applied to the mandatory deposits with respect to mandatory sinking fund redemption which the Issuer elects or, if no election is made, in the inverse order thereof.

4.02 Notice of Redemption. Notice of the call for any redemption of the Series 2024F Bonds shall state the following: (i) the name of the Series 2024F Bonds, (ii) the original dated date of the Series 2024F Bonds, (iii) the interest rate and maturity date of the Series 2024F Bonds to be redeemed, (iv) the date of the redemption notice, (v) the redemption date, (vi) the redemption price; (vii) the address and telephone number of the principal office of the Registrar and (viii) any conditions to the effectiveness of the redemption. Such notice shall further state that on the redemption date for such Series 2024F Bonds there shall become due and payable upon each Series 2024F Bond to be redeemed the redemption price thereof, or the redemption price of the specified portion of the principal amount thereof in the case of a Series 2024F Bond to be redeemed in part only, with interest accrued and unpaid to such date, and that from and after such date, interest thereon shall cease to accrue and be payable. The redemption notice shall be given by mailing a copy of such notice of redemption by first class mail, postage prepaid, to the Issuer, and the registered owners of the Series 2024F Bonds to be redeemed at the address shown on the Bond Register not less than 20 or more than 60 days prior to the redemption date; provided, however, that failure to give such notice by mailing or a defect in the notice or the mailing as to any Series 2024F Bond will not affect the validity of any proceedings for redemption as to any other Series 2024F Bond with respect to which notice was properly given. Said notice shall also be given by the Registrar by certified mail, return receipt requested, at least thirty days prior to the date fixed for redemption, to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System or as may be required by applicable law or regulation at the time of giving such notice as directed by the Issuer. The notice of redemption may state that if funds are not on deposit with the Registrar on or prior to the redemption date, the redemption shall be cancelled and the Series 2024F Bonds so called for redemption shall remain Outstanding and continue to bear interest. Notice of Mandatory Sinking Fund Redemption need not be given if the Series 2024F Bonds are held by a single holder at the time of such redemption.

Series 2024F Bonds, or portions thereof, thus called for redemption shall not bear interest after the applicable redemption date, shall no longer be protected by this Resolution and shall not be deemed to be outstanding under the provisions of this Resolution.

ARTICLE V GENERAL COVENANTS

5.01 Payment of Principal and Interest. Subject to the limited source of payment hereinafter described and the Issuer's right to cancel its obligation to pay the Series 2024F Bonds in the event the Issuer does not appropriate monies for the payment thereof, the Issuer covenants that it will promptly pay the principal of, premium, if any, and interest on every Series 2024F Bond issued under this Resolution at the place, on the dates and in the manner provided herein and in said Series 2024F Bonds according to the true intent and meaning thereof. The principal of, premium, if any, and interest on the Series 2024F Bonds are payable solely from payments or prepayments by the Issuer and nothing in the Series 2024F Bonds or in this Resolution shall be considered as assigning or pledging any funds or assets of the Issuer except expressly appropriated for the payment of principal of, and interest on, the Series 2024F Bonds.

5.02 Budget, Appropriation, and Non-Appropriation. The Issuer covenants to cause the proposed annual budget for the following Fiscal Year to be submitted for consideration by the City Commission each year to include a specific line-item for an amount equal to the debt service on the Series 2024F Bonds and the annual fees of the Registrar, provided, however, that the inclusion of such line-item does not obligate the City Commission to include such amount within the approved budget or appropriate such funds. In the event such funds are not appropriated, the Bonds are subject to cancellation pursuant to Section 2.03 hereof.

In the event that the Issuer adopts a budget for the following Fiscal Year with a specific line-item designated for the payment of, and in the amount of, the principal of, and interest on, the Series 2024F Bonds and annual fees of the Registrar due and payable in the following Fiscal Year, funds in such amount are deemed appropriated for the payment of debt service on the Series 2024F Bonds. The Issuer hereby covenants that, if such appropriation is made by approval of the Issuer's budget, it will not repeal, reduce or abate such appropriation or otherwise prohibit the use of such appropriated funds for the payment of debt service on the Series 2024F Bonds in the following Fiscal Year.

5.03 Performance of Covenants; Legal Authorization. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Resolution, in any and every Series 2024F Bond executed, authenticated and delivered hereunder and in all proceedings of its members pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State and its home rule charter to issue the Series 2024F Bonds authorized hereby and to execute this Resolution, that all action on its part for the issuance of the Series 2024F Bonds and the execution and delivery of this Resolution has been duly and effectively taken, and that the Series 2024F Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof.

ARTICLE VI SATISFACTION OF THIS RESOLUTION

6.01 Defeasance. If the Issuer shall pay or provide for the payment of the entire indebtedness on all Series 2024F Bonds (including, for the purposes of this Section 6.01, Series 2024F Bonds held by the Issuer) outstanding in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of and interest on all Series 2024F Bonds outstanding, as and when the same become due and payable;
- (b) by depositing with the Registrar, in trust, at or before maturity, moneys in an amount sufficient to pay or redeem (when redeemable) all Series 2024F Bonds outstanding (including the payment of interest payable on such Series 2024F Bonds to the maturity or redemption date thereof), provided that such moneys, if invested, shall be invested in Government Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Series 2024F Bonds outstanding at or before their respective maturity dates; it being understood that the investment income

on such Government Obligations may be used for any other purpose under the Act;

- (c) by delivering to the Registrar, for cancellation by it, all Series 2024F Bonds outstanding; or
- (d) by depositing with the Registrar, in trust, moneys or Government Obligations in such amount as will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Series 2024F Bonds outstanding at or before their respective maturity dates (which sufficiency of investment proceeds shall be determined by an independent certified public accountant's verification report);

and if the Issuer shall pay or cause to be paid or make arrangements satisfactory to the Registrar for the payment of all other sums payable hereunder by the Issuer, and if any such Series 2024F Bonds are to be optionally redeemed prior to the maturity thereof, irrevocable notice of such redemption shall have been given in accordance with the requirements of this Resolution or irrevocable instructions shall have been given to the Registrar of such notice, this Resolution and the estate and rights granted hereunder shall cease, determine, and be discharged, and thereupon the Registrar shall, upon Written Request of the Issuer, and upon receipt by the Registrar of an Officer's Certificate of the Issuer and an opinion of Independent Counsel, each stating that in the opinion of the signers all conditions precedent to the satisfaction and discharge of this Resolution have been complied with, forthwith execute proper instruments acknowledging satisfaction of and discharging this Resolution and the lien hereof.

The satisfaction and discharge of this Resolution shall be without prejudice to the rights of the Registrar to charge and be reimbursed by the Issuer for any expenditures which it may thereafter incur in connection herewith.

Any moneys, funds, securities, or other property remaining on deposit in any Fund, under this Resolution (other than the Government Obligations or other moneys deposited in trust as above provided) shall, upon the full satisfaction of this Resolution, forthwith be transferred, paid over and distributed to the Issuer.

The Issuer may at any time surrender to the Registrar for cancellation by it any Series 2024F Bonds previously authenticated and delivered, which the Issuer may have acquired in any manner whatsoever, and such Series 2024F Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

6.02 Discharge of Series 2024F Bonds. Upon the deposit with the Registrar, in trust, at or before maturity, of money or Government Obligations in the necessary amount to pay or redeem all outstanding Series 2024F Bonds (whether upon or prior to their maturity or the redemption date of such Series 2024F Bonds) and compliance with the other payment requirements of Section 6.01, provided that if such Series 2024F Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article IV herein provided, or provisions

satisfactory to the Registrar shall have been made for the giving of such notice, this Resolution may be discharged in accordance with the provisions hereof, and the owners thereof shall thereafter be entitled to payment only out of the moneys or the Government Obligations deposited with the Registrar as aforesaid.

6.03 Provision for Payment of Portion of the Series 2024F Bonds. If the Issuer shall pay or provide for the payment of a portion of the Series 2024F Bonds (including, for the purposes of this Section 6.03, any Series 2024F Bonds held by the Issuer) in one or more of the following ways:

- (a) by paying or causing to be paid the principal of and interest on such portion of the Series 2024F Bonds, as and when the same shall become due and payable;
- (b) by depositing with the Registrar, in trust, at or before maturity, moneys in an amount sufficient to pay or redeem (when redeemable) a portion of the Series 2024F Bonds outstanding (including the payment of interest payable on such portion of the Series 2024F Bonds to the maturity or redemption date thereof), provided that such moneys, if invested, shall be invested in Government Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such portion of the Series 2024F Bonds at or before their respective maturity dates; it being understood that the investment income on such Government Obligations may be used for any other purpose under the Act;
- (c) by delivering to the Registrar, for cancellation by it, such portion of the Series 2024F Bonds; or
- (d) by depositing with the Registrar, in trust, moneys or Government Obligations in such amount as will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such portion of the Series 2024F Bonds at or before their respective maturity dates (which sufficiency of investment proceeds shall be determined by an independent certified public accountant's verification report);

and if the Issuer shall also pay or cause to be paid or made arrangements satisfactory to the Registrar for the payment of all other sums payable hereunder by the Issuer with respect to such Series 2024F Bonds, and, if such Series 2024F Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article IV of this Resolution provided or provisions satisfactory to the Registrar shall have been made for the giving of such notice, such Series 2024F Bonds shall cease to be entitled to any lien, benefit or security under this Resolution, and the owners thereof shall thereafter be entitled to payment (to the exclusion of all other Bondholders) only out of the moneys or the Government Obligations deposited with the Registrar as aforesaid.

**ARTICLE VII
CONTINUING DISCLOSURE; OFFICIAL STATEMENT**

7.01 Continuing Disclosure. The City Auditor is hereby authorized to execute, on behalf of the Issuer, the Continuing Disclosure Certificate in a form substantially similar to that attached as **Exhibit B** hereto, which is hereby incorporated herein and made a part hereof.

7.02 Official Statement. The form of Official Statement relating to the Bonds prepared and distributed on behalf of the Issuer by Baker Tilly Municipal Advisors, LLC, is hereby approved, and the officers of the Issuer are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency thereof.

**ARTICLE VIII
FURTHER ACTIONS AUTHORIZED**

The officers of the Issuer and the City Auditor are hereby authorized and directed to prepare and furnish to the Original Purchaser, and to the attorneys approving the legality of the Bonds, certified copies of such proceedings, ordinances, resolutions, and records and all such certificates and affidavits and other instruments as may be required to evidence the legality and marketability of said Bonds, and all certified copies, certificates, affidavits, and other instruments so furnished, including any heretofore furnished, shall constitute representations of the Issuer as to the correctness of all facts stated or recited therein. The Authorized Officers are further authorized to execute any agreements, certificates or other documents related to the issuance of the Bonds approved by the Issuer. Execution of such document shall constitute evidence of the Issuer's due authorization and approval of said documents.

**ARTICLE IX
EXECUTION OF DOCUMENTS GENERALLY**

In the event of the absence or unavailability of the Authorized Officers or other appropriate officer of the City, the Bonds and the other documents authorized for execution and delivery pursuant to this section may be executed and delivered by the individual or individuals authorized generally by the City to act on behalf of the Mayor, the City Auditor, the Director of Finance, or other officer of the City in such circumstances, including, without limitation, the Deputy Mayor and the Deputy City Auditor, as the case may be.

In case any officer signing documents authorized to be executed and delivered by this Resolution shall cease to be such officer before or after the delivery of any such document, such signature, nevertheless, shall be valid and remain sufficient for all purposes as if such officer had remained in office until such delivery or later applicable time.

**ARTICLE X
REPEALER**

All prior resolutions and other acts or proceedings of this governing body which are in any way inconsistent with the terms of this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

**ARTICLE XI
EFFECTIVE DATE.**

This resolution shall be effective immediately upon adoption.

Mayor

Attest:

City Auditor

EXHIBIT A

(Form of Series 2024F Bond)

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
COUNTY OF CASS

CITY OF FARGO

TAXABLE ANNUAL APPROPRIATION BONDS, SERIES 2024F

No. R-[] \$[]

<u>INTEREST RATE</u>	<u>MATURITY</u>	<u>DATE OF ORIGINAL ISSUE</u>	<u>CUSIP</u>
[]%	December 1, 20[]	October 3, 2024	[]

REGISTERED OWNER: CEDE & CO., INC.

PRINCIPAL AMOUNT: [] DOLLARS

KNOW ALL BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota, (the "Issuer") acknowledges itself to be specially indebted and for value received promises to pay but only from amounts annually appropriated to its Annual Appropriation Debt Service Fund, Series 2024F (the "Bond Fund") to the registered owner specified above or registered assigns, the principal amount specified above, on the maturity date specified above, with interest thereon from the Date of Original Issue set forth above at the annual rate specified above, payable on June 1 and December 1 in each year, commencing June 1, 2025, to the holder of record on the close of the 15th day (whether or not a business day) of the immediately preceding month, all subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft by U.S. Bank Trust Company, National Association in St. Paul, Minnesota, as registrar for the bonds (the "Registrar").

This Bond is issued under Section 40-05-01 Subd 2 of the North Dakota Century Code and Article 3-0802 of the Issuer's Home Rule Charter (collectively as the same may from time to time be amended, the "Act"), and in conformity with the provisions, restrictions and limitations thereof. This Bond does not constitute an indebtedness of the Issuer, the County of Cass (the "County"), the State of North Dakota (the "State") or any other political subdivision within the meaning of any state constitutional provision or statutory limitation, nor does this Bond give rise to a charge against the general credit or properties or taxing powers of the Issuer, the County, the State or other political subdivision and does not grant to the registered owner of this Bond any right to have the Issuer, the County, the State or other political subdivision levy any taxes or appropriate any funds for the payment of the principal hereof or interest hereon, nor is this Bond a general obligation of the Issuer, the County, the State or other political subdivision or the individual officers or agents

thereof to which the full faith and credit of any of such entities is pledged. This Bond and interest hereon are payable solely and only from the moneys held in the Bond Fund appropriated to the payment of the Bonds of this series.

This Bond is one of an issue designated the City of Fargo Taxable Annual Appropriation Bonds, Series 2024F in the principal amount of \$[PAR], all of like original issue date and tenor except as to serial number, maturity date, interest rate, and redemption privilege, issued for the purpose of financing certain municipal facilities (together with financing of costs of issuance, capitalized interest, if any, and a reserve fund deposit, the "Project"). The Bonds are issued pursuant to a resolution adopted by the governing body of the Issuer on September 16, 2024 (the "Bond Resolution"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Bond Resolution.

The Bonds are payable solely from legally available funds annually appropriated by the Issuer for the payment of principal of, and interest on, the Bonds. In the event the City Commission fails to appropriate such amounts for any fiscal year of the Issuer by October 7 of the preceding fiscal year, the Bonds are cancelled the immediately following December 1 without liability of the Issuer for any further payments of debt service on the Bonds (except for scheduled principal and interest due on such December 1) and are of no further force and effect. The failure to appropriate funds and the cancellation of the Bonds is not a default or event of default, and the Bondholders shall have no recourse against any of the funds, revenues or assets, including the Project, of the Issuer.

Bonds maturing on or after December 1, 2035 are subject to optional redemption on or after December 1, 2034 at a price of par plus accrued interest to the date of redemption.

The Bonds are subject to mandatory sinking fund redemption and shall be redeemed in part at par plus accrued interest on December 1 in the years and in the principal amounts as follows:

Bonds Due December 1, 2011

<u>Year</u>	<u>Amount</u>
	\$

*
* (Maturity)

Not less than 20 days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the registered owner of this Bond to be redeemed, in whole or in part, at the address shown in the Bond Register.

This Bond is transferable only upon books of the Issuer kept at the principal office of the Registrar by the registered owner hereof in person or by the owner's duly authorized attorney, upon surrender of this Bond for transfer at the principal office of the Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Registrar duly executed by the registered owner hereof or the owner's duly authorized attorney, and, upon payment of any tax, fee or other governmental charge required to be paid with respect to such transfer, one or more fully registered Bonds of this series of the same principal amount and interest rate will be issued to the designated transferee or transferees.

The Bonds are issuable only as fully registered bonds without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds of this series are exchangeable for a like aggregate principal amount of Bonds of this series of a different authorized denomination, as requested by the registered owner or the owner's duly authorized attorney upon surrender thereof to the Registrar.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the Issuer.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED, AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done precedent to and in the issuance of this Bond and the series of which it is a part have been properly done, have happened and have been performed in regular and due time, form and manner as required by law.

This Bond shall not be valid nor become obligatory for any purpose until it shall have been authenticated by the execution of the Certificate hereon endorsed by the manual signature of the Registrar.

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF the City of Fargo, North Dakota, by its governing body, has caused this Bond to be executed in its behalf by the manual or facsimile signature of the Mayor and City Auditor, all as of the Date of Original Issue set forth above.

CITY OF FARGO, NORTH DAKOTA

Mayor

City Auditor

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Resolution.

Date of Authentication: _____

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Registrar

By _____
Authorized Representative

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to the applicable laws or regulations:

TEN COM – as tenants in common	UTMA as Custodian for
	(Cust) (Minor)
TEN ENT – as tenants by the entireties	under Uniform Transfers to Minors Act

	(State)
JT TEN – as joint tenants with right of survivorship and not as tenants in common	

Additional abbreviations may also be used.

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto the _____ within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

EXHIBIT B

CONTINUING DISCLOSURE CERTIFICATE

October 3, 2024

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the City of Fargo, North Dakota (the “Issuer”), in connection with the Issuer’s \$[PAR] Taxable Annual Appropriation Bonds, Series 2024F (the “Bonds”). The Bonds are being issued pursuant to an Authorizing Resolution adopted by the governing body of the Issuer on September 16, 2024 (the “Resolution”), and delivered to the purchaser on the date hereof. The Issuer hereby covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the Owners of the Bonds in order to assist the Participating Underwriters within the meaning of SEC Rule 15c2-12(b)(5) (the “Rule”) in complying with the Rule. This Disclosure Certificate constitutes the written undertaking and agreement of the Issuer for the benefit of the Owners of the Bonds as required by the Rule.

SECTION 2. Definitions. In addition to the defined terms set forth in the Resolution, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” means the annual financial information (as defined in the Rule), including audited financial statements, to be provided to the MSRB in an electronic format prescribed by the MSRB pursuant to paragraph 5(i)(A) and (B) of the Rule, as described in Section 3 and 4 of this Disclosure Certificate.

“EMMA” means the Electronic Municipal Market Access system established by the MSRB with the support of the SEC, or any successor system, which can be accessed on the date hereof at www.emma.msrb.org.

“Financial Obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). This term shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Financial Statements” means audited or, if unavailable, unaudited general purpose financial statements of the Issuer prepared in accordance with generally accepted accounting principles, as in effect from time to time or as required to be modified as a matter of law. If unaudited financial statements are provided, audited financial statements will be provided when and if available.

“Fiscal Year” means the fiscal year of the Issuer.

“Final Official Statement” means the deemed final official statement relating to the Bonds dated September [], 2024, which constitutes the final official statement delivered in connection with the Bonds, which is available from the MSRB.

“Issuer” means the City of Fargo, North Dakota, which is the obligated person (as defined in the Rule) with respect to the Bonds.

“Material Event” means any of the events listed in paragraph 5(i)(C) and paragraph 5(i)(D) of the Rule, which are set forth in Section 5(a) and (d) of this Disclosure Certificate.

“MSRB” means the Municipal Securities Rulemaking Board on the date hereof located at 1300 I Street NW, Suite 1000, Washington DC 20005.

“Owner” means the person in whose name a Bond is registered or a beneficial owner of such a Bond.

“Participating Underwriter” means any of the original underwriter(s) of the Bonds (including the purchasers) required to comply with the Rule in connection with the offering of the Bonds.

“Rule” means SEC Rule 15c2-12(b)(5) promulgated by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time, and including written interpretations thereof by the SEC.

“SEC” means the Securities and Exchange Commission.

SECTION 3. Provision of Annual Financial Information and Financial Statements.

(a) For each Fiscal Year commencing with the Fiscal Year ending December 31, 20[24] the Issuer shall provide to the MSRB, not later than December 31 of the following Fiscal Year and in an electronic format as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate and which shall include the CUSIP numbers for the all outstanding Bonds and such other identifying information as may be required from time to time by the Rule. The Annual Report shall be submitted to the MSRB at EMMA or as otherwise directed by the MSRB and may be submitted as a single document or as separate documents comprising a package, and may incorporate by specific reference information in documents available to the public on the MSRB’s internet website or filed with the SEC; provided that the Financial Statements of the Issuer may be submitted separately from the balance of the Annual Report. If the ending date of the Fiscal Year is changed, the deadline for providing the Annual Report shall be not later than 12 months after the end of each Fiscal Year.

(b) If the Issuer is unable or fails to provide an Annual Report by the date required in subsection (a) to the MSRB, the Issuer shall provide a notice of such failure to the MSRB as set forth in Section 5(b) hereof.

SECTION 4. Content of Annual Reports. The Issuer’s Annual Report shall contain or incorporate by reference the annual Financial Statements and annual financial information similar to that set forth in the following sections of Appendix A of the Final Official Statement:

- (1) [Economic and Demographic Information;
- (2) Financial Summary;
- (3) City Indebtedness;
- (4) Outstanding Indebtedness;
- (5) Financial Information; and
- (6) Property Valuation and Taxes].

SECTION 5. Reporting of Material Events.

(a) The Issuer shall provide to the MSRB in an electronic format prescribed by the MSRB notice of any of the following events with respect to the Bonds in a timely manner not in excess of ten (10) business days after the occurrence of the event, which notice shall be submitted to the MSRB at EMMA, or as otherwise directed by the MSRB:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modification to rights of security holders, if material;
- (8) Bond Calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the obligated person;
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

(b) If the Issuer determines that it has failed to give notice of a Material Event as set forth above or to file the Annual Report in a timely fashion as required herein, the Issuer shall promptly file a notice of such occurrence to the MSRB in an electronic format prescribed by the MSRB, which notice shall be submitted to the MSRB at EMMA or as otherwise directed by the MSRB.

SECTION 6. Reporting Generally. The Issuer shall file its Annual Report, each notice of a Material Event, and each notice required by subsection (b) of Sections 3 and 5 of this Disclosure Certificate with the CUSIP numbers for all outstanding Bonds specified and such other identifying information as may be required from time to time by the Rule or by the MSRB. Each such item shall be submitted to the MSRB at EMMA, or as otherwise directed by the Rule or the MSRB, in an electronic format prescribed by the MSRB.

SECTION 7. Termination of Reporting Obligation. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all the Bonds.

SECTION 8. Agent. The Issuer may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such agent, with or without appointing a successor dissemination agent.

SECTION 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate and without consent of the Owners of the Bonds, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, if such amendment or waiver (i) is required by an amendment of the Rule by the SEC or procedures relating to the Rule by the MSRB, (ii) is to clarify an ambiguity or error, or (iii) does not provide for undertakings which violate the Rule or procedures of the MSRB then in effect or eliminates undertakings then required by the Rule or otherwise required by the SEC or the MSRB with respect to the Rule, which may be evidenced by a written opinion of legal counsel selected by the Issuer to the effect that such amendment or waiver would not, in and of itself, violate the Rule, requires undertakings which would violate the Rule or eliminates undertakings required by the Rule. If the Issuer determines that any such amendment or waiver materially changes the information provided to the MSRB or the timing of the information to be provided and that such information has not otherwise been provided to the MSRB in an Annual Report or Material Event filing, it shall provide the MSRB notice of such amendments as additional information pursuant to Section 9 hereof.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from providing any other information to the public, using the means of filing with the MSRB as set forth in this Disclosure Certificate or any other means of communication. Such information may include any other information in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Disclosure Certificate to update such information and may state in the disclosure that it does not intend to update such information.

SECTION 11. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default with respect to the Bonds and the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Participating Underwriters and Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

IN WITNESS WHEREOF, I have executed this Disclosure Certificate in my official capacity on behalf of the City of Fargo, North Dakota effective as of the date first above written.

CITY OF FARGO, NORTH DAKOTA

By: _____
Steven Sprague
City Auditor

[Signature Page – Continuing Disclosure Certificate (Fargo 2024F)]

RESOLUTION AUTHORIZING THE ISSUANCE OF
ANNUAL APPROPRIATION BONDS, SERIES 2024G, APPROVING CERTAIN ACTIONS,
AND APPROVING FORMS OF
DOCUMENTS REQUIRED IN CONNECTION THEREWITH

WHEREAS, pursuant to Section 40-05-01 Subd 2 of the North Dakota Century Code and Article 3-0802 of the Issuer’s Home Rule Charter (collectively the “Act”) (as the same may from time to time be amended the “Act”), the City of Fargo, North Dakota (the “Issuer”) is authorized and empowered, among other things, to issue its bonds to finance various facilities, including the improvement and equipping of public safety, public works, municipal parking, library and administrative facilities (the “Project”); and

WHEREAS, the Issuer will issue its Annual Appropriation Bonds, Series 2024G (the “Series 2024G Bonds”) to finance the Project, as well as a reserve fund deposit, capitalized interest, if any, and certain costs of issuance of the Series 2024G Bonds; and

WHEREAS, repayment of the Series 2024G Bonds will be subject to the appropriation annually by the Issuer of amounts sufficient to pay debt service on the Series 2024G Bonds for the following fiscal year of the Issuer, all as further set forth herein; and

WHEREAS, the Series 2024G Bonds do not constitute public debt under any constitutional or statutory provision of the State of North Dakota, and upon a failure to appropriate moneys sufficient to pay debt service, the Series 2024G Bonds will be cancelled and the Issuer will have no further obligation for payment of any amounts relating to the Series 2024G Bonds; and

WHEREAS, the Series 2024G Bonds shall be payable solely from legally available funds of the Issuer appropriated annually and the reserve fund established for the Series 2024G Bonds and shall not be payable from, or be secured by any pledge of, any other funds, revenues, assets or taxing power of the Issuer.

BE IT RESOLVED by the governing body of City of Fargo, Cass County, North Dakota, as follows:

**ARTICLE I
DEFINITIONS**

In addition to the words and terms defined elsewhere in this Resolution, the following words and terms as used herein shall have the following meanings unless the context or use indicates another or different meaning or intent:

“**Act**” means Section 40-05-01 Subd 2 of the North Dakota Century Code and Article 3-0802 of the Issuer’s Home Rule Charter, as from time to time amended.

“**Authorized Investments**” means any investments which at the time are legal investments under the laws of the State and the Issuer’s Home Rule Charter, as amended from time to time.

“**Bondholder,**” “**holder,**” and “**owner of the Series 2024G Bonds**” mean the registered owner of any Series 2024G Bond.

“**Bond Counsel**” means Dorsey & Whitney LLP or any nationally recognized municipal bond counsel selected by the Issuer.

“**Bond Purchase Agreement**” means the contract for the acquisition of the Series 2024G Bonds between the Issuer and the Original Purchaser.

“**Bond Register**” means the registration books of the Issuer kept by the Registrar to evidence the registration and transfer of the Series 2024G Bonds.

“**Budget Deadline**” shall have the meaning given to such term in Section 2.03 herein.

“**Business Day**” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in the State of North Dakota or the State of New York are authorized by law or executive order to close or (b) a day on which the New York Stock Exchange is authorized or obligated by law or executive order to close.

“**Debt Service Fund**” means the fund created by Section 3.04 hereof.

“**Event of Non-Appropriation**” shall have the meaning given such term in Section 2.03 hereof.

“**Fiscal Year**” means a calendar year, or, in the event that the Issuer no longer makes appropriations for a calendar year, such twelve month period for which the Issuer appropriates funds.

“**Government Obligations**” means direct obligations of the United States of America and obligations on which the timely payment of principal and interest is fully guaranteed by the United States of America.

“**Independent Counsel**” means legal counsel not employed by the Issuer.

“**Interest Payment Date**” means with respect to the Series 2024G Bonds each June 1 and December 1, commencing on the date set forth in the Bond Purchase Agreement, provided that if such day shall not be a Business Day, payment shall be made on the next succeeding Business Day with the same force and effect as if made on the date such payment was due.

“**Mandatory Sinking Fund Redemption**” has the meaning given such term in Section 4.01 hereof.

“**Maximum Annual Debt Service Requirement**” means the largest payment of principal of, and interest on, the Series 2024G Bonds scheduled to be paid in the then current Fiscal Year or any future Fiscal Year.

“**Officer’s Certificate**” means a certificate signed by an Authorized Officer.

“Optional Redemption Fund” means the fund created in Section 3.06 hereof.

“Original Purchaser” means D.A. Davidson & Co., as original purchaser of the Series 2024G Bonds.

“Outstanding Series 2024G Bonds” or **“Series 2024G Bonds Outstanding”** means all Series 2024G Bonds which have been duly authenticated and delivered by the Registrar, except a) Series 2024G Bonds cancelled after purchase in the open market or because of payment at or redemption prior to maturity; b) Series 2024G Bonds for the payment or redemption of which cash or Government Obligations shall have been theretofore deposited with the Registrar (whether upon or prior to the maturity or redemption date of any such Series 2024G Bonds) in accordance with this Resolution; provided that if such Series 2024G Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Registrar shall have been made therefor, or waiver of such notice satisfactory in form to the Registrar shall have been filed with the Registrar; c) Series 2024G Bonds in lieu of which others have been authenticated under this Resolution; d) Series 2024G Bonds owned by the Issuer; and e) Series 2024G Bonds cancelled and deemed fully satisfied upon an Event of Non-Appropriation as permitted in this Resolution.

“Paying Agent” means U.S. Bank Trust Company, National Association in St. Paul, Minnesota or its designated successor pursuant to this Resolution to receive and disburse the principal of and interest and premium, if any, on the Series 2024G Bonds.

“Project” means the improvement and equipping of various facilities, including public safety, public works, municipal parking, library and administrative facilities, and also including a reserve fund deposit for the Series 2024G Bonds, the costs of issuance of the Series 2024G Bonds, and the funding of interest on the Series 2024G Bonds, as necessary.

“Record Date” means the fifteenth day of the month (whether or not a Business Day) next preceding an Interest Payment Date.

“Registrar” means U.S. Bank Trust Company, National Association or any successor bond registrar for the Series 2024G Bonds.

“Series 2024G Bonds” means the not to exceed \$25,000,000 in aggregate principal amount of the City of Fargo, North Dakota Annual Appropriation Bonds, Series 2024G, initially authorized to be issued by the Issuer pursuant to the terms and conditions of Section 2.01 hereof.

“Subsequent FY” shall have the meaning given to such term in Section 2.03 herein.

“State” means the State of North Dakota.

“Termination Date” means the December 1 immediately following the Budget Deadline after an Event of Non-Appropriation.

“Written Request” means a certificate, signed by the City Auditor or Director of Finance of the Issuer or such other person authorized in a certificate signed by the Director of Finance or City Auditor.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles. Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof. All references in this Resolution to designated Articles, Sections and other subdivisions are to the designated Articles, Sections and other subdivisions of this Resolution as originally executed. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

ARTICLE II THE SERIES 2024G BONDS

2.01 The Series 2024G Bonds shall be issued in accordance with the parameters set forth in this Resolution and in accordance with and upon the terms and conditions set forth in the Bond Purchase Agreement by and between the Issuer and the Original Purchaser. Any of the Mayor, City Auditor, or Director of Finance (the “Authorized Officers”) is hereby authorized to execute and deliver the Bond Purchase Agreement, the award of the sale by the Director of Finance to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement. In the absence of the Authorized Officers, each of the Deputy Mayor and the Deputy City Auditor, as the case may be, is authorized to execute the Bond Purchase Agreement, but provided, further, however, that in no event shall the aggregate principal amount of the Series 2024G Bonds be greater than \$25,000,000, nor shall the true interest cost of the Series 2024G Bonds be greater than 4.75% per annum.

The Series 2024G Bonds shall be issuable only as registered bonds in the denominations of \$5,000 and integral multiples thereof. Unless the Issuer shall otherwise direct, the Series 2024G Bonds shall be numbered from R-1 upward.

The Series 2024G Bonds shall be dated as of the date of issuance and delivery thereof, shall bear interest at the rates set forth in the Bond Purchase Agreement, calculated on the basis of a 360-day year of twelve 30-day months, payable on each Interest Payment Date, and shall mature (and be subject to Mandatory Sinking Fund Redemption, be payable solely from legally available funds of the Issuer appropriated annually and shall not be payable from, or be secured by any pledge of, any other, funds, revenues, assets or taxing power of the Issuer) in the years and in the amounts set forth in the Bond Purchase Agreement.

Each Series 2024G Bond shall, except as provided in this Section 2.03, bear interest from the Interest Payment Date next preceding the date of authentication of such Series 2024G Bond to which interest on the Series 2024G Bonds has been paid, unless (i) such date of authentication is an Interest Payment Date to which interest has been paid, in which case from such Interest Payment Date, (ii) such date of authentication is after the Record Date with respect to an Interest Payment Date and prior to such Interest Payment Date, in which case from such Interest Payment Date or (iii) no interest has been paid on the Series 2024G Bonds, in which case from the date of issuance

and delivery thereof. The Series 2024G Bonds shall not bear interest after the cancellation thereof upon an Event of Non-Appropriation.

The person in whose name any Series 2024G Bond is registered at the close of business on any Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date notwithstanding any registration of transfer or exchange subsequent to such Record Date and prior to such Interest Payment Date.

The principal of and interest on the Series 2024G Bonds shall be payable in any currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of public and private debts, and such principal shall be payable upon presentation at the principal corporate trust office of the Registrar. Payment of the interest on any Series 2024G Bond shall be made to the person appearing on the Bond Register as the registered owner thereof as of the close of business of the Registrar on the Record Date for such interest payment and shall be paid (i) by check or draft of the Registrar mailed on the applicable Interest Payment Date to such registered owner at such owner's address as it appears on the Bond Register or at such other address as is furnished to the Registrar in writing by such owner not less than 15 days prior to the Interest Payment Date or (ii) as to any owner of \$1,000,000 or more in aggregate principal amount of the Series 2024G Bonds who so elects, by wire transfer of funds to such wire transfer address within the continental United States as the registered owner shall have furnished in writing to the Registrar no later than the Record Date, which wire instructions shall remain in effect until Registrar is notified to the contrary.

The Series 2024G Bonds shall be held in book-entry form.

2.02 Execution. The Series 2024G Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor or Deputy Mayor and attested by the manual or facsimile signature of its City Auditor or Deputy City Auditor and shall have impressed or printed by facsimile thereon the corporate seal of the Issuer. The facsimile signatures of said officers shall have the same force and effect as if such officers had manually signed each of said Series 2024G Bonds. In case any officer whose signature or facsimile signature shall appear on the Series 2024G Bonds shall cease to be such officer before the delivery of such Series 2024G Bonds, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

2.03 Limited Obligation, Non-Appropriation

The Series 2024G Bonds shall be payable solely from legally available funds of the Issuer appropriated annually and shall not be payable from, or be secured by any pledge of, any other funds, revenues, assets or taxing power of the Issuer. The Series 2024G Bonds shall be a valid claim of the respective owners thereof only against the funds established under this Resolution and other moneys held by the Registrar for the benefit of the Series 2024G Bondholders. Upon a failure by the Issuer to appropriate moneys sufficient to pay debt service on the Series 2024G Bonds, the Series 2024G Bonds will be cancelled as directed by the Issuer to the Registrar and the Issuer will have no further obligation for the payment of principal of, and interest on, the Series 2024G Bonds.

In the event that the Issuer adopts a budget for the following Fiscal Year with a specific line-item designated for the payment of, and in the amount of, the principal of, and interest on, the Series 2024G Bonds and annual fees of the Registrar due and payable in the following Fiscal Year, funds in such amount are deemed appropriated for the payment of debt service on the Series 2024G Bonds. The Issuer hereby covenants that, if such appropriation is made by approval of the Issuer's budget, it will not repeal, reduce or abate such appropriation or otherwise prohibit the use of such appropriated funds for the payment of debt service on the Series 2024G Bonds in the following Fiscal Year.

In the event the Issuer (i) does not adopt a budget for the following Fiscal Year ("Subsequent FY") by October 7 of each year (the "Budget Deadline") with a line-item for the payment of debt service as described above and (ii) adopts a resolution stating that no funds are being appropriated for the payment of the principal of, and interest on, the Series 2024G Bonds due in the Subsequent FY (an "Event of Non-Appropriation"), the Series 2024G Bonds shall be cancelled on the December 1 immediately following the Budget Deadline for that Fiscal Year (the "Termination Date") with the only liability of the Issuer thereon being the payment of the scheduled principal of, and interest on the Series 2024G Bonds due on such immediately ensuing December 1, for the payment of which funds had been appropriated by inclusion in the Issuer's prior budget and any outstanding fees of the Registrar. Any funds available in the Reserve Fund after an Event of Non-Appropriation are available for payment of principal and interest on the Series 2024G Bonds, in accordance with Section 3.05 herein.

The resolution required above for non-appropriation may be included in the resolution of the Issuer with respect to the approval of the budget generally.

Upon cancellation of the Series 2024G Bonds, the Series 2024G Bonds shall no longer be outstanding and the Issuer shall not be liable for the payment of any unpaid principal of, or interest on, the Series 2024G Bonds neither the Issuer nor the Registrar shall be liable for any claims for damages or losses, direct or consequential, in connection with the cancellation of the Series 2024G Bonds.

The Series 2024G Bonds do not constitute a debt or liability of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or any political subdivision thereof. The issuance of the Series 2024G Bonds under the provisions of the Act does not, directly, indirectly or contingently, obligate the State or any political subdivision thereof to levy any form of taxation for the payment thereof or to make any appropriation for their payment, and such Series 2024G Bonds and interest payable thereon do not now and shall never constitute a debt of the State or any political subdivision thereof within the meaning of the Constitution or the statutes of the State and do not now and shall never constitute a charge against the credit or taxing power of the State or any political subdivision thereof. Neither the State nor any political subdivision thereof shall in any event be liable for the payment of the principal of or interest on the Series 2024G Bonds or for the performance of any pledge, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge, obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any political subdivision thereof. No covenant or agreement in the Series 2024G Bonds or in this Resolution and no obligation herein imposed upon the Issuer and no breach thereof shall constitute or give rise to or impose upon the Issuer a general liability or a charge upon its general credit or property.

2.04 Authentication. No Series 2024G Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Series 2024G Bond shall have been duly executed by the Registrar, and such executed certificate of the Registrar upon any such Series 2024G Bond shall be conclusive evidence that such Series 2024G Bond has been authenticated and delivered under this Resolution. The Registrar's certificate of authentication on any Series 2024G Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Registrar, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Series 2024G Bonds issued hereunder.

2.05 Form of Bonds and Temporary Bonds. The Series 2024G Bonds shall be substantially in the form set forth in Exhibit A hereto with such appropriate variations, omissions and insertions as are permitted or required by this Resolution or deemed necessary by the Registrar and the Issuer.

Series 2024G Bonds may be initially issued in temporary form exchangeable for definitive Series 2024G Bonds when ready for delivery. The temporary Series 2024G Bonds shall be produced in such form and of such denomination or denominations as may be determined by the Issuer and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary Series 2024G Bond shall be executed by the Issuer and be authenticated by the Registrar upon the same conditions and in substantially the same manner as the definitive Series 2024G Bonds. If the Issuer issues temporary Series 2024G Bonds, it will execute and furnish definitive Series 2024G Bonds without delay and thereupon the temporary Series 2024G Bonds may be surrendered for cancellation in exchange therefor at the principal corporate trust office of the Registrar, and the Registrar shall authenticate and deliver in exchange for such temporary Series 2024G Bonds an equal aggregate principal amount of definitive Series 2024G Bonds of the same Series and maturity of authorized denominations. Until so exchanged, the temporary Series 2024G Bonds shall be entitled to the same benefits under this Resolution as definitive Series 2024G Bonds authenticated and delivered hereunder.

2.06 Delivery of Series 2024G Bonds. Upon the execution and delivery of this Resolution, the Issuer shall execute and deliver to the Registrar and the Registrar shall authenticate the Series 2024G Bonds and deliver them as may be directed by the Issuer as hereinafter in this Section 2.06 provided.

2.07 Mutilated, Lost, Stolen or Destroyed Series 2024G Bonds. In the event any temporary or definitive Series 2024G Bond is mutilated, lost, stolen or destroyed, the Issuer may execute and the Registrar may authenticate a new Series 2024G Bond of like form, date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Series 2024G Bond, such mutilated Series 2024G Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed Series 2024G Bond, there shall be first furnished to the Issuer and the Registrar evidence of such loss, theft or destruction satisfactory to the Issuer and the Registrar, together with indemnity satisfactory to them. In the event any such Series 2024G Bond shall have matured, instead of issuing a replacement Series 2024G Bond the Issuer may pay the same without surrender thereof. The Issuer and the Registrar may charge the holder or owner of such Series 2024G Bond with their reasonable fees and expenses in this connection.

2.08 Bond Register; Transfer and Exchange of Series 2024G Bonds; Persons Treated as Owners. The Bond Register shall be kept by the Registrar at its principal corporate trust office. At reasonable times and under reasonable regulations established by the Registrar, the Bond Register may be inspected and copied by the Issuer.

Upon surrender for registration of transfer of any Series 2024G Bond at the principal corporate trust office of the Registrar, the Issuer shall execute and the Registrar shall authenticate and deliver in the name of the transferee or transferees a new fully registered Series 2024G Bond or Series 2024G Bonds of the same maturity and of authorized denomination for the aggregate principal amount which the registered owner is entitled to receive. Any Series 2024G Bond or Series 2024G Bonds may be exchanged at said office of the Registrar for a like aggregate principal amount of Series 2024G Bond or Series 2024G Bonds of the same maturity of other authorized denominations. The execution by the Issuer of any Series 2024G Bond shall constitute full and due authorization of such Series 2024G Bond, and the Registrar shall thereby be authorized to authenticate, date and deliver such Series 2024G Bond.

All Series 2024G Bonds presented for registration of transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form satisfactory to the Registrar, duly executed by the registered owner or by such owner's duly authorized attorney.

No service charge shall be imposed for any exchange or registration of transfer of Series 2024G Bonds. The Issuer and the Registrar may, however, require payment by the person requesting an exchange or registration of transfer of Series 2024G Bonds of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto, except in the case of the issuance of a Series 2024G Bond or Series 2024G Bonds for the unredeemed portion of a Series 2024G Bond surrendered for redemption.

The Issuer and the Registrar shall not be required to register the transfer of or exchange any Series 2024G Bond after notice calling such Series 2024G Bond or portion thereof for redemption has been given or during the 15-day period next preceding the first mailing of such notice of redemption of Series 2024G Bonds of the same maturity.

New Series 2024G Bonds delivered upon any registration of transfer or exchange shall be valid obligations of the Issuer, evidencing the same debt as the Series 2024G Bonds surrendered, shall be secured by this Resolution and shall be entitled to all of the security and benefits hereof to the same extent as the Series 2024G Bond surrendered.

The Issuer and the Registrar may treat the registered owner of any Series 2024G Bond as the absolute owner thereof for all purposes, whether or not such Series 2024G Bond shall be overdue, and shall not be bound by any notice, actual or constructive, to the contrary. All payments of or on account of the principal of and premium, if any, and interest on any such Series 2024G Bond as herein provided shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2024G Bond to the extent of the sum or sums so paid.

2.09 Cancellation. Any Series 2024G Bond surrendered for the purpose of payment or retirement or for exchange or registration of transfer or for replacement pursuant to Section 2.06 or Section 2.07 hereof or upon an Event of Non-Appropriation pursuant to Section 2.03 hereof, shall be cancelled upon surrender thereof to the Registrar or any Paying Agent. If the Issuer shall acquire any of the Series 2024G Bonds, the Issuer shall deliver such Series 2024G Bonds to the Registrar for cancellation and the Registrar shall cancel the same. Any such Series 2024G Bonds cancelled by any Paying Agent other than the Registrar shall be promptly transmitted by such Paying Agent to the Registrar. A certificate identifying all Series 2024G Bonds so cancelled shall be delivered by the Registrar to the Issuer. Cancelled Series 2024G Bonds may be destroyed by the Registrar unless instructions to the contrary are received from the Issuer.

Upon cancellation of the Series 2024G Bonds, the Series 2024G Bonds shall no longer be outstanding and the Issuer shall not be liable for the payment of any unpaid principal of, or interest on, the Series 2024G Bonds neither the Issuer nor the Registrar shall be liable for any claims for damages or losses, direct or consequential, in connection with the cancellation of the Series 2024G Bonds.

2.10. Securities Depository. (a) For purposes of this section the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2024G Bond, the person in whose name such Series 2024G Bond is recorded as the beneficial owner of such Series 2024G Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2024G Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Series 2024G Bonds as securities depository.

“Representation Letter” shall mean the Representation Letter pursuant to which the sender agrees to comply with DTC’s Operational Arrangements.

(b) The Series 2024G Bonds shall be initially issued as separately authenticated fully registered bonds, and one Series 2024G Bond shall be issued in the principal amount of each stated maturity of the Series 2024G Bonds. Upon initial issuance, the ownership of such Series 2024G Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the Issuer may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2024G Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2024G Bonds, selecting the Series 2024G Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Series 2024G Bonds under this resolution, registering the transfer of Series 2024G Bonds, and for all other purposes whatsoever; and neither the Registrar nor the Issuer shall be affected by any notice to the contrary. Neither the Registrar nor the Issuer shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Series 2024G Bonds under or through DTC or any Participant, or any other person which is not shown on the bond

register as being a registered owner of any Series 2024G Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2024G Bonds, with respect to any notice which is permitted or required to be given to owners of Series 2024G Bonds under this resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Series 2024G Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Series 2024G Bonds. So long as any Series 2024G Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Series 2024G Bond, and shall give all notices with respect to such Series 2024G Bond, only to Cede & Co. in accordance with DTC's Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to the principal of and interest on the Series 2024G Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Series 2024G Bond for each separate stated maturity evidencing the obligation of the Issuer to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2024G Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the Issuer determines that it is in the best interest of the Beneficial Owners that they be able to obtain Series 2024G Bonds in the form of bond certificates, the Issuer may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2024G Bonds in the form of certificates. In such event, the Series 2024G Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Series 2024G Bonds at any time by giving notice to the Issuer and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2024G Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The execution and delivery of the Representation Letter to DTC by the Issuer is hereby confirmed and ratified.

(e) In the event that any transfer or exchange of Series 2024G Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2024G Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Series 2024G Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series 2024G Bonds, or another securities depository as owner of all the Series 2024G Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Series 2024G Bonds in the form of bond certificates and the method of payment of principal of and interest on such Series 2024G Bonds in the form of bond certificates. Any successor depository must be both a "clearing corporation" as defined in North Dakota Century Code, Section 41-08-02 and a qualified and registered "clearing agency" as provided in Section 17A of the Securities Exchange Act of 1934, as amended.

**ARTICLE III
FUNDS AND ACCOUNTS**

3.01 Creation of Funds. The following funds are hereby created for the benefit of the Holders of all Series 2024G Bonds Outstanding under this Resolution:

- (a) Debt Service Fund; and
- (b) Optional Redemption Fund; and
- (c) Reserve Fund.

The funds hereby created shall be held by the Registrar hereunder and subject to the terms hereof. For the purpose of internal accounting, such funds may contain one or more accounts as the Registrar shall determine.

Pending application of the monies in such funds, all amounts on deposit therein are hereby pledged to the payment of principal of and interest on the Series 2024G Bonds in accordance with the terms of this Resolution.

3.02 Deposit of Funds. The Issuer shall retain all net proceeds of the Series 2024G Bonds to pay costs of the Project, a reserve fund deposit, costs of issuance of the Series 2024G Bonds and capitalized interest, if any during construction, pursuant to this Resolution and the closing memorandum for the Series 2024G Bonds.

Any excess net proceeds retained by the Issuer after payment of all costs of the Project, and any investment earnings on all other net proceeds, shall be deposited with the Registrar, and the Registrar shall deposit such amounts to the Debt Service Fund described in Section 3.04 herein.

3.03 Source of Payment of Series 2024G Bonds. The Series 2024G Bonds herein authorized and all payments to be made by the Issuer thereon and into the various funds established under this Resolution are not general obligations of the Issuer. The Series 2024G Bonds are special, limited obligations of the Issuer payable solely from funds appropriated annually by the City Commission of the Issuer expressly for the purpose of paying debt service on the Series 2024G Bonds for the following Fiscal Year of the Issuer; the Issuer reserves the right not to appropriate such funds as set forth herein, and the failure so to appropriate funds for the payment of debt service payable on the Series 2024G Bonds in any year is not a default hereunder but shall result in cancellation of the Series 2024G Bonds pursuant to Section 2.03 hereof.

3.04 Debt Service Fund. On or before the twenty-fifth day of each May and November, commencing in November 2025, the Issuer shall deposit with the Registrar solely from expressly appropriated funds for such Fiscal Year, an amount sufficient, together with amounts already on deposit in the Debt Service Fund, to pay the principal, if any, of, and interest on, the Series 2024G Bonds on the immediately following June 1 or December 1, as the case may be. If any such twenty-fifth day is not a Business Day, the deposit herein required to be made shall be made on the next preceding Business Day. Moneys on deposit in the Debt Service Fund shall be invested as set forth in Section 3.07 hereof. Investment earnings shall be retained in the Debt Service Fund.

Moneys on deposit in the Debt Service Fund, including income earned thereon, shall be applied by the Registrar to pay principal of, and interest on, the Series 2024G Bonds as it becomes due.

Pursuant to Section 3.02, any excess net proceeds retained by the Issuer after payment of all costs of the Project, and any investment earnings on all other net proceeds, shall be deposited with the Registrar, and the Registrar shall deposit such amounts to the Debt Service Fund.

3.05 Reserve Fund. A Reserve Fund shall be established for the Series 2024G Bonds. Proceeds of the Series 2024G Bonds in an amount equal to the least of (i) maximum annual debt service on, (ii) 125% of the average annual debt service on, or (iii) ten percent of the proceeds of the Series 2024G Bonds shall be deposited in the Reserve Fund upon issuance of the Series 2024G Bonds. Funds will be transferred from the Reserve Fund to the Debt Service Fund at any time the balance on hand in the Debt Service Fund is insufficient to meet current requirements for payment of principal and interest on the Series 2024G Bonds.

Any funds available in the Reserve Fund after an Event of Non-Appropriation are available for payment of principal and interest on the Series 2024G Bonds. After an Event of Non-Appropriation, there shall be no obligation of the Issuer to replenish the amounts on deposit in the Reserve Fund.

3.06 Optional Redemption Fund. In the event of prepayment by or on behalf of the Issuer pursuant to Section 4.01 hereof, such moneys shall be deposited in the Optional Redemption Fund. Moneys on deposit in the Optional Redemption Fund shall be used first, to make up any deficiencies existing in the Debt Service Fund (in that order) and second, for the redemption or purchase of Series 2024G Bonds in accordance with the provisions of Article IV hereof.

3.07 Investment of Funds. (a) Upon receipt of a Written Request of the Issuer filed with the Registrar, moneys in the Debt Service Fund, Reserve Fund and Optional Redemption Fund shall be invested in Authorized Investments, specified by the Issuer. Such investments shall be made so as to mature on or prior to the date or dates that moneys therefrom are reasonably anticipated to be required. If the Issuer fails to give such direction and file such Written Request with the Registrar, moneys in such funds shall be invested in Government Obligations, maturing not more than fourteen days after the day such investment is made. As and when any amounts invested pursuant to this Resolution may be needed for disbursements from the Debt Service Fund, Reserve Fund or the Optional Redemption Fund, the Registrar shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such fund. The Registrar may rely upon the Written Request of the Issuer as to the suitability and legality of the directed investments. The Registrar shall have no responsibility whatsoever to determine whether any investments made pursuant to this Resolution are or continue to be Authorized Investments. The Registrar, when authorized by the Issuer, may trade with itself in the purchase and sale of securities for such investment. The Registrar shall not be liable or responsible for any loss, fee, tax, or other charge resulting from any such investments. Gains from investments shall be credited to and held in, and losses shall be charged to, the fund or account from which the investment is made.

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Issuer the right to receive brokerage confirmations of security transactions as they occur. The

Issuer specifically waives such right to notification to the extent permitted by law and acknowledge that they will receive periodic transaction statements that will detail all investment transactions.

ARTICLE IV REDEMPTION OF SERIES 2024G BONDS

4.01 Redemption. Outstanding Series 2024G Bonds are subject to redemption prior to maturity (herein referred to as “Optional Redemption”) on any date on or after the optional call date as set forth in the Bond Purchase Agreement at the option of the Issuer, in whole or in part, at a redemption price of 100% of the principal amount of the Series 2024G Bonds to be redeemed plus accrued interest thereon to the date of redemption, without penalty. Partial optional redemptions of the Series 2024G Bonds shall be applied to reduce the Mandatory Sinking Fund Redemption payments in inverse order of maturity.

Series 2024G Bonds may be called for Optional Redemption by the Registrar pursuant to this Section 4.01 upon receipt by the Registrar at least 30 days prior to the redemption date of a Written Request of the Issuer requesting such redemption. Such Written Request shall specify the principal amount of the Series 2024G Bonds to be called for redemption, the redemption date, the applicable redemption price or prices, the provision or provisions above specified pursuant to which such Series 2024G Bonds are to be called for redemption and if the Series 2024G Bonds are to be redeemed in part, the maturities of such Series 2024G Bonds, and the amounts within each such maturity to be redeemed, together with any conditions to the effectiveness of such redemption. If for any reason the Registrar has not received a Written Request as to the maturities of the Series 2024G Bonds or the amounts within any maturity to be redeemed, it shall apply the funds available for redemption to redeem the Series 2024G Bonds in inverse order of maturity.

In addition to Optional Redemption, the Series 2024G Bonds are subject to mandatory sinking fund redemption, if any, as provided in the Bond Purchase Agreement (the “Term Bonds”) pursuant to and in the manner specified in Section 4.02 (herein referred to as “Mandatory Sinking Fund Redemption”).

The Term Bonds shall be subject to mandatory redemption prior to maturity at a redemption price equal to the stated principal amount thereof plus interest accrued thereon to the redemption date, without premium.

Such amounts shall be reduced (a) by the amount of Term Bonds acquired and delivered as provided hereinbelow in satisfaction of such mandatory redemption requirements and (b) in connection with a partial redemption of Series 2024G Bonds if the Issuer so elects.

In lieu of redeeming Series 2024G Bonds pursuant to this Section, the Registrar may, at the Written Request of the Issuer, use such funds otherwise available hereunder for redemption of Series 2024G Bonds to purchase for cancellation Series 2024G Bonds in the open market at a price not exceeding the redemption price then applicable hereunder. It is understood that in the case of any such redemption or purchase and cancellation of Series 2024G Bonds, the Issuer shall receive credit against its required Debt Service Fund deposits with respect to the Series 2024G Bonds of such maturity, which in the case of Series 2024G Bonds subject to mandatory sinking fund

redemption shall be applied to the mandatory deposits with respect to mandatory sinking fund redemption which the Issuer elects or, if no election is made, in the inverse order thereof.

4.02 Notice of Redemption. Notice of the call for any redemption of the Series 2024G Bonds shall state the following: (i) the name of the Series 2024G Bonds, (ii) the original dated date of the Series 2024G Bonds, (iii) the interest rate and maturity date of the Series 2024G Bonds to be redeemed, (iv) the date of the redemption notice, (v) the redemption date, (vi) the redemption price; (vii) the address and telephone number of the principal office of the Registrar and (viii) any conditions to the effectiveness of the redemption. Such notice shall further state that on the redemption date for such Series 2024G Bonds there shall become due and payable upon each Series 2024G Bond to be redeemed the redemption price thereof, or the redemption price of the specified portion of the principal amount thereof in the case of a Series 2024G Bond to be redeemed in part only, with interest accrued and unpaid to such date, and that from and after such date, interest thereon shall cease to accrue and be payable. The redemption notice shall be given by mailing a copy of such notice of redemption by first class mail, postage prepaid, to the Issuer, and the registered owners of the Series 2024G Bonds to be redeemed at the address shown on the Bond Register not less than 20 or more than 60 days prior to the redemption date; provided, however, that failure to give such notice by mailing or a defect in the notice or the mailing as to any Series 2024G Bond will not affect the validity of any proceedings for redemption as to any other Series 2024G Bond with respect to which notice was properly given. Said notice shall also be given by the Registrar by certified mail, return receipt requested, at least thirty days prior to the date fixed for redemption, to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System or as may be required by applicable law or regulation at the time of giving such notice as directed by the Issuer. The notice of redemption may state that if funds are not on deposit with the Registrar on or prior to the redemption date, the redemption shall be cancelled and the Series 2024G Bonds so called for redemption shall remain Outstanding and continue to bear interest. Notice of Mandatory Sinking Fund Redemption need not be given if the Series 2024G Bonds are held by a single holder at the time of such redemption.

Series 2024G Bonds, or portions thereof, thus called for redemption shall not bear interest after the applicable redemption date, shall no longer be protected by this Resolution and shall not be deemed to be outstanding under the provisions of this Resolution.

ARTICLE V GENERAL COVENANTS

5.01 Payment of Principal and Interest. Subject to the limited source of payment hereinafter described and the Issuer's right to cancel its obligation to pay the Series 2024G Bonds in the event the Issuer does not appropriate monies for the payment thereof, the Issuer covenants that it will promptly pay the principal of, premium, if any, and interest on every Series 2024G Bond issued under this Resolution at the place, on the dates and in the manner provided herein and in said Series 2024G Bonds according to the true intent and meaning thereof. The principal of, premium, if any, and interest on the Series 2024G Bonds are payable solely from payments or prepayments by the Issuer and nothing in the Series 2024G Bonds or in this Resolution shall be considered as assigning or pledging any funds or assets of the Issuer except expressly appropriated for the payment of principal of, and interest on, the Series 2024G Bonds.

5.02 Budget, Appropriation, and Non-Appropriation. The Issuer covenants to cause the proposed annual budget for the following Fiscal Year to be submitted for consideration by the City Commission each year to include a specific line-item for an amount equal to the debt service on the Series 2024G Bonds and the annual fees of the Registrar, provided, however, that the inclusion of such line-item does not obligate the City Commission to include such amount within the approved budget or appropriate such funds. In the event such funds are not appropriated, the Bonds are subject to cancellation pursuant to Section 2.03 hereof.

In the event that the Issuer adopts a budget for the following Fiscal Year with a specific line-item designated for the payment of, and in the amount of, the principal of, and interest on, the Series 2024G Bonds and annual fees of the Registrar due and payable in the following Fiscal Year, funds in such amount are deemed appropriated for the payment of debt service on the Series 2024G Bonds. The Issuer hereby covenants that, if such appropriation is made by approval of the Issuer's budget, it will not repeal, reduce or abate such appropriation or otherwise prohibit the use of such appropriated funds for the payment of debt service on the Series 2024G Bonds in the following Fiscal Year.

5.03 Performance of Covenants; Legal Authorization. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Resolution, in any and every Series 2024G Bond executed, authenticated and delivered hereunder and in all proceedings of its members pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State and its home rule charter to issue the Series 2024G Bonds authorized hereby and to execute this Resolution, that all action on its part for the issuance of the Series 2024G Bonds and the execution and delivery of this Resolution has been duly and effectively taken, and that the Series 2024G Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof.

ARTICLE VI SATISFACTION OF THIS RESOLUTION

6.01 Defeasance. If the Issuer shall pay or provide for the payment of the entire indebtedness on all Series 2024G Bonds (including, for the purposes of this Section 6.01, Series 2024G Bonds held by the Issuer) outstanding in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of and interest on all Series 2024G Bonds outstanding, as and when the same become due and payable;
- (b) by depositing with the Registrar, in trust, at or before maturity, moneys in an amount sufficient to pay or redeem (when redeemable) all Series 2024G Bonds outstanding (including the payment of interest payable on such Series 2024G Bonds to the maturity or redemption date thereof), provided that such moneys, if invested, shall be invested in Government Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Series 2024G Bonds outstanding at or before their respective maturity dates; it being understood that the investment income

on such Government Obligations may be used for any other purpose under the Act;

- (c) by delivering to the Registrar, for cancellation by it, all Series 2024G Bonds outstanding; or
- (d) by depositing with the Registrar, in trust, moneys or Government Obligations in such amount as will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on all Series 2024G Bonds outstanding at or before their respective maturity dates (which sufficiency of investment proceeds shall be determined by an independent certified public accountant's verification report);

and if the Issuer shall pay or cause to be paid or make arrangements satisfactory to the Registrar for the payment of all other sums payable hereunder by the Issuer, and if any such Series 2024G Bonds are to be optionally redeemed prior to the maturity thereof, irrevocable notice of such redemption shall have been given in accordance with the requirements of this Resolution or irrevocable instructions shall have been given to the Registrar of such notice, this Resolution and the estate and rights granted hereunder shall cease, determine, and be discharged, and thereupon the Registrar shall, upon Written Request of the Issuer, and upon receipt by the Registrar of an Officer's Certificate of the Issuer and an opinion of Independent Counsel, each stating that in the opinion of the signers all conditions precedent to the satisfaction and discharge of this Resolution have been complied with, forthwith execute proper instruments acknowledging satisfaction of and discharging this Resolution and the lien hereof.

The satisfaction and discharge of this Resolution shall be without prejudice to the rights of the Registrar to charge and be reimbursed by the Issuer for any expenditures which it may thereafter incur in connection herewith.

Any moneys, funds, securities, or other property remaining on deposit in any Fund, under this Resolution (other than the Government Obligations or other moneys deposited in trust as above provided) shall, upon the full satisfaction of this Resolution, forthwith be transferred, paid over and distributed to the Issuer.

The Issuer may at any time surrender to the Registrar for cancellation by it any Series 2024G Bonds previously authenticated and delivered, which the Issuer may have acquired in any manner whatsoever, and such Series 2024G Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

6.02 Discharge of Series 2024G Bonds. Upon the deposit with the Registrar, in trust, at or before maturity, of money or Government Obligations in the necessary amount to pay or redeem all outstanding Series 2024G Bonds (whether upon or prior to their maturity or the redemption date of such Series 2024G Bonds) and compliance with the other payment requirements of Section 6.01, provided that if such Series 2024G Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article IV herein provided, or

provisions satisfactory to the Registrar shall have been made for the giving of such notice, this Resolution may be discharged in accordance with the provisions hereof, and the owners thereof shall thereafter be entitled to payment only out of the moneys or the Government Obligations deposited with the Registrar as aforesaid.

6.03 Provision for Payment of Portion of the Series 2024G Bonds. If the Issuer shall pay or provide for the payment of a portion of the Series 2024G Bonds (including, for the purposes of this Section 6.03, any Series 2024G Bonds held by the Issuer) in one or more of the following ways:

- (a) by paying or causing to be paid the principal of and interest on such portion of the Series 2024G Bonds, as and when the same shall become due and payable;
- (b) by depositing with the Registrar, in trust, at or before maturity, moneys in an amount sufficient to pay or redeem (when redeemable) a portion of the Series 2024G Bonds outstanding (including the payment of interest payable on such portion of the Series 2024G Bonds to the maturity or redemption date thereof), provided that such moneys, if invested, shall be invested in Government Obligations in an amount, without consideration of any income or increment to accrue thereon, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such portion of the Series 2024G Bonds at or before their respective maturity dates; it being understood that the investment income on such Government Obligations may be used for any other purpose under the Act;
- (c) by delivering to the Registrar, for cancellation by it, such portion of the Series 2024G Bonds; or
- (d) by depositing with the Registrar, in trust, moneys or Government Obligations in such amount as will, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, be fully sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such portion of the Series 2024G Bonds at or before their respective maturity dates (which sufficiency of investment proceeds shall be determined by an independent certified public accountant's verification report);

and if the Issuer shall also pay or cause to be paid or made arrangements satisfactory to the Registrar for the payment of all other sums payable hereunder by the Issuer with respect to such Series 2024G Bonds, and, if such Series 2024G Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article IV of this Resolution provided or provisions satisfactory to the Registrar shall have been made for the giving of such notice, such Series 2024G Bonds shall cease to be entitled to any lien, benefit or security under this Resolution, and the owners thereof shall thereafter be entitled to payment (to the exclusion of all other Bondholders) only out of the moneys or the Government Obligations deposited with the Registrar as aforesaid.

**ARTICLE VII
CONTINUING DISCLOSURE; OFFICIAL STATEMENT**

7.01 Continuing Disclosure. The City Auditor is hereby authorized to execute, on behalf of the Issuer, the Continuing Disclosure Certificate in a form substantially similar to that attached as **Exhibit B** hereto, which is hereby incorporated herein and made a part hereof.

7.02 Official Statement. The form of Official Statement relating to the Bonds prepared and distributed on behalf of the Issuer by Baker Tilly Municipal Advisors, LLC, is hereby approved, and the officers of the Issuer are hereby authorized and directed to execute such certificates as may be appropriate concerning the accuracy, completeness and sufficiency thereof.

**ARTICLE VIII
FURTHER ACTIONS AUTHORIZED**

The officers of the Issuer and the City Auditor are hereby authorized and directed to prepare and furnish to the Original Purchaser, and to the attorneys approving the legality of the Bonds, certified copies of such proceedings, ordinances, resolutions, and records and all such certificates and affidavits and other instruments as may be required to evidence the legality and marketability of said Bonds, and all certified copies, certificates, affidavits, and other instruments so furnished, including any heretofore furnished, shall constitute representations of the Issuer as to the correctness of all facts stated or recited therein. The Authorized Officers are further authorized to execute any agreements, certificates or other documents related to the issuance of the Bonds approved by the Issuer. Execution of such document shall constitute evidence of the Issuer's due authorization and approval of said documents.

**ARTICLE IX
EXECUTION OF DOCUMENTS GENERALLY**

In the event of the absence or unavailability of the Authorized Officers or other appropriate officer of the City, the Bonds and the other documents authorized for execution and delivery pursuant to this section may be executed and delivered by the individual or individuals authorized generally by the City to act on behalf of the Mayor, the City Auditor, the Director of Finance, or other officer of the City in such circumstances, including, without limitation, the Deputy Mayor and the Deputy City Auditor, as the case may be.

In case any officer signing documents authorized to be executed and delivered by this Resolution shall cease to be such officer before or after the delivery of any such document, such signature, nevertheless, shall be valid and remain sufficient for all purposes as if such officer had remained in office until such delivery or later applicable time.

**ARTICLE X
REPEALER**

All prior resolutions and other acts or proceedings of this governing body which are in any way inconsistent with the terms of this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

**ARTICLE XI
EFFECTIVE DATE.**

This resolution shall be effective immediately upon adoption.

Mayor

Attest:

City Auditor

EXHIBIT A

(Form of Series 2024G Bond)

UNITED STATES OF AMERICA
STATE OF NORTH DAKOTA
COUNTY OF CASS

CITY OF FARGO

ANNUAL APPROPRIATION BONDS, SERIES 2024G

No. R-[] \$[]

<u>INTEREST RATE</u>	<u>MATURITY</u>	<u>DATE OF ORIGINAL ISSUE</u>	<u>CUSIP</u>
[]%	December 1, 20[]	October 3, 2024	[]

REGISTERED OWNER: CEDE & CO., INC.

PRINCIPAL AMOUNT: [] DOLLARS

KNOW ALL BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota, (the "Issuer") acknowledges itself to be specially indebted and for value received promises to pay but only from amounts annually appropriated to its Annual Appropriation Debt Service Fund, Series 2024G (the "Bond Fund") to the registered owner specified above or registered assigns, the principal amount specified above, on the maturity date specified above, with interest thereon from the Date of Original Issue set forth above at the annual rate specified above, payable on June 1 and December 1 in each year, commencing June 1, 2025, to the holder of record on the close of the 15th day (whether or not a business day) of the immediately preceding month, all subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft by U.S. Bank Trust Company, National Association in St. Paul, Minnesota, as registrar for the bonds (the "Registrar").

This Bond is issued under Section 40-05-01 Subd 2 of the North Dakota Century Code and Article 3-0802 of the Issuer's Home Rule Charter (collectively as the same may from time to time be amended, the "Act"), and in conformity with the provisions, restrictions and limitations thereof. This Bond does not constitute an indebtedness of the Issuer, the County of Cass (the "County"), the State of North Dakota (the "State") or any other political subdivision within the meaning of any state constitutional provision or statutory limitation, nor does this Bond give rise to a charge against the general credit or properties or taxing powers of the Issuer, the County, the State or other political subdivision and does not grant to the registered owner of this Bond any right to have the Issuer, the County, the State or other political subdivision levy any taxes or appropriate any funds for the payment of the principal hereof or interest hereon, nor is this Bond a general obligation of the Issuer, the County, the State or other political subdivision or the individual officers or agents

thereof to which the full faith and credit of any of such entities is pledged. This Bond and interest hereon are payable solely and only from the moneys held in the Bond Fund appropriated to the payment of the Bonds of this series.

This Bond is one of an issue designated the City of Fargo Annual Appropriation Bonds, Series 2024G in the principal amount of \$[PAR], all of like original issue date and tenor except as to serial number, maturity date, interest rate, and redemption privilege, issued for the purpose of financing certain public safety, public works and administrative facilities and equipment (together with financing of costs of issuance, capitalized interest, if any, and a reserve fund deposit, the "Project"). The Bonds are issued pursuant to a resolution adopted by the governing body of the Issuer on September 16, 2024 (the "Bond Resolution"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Bond Resolution.

The Bonds are payable solely from legally available funds annually appropriated by the Issuer for the payment of principal of, and interest on, the Bonds. In the event the City Commission fails to appropriate such amounts for any fiscal year of the Issuer by October 7 of the preceding fiscal year, the Bonds are cancelled the immediately following December 1 without liability of the Issuer for any further payments of debt service on the Bonds (except for scheduled principal and interest due on such date) and are of no further force and effect. The failure to appropriate funds and the cancellation of the Bonds is not a default or event of default, and the Bondholders shall have no recourse against any of the funds, revenues or assets, including the Project, of the Issuer.

Bonds maturing on or after December 1, 2035 are subject to optional redemption on or after December 1, 2034 at a price of par plus accrued interest to the date of redemption..

The Bonds are subject to mandatory sinking fund redemption and shall be redeemed in part at par plus accrued interest on December 1 in the years and in the principal amounts as follows:

<u>Bonds Due December 1, 20 </u>	
<u>Year</u>	<u>Amount</u>
	\$

*
* (Maturity)

Not less than 20 days prior to the date specified for redemption and prepayment of any of the Bonds, the Issuer will cause notice of the call thereof to be sent by mail to the registered owner of this Bond to be redeemed, in whole or in part, at the address shown in the Bond Register.

This Bond is transferable only upon books of the Issuer kept at the principal office of the Registrar by the registered owner hereof in person or by the owner's duly authorized attorney, upon surrender of this Bond for transfer at the principal office of the Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Registrar duly executed by the registered owner hereof or the owner's duly authorized attorney, and, upon payment of any tax, fee or other governmental charge required to be paid with respect to such transfer, one or more fully registered Bonds of this series of the same principal amount and interest rate will be issued to the designated transferee or transferees.

The Bonds are issuable only as fully registered bonds without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds of this series are exchangeable for a like aggregate principal amount of Bonds of this series of a different authorized denomination, as requested by the registered owner or the owner's duly authorized attorney upon surrender thereof to the Registrar.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the Issuer.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED, AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done precedent to and in the issuance of this Bond and the series of which it is a part have been properly done, have happened and have been performed in regular and due time, form and manner as required by law.

This Bond shall not be valid nor become obligatory for any purpose until it shall have been authenticated by the execution of the Certificate hereon endorsed by the manual signature of the Registrar.

[The remainder of this page left intentionally blank.]

IN WITNESS WHEREOF the City of Fargo, North Dakota, by its governing body, has caused this Bond to be executed in its behalf by the manual or facsimile signature of the Mayor and City Auditor, all as of the Date of Original Issue set forth above.

CITY OF FARGO, NORTH DAKOTA

Mayor

City Auditor

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Resolution.

Date of Authentication: _____

U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Registrar

By _____
Authorized Representative

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to the applicable laws or regulations:

TEN COM – as tenants in common	UTMA as Custodian for
	(Cust) (Minor)
TEN ENT – as tenants by the entireties	under Uniform Transfers to Minors Act

	(State)
JT TEN – as joint tenants with right of survivorship and not as tenants in common	

Additional abbreviations may also be used.

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto the _____ within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

EXHIBIT B

CONTINUING DISCLOSURE CERTIFICATE

October 3, 2024

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the City of Fargo, North Dakota (the “Issuer”), in connection with the Issuer’s \$[PAR] Annual Appropriation Bonds, Series 2024G (the “Bonds”). The Bonds are being issued pursuant to an Authorizing Resolution adopted by the governing body of the Issuer on September 16, 2024 (the “Resolution”), and delivered to the purchaser on the date hereof. The Issuer hereby covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the Owners of the Bonds in order to assist the Participating Underwriters within the meaning of SEC Rule 15c2-12(b)(5) (the “Rule”) in complying with the Rule. This Disclosure Certificate constitutes the written undertaking and agreement of the Issuer for the benefit of the Owners of the Bonds as required by the Rule.

SECTION 2. Definitions. In addition to the defined terms set forth in the Resolution, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” means the annual financial information (as defined in the Rule), including audited financial statements, to be provided to the MSRB in an electronic format prescribed by the MSRB pursuant to paragraph 5(i)(A) and (B) of the Rule, as described in Section 3 and 4 of this Disclosure Certificate.

“EMMA” means the Electronic Municipal Market Access system established by the MSRB with the support of the SEC, or any successor system, which can be accessed on the date hereof at www.emma.msrb.org.

“Financial Obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). This term shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Financial Statements” means audited or, if unavailable, unaudited general purpose financial statements of the Issuer prepared in accordance with generally accepted accounting principles, as in effect from time to time or as required to be modified as a matter of law. If unaudited financial statements are provided, audited financial statements will be provided when and if available.

“Fiscal Year” means the fiscal year of the Issuer.

“Final Official Statement” means the deemed final official statement relating to the Bonds dated September [___], 2024, which constitutes the final official statement delivered in connection with the Bonds, which is available from the MSRB.

“Issuer” means the City of Fargo, North Dakota, which is the obligated person (as defined in the Rule) with respect to the Bonds.

“Material Event” means any of the events listed in paragraph 5(i)(C) and paragraph 5(i)(D) of the Rule, which are set forth in Section 5(a) and (d) of this Disclosure Certificate.

“MSRB” means the Municipal Securities Rulemaking Board on the date hereof located at 1300 I Street NW, Suite 1000, Washington DC 20005.

“Owner” means the person in whose name a Bond is registered or a beneficial owner of such a Bond.

“Participating Underwriter” means any of the original underwriter(s) of the Bonds (including the purchasers) required to comply with the Rule in connection with the offering of the Bonds.

“Rule” means SEC Rule 15c2-12(b)(5) promulgated by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time, and including written interpretations thereof by the SEC.

“SEC” means the Securities and Exchange Commission.

SECTION 3. Provision of Annual Financial Information and Financial Statements.

(a) For each Fiscal Year commencing with the Fiscal Year ending December 31, 20[24] the Issuer shall provide to the MSRB, not later than December 31 of the following Fiscal Year and in an electronic format as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate and which shall include the CUSIP numbers for the all outstanding Bonds and such other identifying information as may be required from time to time by the Rule. The Annual Report shall be submitted to the MSRB at EMMA or as otherwise directed by the MSRB and may be submitted as a single document or as separate documents comprising a package, and may incorporate by specific reference information in documents available to the public on the MSRB’s internet website or filed with the SEC; provided that the Financial Statements of the Issuer may be submitted separately from the balance of the Annual Report. If the ending date of the Fiscal Year is changed, the deadline for providing the Annual Report shall be not later than 12 months after the end of each Fiscal Year.

(b) If the Issuer is unable or fails to provide an Annual Report by the date required in subsection (a) to the MSRB, the Issuer shall provide a notice of such failure to the MSRB as set forth in Section 5(b) hereof.

SECTION 4. Content of Annual Reports. The Issuer’s Annual Report shall contain or incorporate by reference the annual Financial Statements and annual financial information similar to that set forth in the following sections of Appendix A of the Final Official Statement:

- (1) [Economic and Demographic Information;
- (2) Financial Summary;
- (3) City Indebtedness;
- (4) Outstanding Indebtedness;
- (5) Financial Information; and
- (6) Property Valuation and Taxes].

SECTION 5. Reporting of Material Events.

(a) The Issuer shall provide to the MSRB in an electronic format prescribed by the MSRB notice of any of the following events with respect to the Bonds in a timely manner not in excess of ten (10) business days after the occurrence of the event, which notice shall be submitted to the MSRB at EMMA, or as otherwise directed by the MSRB:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modification to rights of security holders, if material;
- (8) Bond Calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the obligated person;
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

(b) If the Issuer determines that it has failed to give notice of a Material Event as set forth above or to file the Annual Report in a timely fashion as required herein, the Issuer shall promptly file a notice of such occurrence to the MSRB in an electronic format prescribed by the MSRB, which notice shall be submitted to the MSRB at EMMA or as otherwise directed by the MSRB.

SECTION 6. Reporting Generally. The Issuer shall file its Annual Report, each notice of a Material Event, and each notice required by subsection (b) of Sections 3 and 5 of this Disclosure Certificate with the CUSIP numbers for all outstanding Bonds specified and such other identifying information as may be required from time to time by the Rule or by the MSRB. Each such item shall be submitted to the MSRB at EMMA, or as otherwise directed by the Rule or the MSRB, in an electronic format prescribed by the MSRB.

SECTION 7. Termination of Reporting Obligation. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all the Bonds.

SECTION 8. Agent. The Issuer may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such agent, with or without appointing a successor dissemination agent.

SECTION 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate and without consent of the Owners of the Bonds, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, if such amendment or waiver (i) is required by an amendment of the Rule by the SEC or procedures relating to the Rule by the MSRB, (ii) is to clarify an ambiguity or error, or (iii) does not provide for undertakings which violate the Rule or procedures of the MSRB then in effect or eliminates undertakings then required by the Rule or otherwise required by the SEC or the MSRB with respect to the Rule, which may be evidenced by a written opinion of legal counsel selected by the Issuer to the effect that such amendment or waiver would not, in and of itself, violate the Rule, requires undertakings which would violate the Rule or eliminates undertakings required by the Rule. If the Issuer determines that any such amendment or waiver materially changes the information provided to the MSRB or the timing of the information to be provided and that such information has not otherwise been provided to the MSRB in an Annual Report or Material Event filing, it shall provide the MSRB notice of such amendments as additional information pursuant to Section 9 hereof.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from providing any other information to the public, using the means of filing with the MSRB as set forth in this Disclosure Certificate or any other means of communication. Such information may include any other information in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Disclosure Certificate to update such information and may state in the disclosure that it does not intend to update such information.

SECTION 11. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default with respect to the Bonds and the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Participating Underwriters and Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

IN WITNESS WHEREOF, I have executed this Disclosure Certificate in my official capacity on behalf of the City of Fargo, North Dakota effective as of the date first above written.

CITY OF FARGO, NORTH DAKOTA

By: _____
Steven Sprague
City Auditor

[Signature Page – Continuing Disclosure Certificate (Fargo 2024G)]



10

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

TO: Board of Commissioners
FROM: Susan Thompson, Director of Finance
RE: FAHR Staff meeting – Items for Commission Review/Approval
DATE: September 16, 2024

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

Budget Adjustments

Health – Notice of Grant Award Amendment

Other Financial Considerations

Administration – Sale of Landfill Property: Plat Submission

Administration – Sale of Landfill Property: Advisory
Services and Commercial Realtor

Facilities – North Parking Deck Repairs: Amendment to KLJ
Task Order #3

Finance/HR – Approve MFDA's Plan to Compensate Co-
Executive Directors for extra duty (City and County
Administrators), at MFDA's cost

**Report of Action:
FAHR Meeting of 9/16/2024**



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

Department: Health
Description: WIC Grant – additional Funding See Memo
Due to timing parameters of the Grant, the Mayor-signed Grant Award Amendment was submitted last week, prior to Commission approval. Commission’s ratification of this action is requested to approve the Grant Award Amendment, along with the related budget adjustment.
Net Financial Impact: + \$97,000 (\$99,200 Revenue and \$2,200 Expense)

At their meeting, FAHR endorsed this request.

Suggested Motion:
Approve the WIC Grant Award Amendment, ratify the Mayor’s signature on the Award Amendment document, and approve the related budget adjustment.



FARGO CASS PUBLIC HEALTH
ADMINISTRATION
1240 25th Street South
Fargo, ND 58103-2367
Phone 701.241.1360
FargoCassPublicHealth.com

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: JENN FAUL *JF*
DIRECTOR OF PUBLIC HEALTH
DATE: SEPTEMBER 5, 2024
RE: NOTICE OF GRANT AWARD AMENDMENT FOR WOMEN,
INFANT AND CHILDREN SPECIAL SUPPLEMENTAL
NUTRITION PROGRAM.
NO: G23.453A CFDA: 10.557
ADDITIONAL FUNDS: \$99,200
EXPIRES: 09/30/2024

The attached notice of grant award amendment is for an additional \$99,200 for the Women, Infant and Children program at Fargo Cass Public Health.

BUDGET ADJUSTMENT

REVENUE

WIC 101-0000-331-12-29 \$99,200

EXPENSE

Office Supplies 101-6090-451-61-10 \$ 2,200

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve this grant award amendment from the ND Department of Health and Human Services.

JF/lls
Attachment



NOTICE OF GRANT AWARD
NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
 SFN 53771 (04-2023)

Grant Number G23.453A	CFDA Name Special Supplemental Nutrition Program for Women, Infants and Children	CFDA Number 10.557	
FAIN Number 243ND707W1003	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 10/1/2023	
Federal Award Date 10/01/2023	Federal Awarding Agency U.S. Department of Agriculture	Grant End Date 9/30/2024	
This award is not effective and expenditures related to this award should not be incurred until all parties have signed this document.			
Title of Project/Program Women, Infant and Children (WIC)	North Dakota Department of Health and Human Services (NDDHHS) Project Code: 4551 S317 01		
Grantee Name Fargo Cass Public Health	Project Director Amanda Varriano		
Address 1240 25 th St. S	Address 600 East Boulevard Ave, Dept. 325		
City/State/ZIP Code Fargo, ND 58103	City/State/ZIP Code Bismarck, ND 58505-0250		
Contact Name: Kim Vance	Contact Name: Amanda Varriano		
Telephone Number: (701) 277-1455	Telephone Number: (701) 328-2496		
Email Address: kvance@fargoND.com	Email Address: alvarriano@nd.gov		
	NDDHHS Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$99,200	\$0	\$99,200
Previous Funds Awarded	\$580,000	\$0	\$580,000
Total Funds Awarded	\$679,200	\$0	\$679,200
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimis rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %
Scope of Service This amendment provides additional funding of \$99,200 as follows: \$2,200 to purchase a desktop computer and \$97,000 in support for the ongoing operations of WIC services. All other scope of service requirements of the original statement remain the same.			
Reporting Requirements All reporting requirements of the original agreement remain the same.			
Special Conditions None.			
This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2023 to June 30, 2025 [Finance Use Only: <input checked="" type="checkbox"/> Requirements Received; <input checked="" type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations.			
Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 09/04/2024	Signature 	Date	Signature
Typed Name/Title of Authorized Representative Jenn Faul, Director of Public Health		Typed Name/Title of Authorized Representative Deanna Askew, Unit Director, Family Health & Wellness	
Date	Signature 	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Sara E. Stolt, Deputy Commissioner	
If attachments are referenced, they must be returned with the signed award. If you did not receive attachments as indicated, contact the Program Director identified above.			

BUDGET ADJUSTMENT REQUEST

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

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

DEPARTMENT: Health

REQUESTED BY: Jenn Faul, Melissa Perala **PROJECT NUMBER :** HE27

DATE PREPARED: 9/5/2024

DESCRIPTION OF REQUEST: Notice of Grant Award Amendment G23.453A, for additional \$99,200 increasing expense budget by \$2,200 to cover computer purchases

REVENUE ACCOUNT NUMBER:	CURRENT BUDGET	REQUESTED ADJUSTMENT	NEW BUDGET
101-0000-331-12-29	\$ 580,000	\$ 99,200	\$ 679,200
		+	= \$
		+	= \$ 679,200
TOTAL REVENUE ADJUSTMENTS:		\$ 99,200	

EXPENSE ACCOUNT NUMBER:	CURRENT BUDGET	REQUESTED ADJUSTMENT	NEW BUDGET
101-6090-451-61-10 Office Supplies	\$ 1,500	\$ 2,200	\$ 3,700
		+	= \$
		+	= \$
		+	= \$
		+	= \$
		+	= \$ 3,700
TOTAL EXPENSE ADJUSTMENTS:		\$ 3,700	

PLEASE NOTE: Budget Adjustments that increase expenditures MUST be approved by Finance & Commission.

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

FINANCE DEPT USE ONLY:

FAHR REVIEWED ON: _____

COMMISSION APPROVED ON: _____

ENTERED BY FINANCE: Date: _____

By: _____

BA# _____

**Report of Action:
FAHR Meeting of 9/16/2024**



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

Department: Administration
Description: Plat Submission related to Landfill Property Sale See Memo
Net Financial Impact: NA

At their meeting, FAHR endorsed this request.


Suggested Motion:

Authorize the Mayor to submit the plat application to the City of West Fargo and sign the approved plat upon its approval.



MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: September 3, 2024

SUBJECT: Sale of Landfill Property – Plat Submission

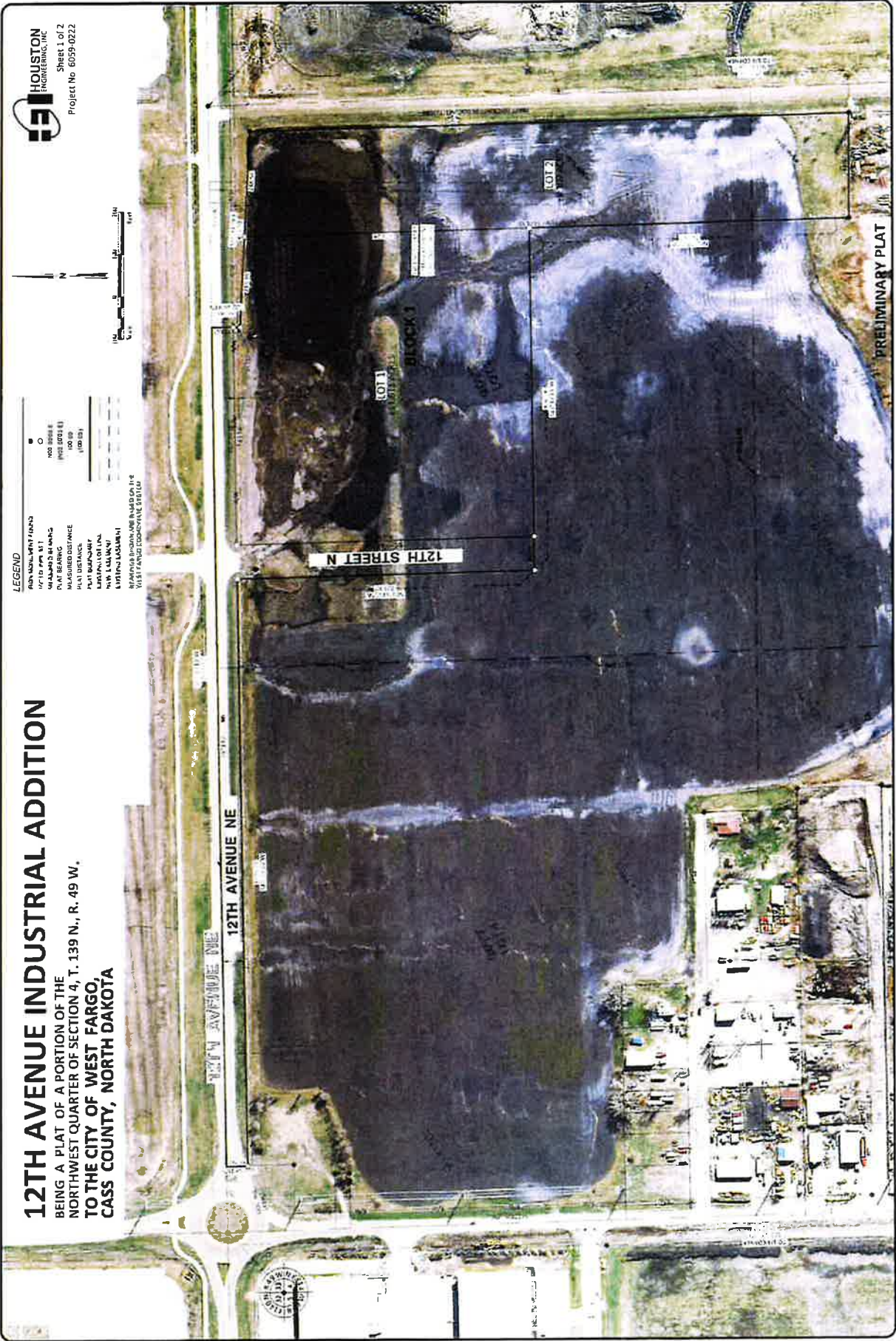
In August, the City Commission approved a resolution to authorize the sale of City property west of the landfill. The site is approximately 61 acres and located in the City of West Fargo.

As described in that recommendation to sell the property, the City will divide the property into three parcels. The City will retain two parcels, one for monitoring wells and the other for the snow dump. The third parcel will be sold.

A preliminary plat has been prepared to divide the property and dedicate some right-of-way. It is attached for your review. The preliminary plat needs to be submitted to the City of West Fargo for approval.

Recommended Motion:

Authorize the Mayor to submit the plat application to the City of West Fargo and sign the approved plat upon its approval.



12TH AVENUE INDUSTRIAL ADDITION
 BEING A PLAT OF A PORTION OF THE
 NORTHWEST QUARTER OF SECTION 4, T. 139 N., R. 49 W.,
 TO THE CITY OF WEST FARGO,
 CASS COUNTY, NORTH DAKOTA

- LEGEND**
- ROAD RIGHT-OF-WAY
 - UTILITY RIGHT-OF-WAY
 - UNIMPROVED RIGHTS
 - PLAT BOUNDARY
 - PLAT DISTANCE
 - PLAT BOUNDARY
 - UNIMPROVED RIGHTS
 - UNIMPROVED RIGHTS
 - UNIMPROVED RIGHTS



HOUSTON ENGINEERS, P.C.
 Sheet 1 of 2
 Project No. 6059-DZ22

10/18/2022 10:50:00 AM 10/18/2022 10:50:00 AM 10/18/2022 Preliminary Plat.dwg

**Report of Action:
FAHR Meeting of 9/16/2024**



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

Department: Administration
Description: Advisor Services and Commercial Realtors for Landfill Property Sale See Memo
Net Financial Impact: NA

At their meeting, FAHR endorsed this request.

Suggested Motion:


Approve Request for Proposals for:

1. Advisory Services to market the property.
2. Commercial Realtors to list the property for sale.



MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: September 3, 2024

SUBJECT: Sale of Landfill Property – Advisory Services and Commercial Realtors

In August, the City Commission approved a resolution to authorize the sale of City property west of the landfill. The site is approximately 61 acres.

As described in that recommendation, the strategy is to hire an advisor to recommend a listing price and assist in marketing the property. In addition to the advisor, the city will need to enter into non-exclusive listing agreements with commercial realtors.

The ND Century Code allows the City to engage licensed real estate brokers by way of nonexclusive listing agreements. (NDCC 40-11-04.2).

Attached for your consideration are two requests for proposals. The first is a request for proposals for advisory services, and only one advisor is needed. The second is for realtors to list the property for sale, and there may be multiple listing agreements.

Proposals will be due October 18. Staff will make a recommendation on the advisor for your October 28th meeting.

Recommended Motion:

Approve Requests for Proposals for:

1. Advisory Services to market the property.
2. Commercial Realtors to list the property for sale.

Attachments

Request for Proposals

The City of Fargo is requesting proposals from realtors to provide advisory services with respect to offering for sale property immediately to the west of the Fargo landfill. It is located in the City of West Fargo. The City intends to retain a portion of the property for monitoring wells and a snow dump. Services needed include:

- A. Providing market analysis and research relevant to commercial real estate in Fargo/West Fargo and to assist the City in identifying a marketing strategy for the subject property.
- B. Assisting in negotiations with property owners, developers, realtors and other relevant parties.
- C. Offering recommendations on property valuation, opportunities and potential risks.
- D. Marketing services including but not limited to creating marketing materials, advertising listings, organizing property showings, on-site signage and implementing digital marketing strategies.
- E. Any additional services as mutually agreed upon by both parties.

The City will be entering into a Commercial Real Estate Advisory Agreement similar to Exhibit A attached to provide advisory services.

Scope of services excluded: The City will also be entering into a nonexclusive listing agreement in a form substantially similar to Exhibit B, which states the listing agreement adviser will be authorized to recruit prospective buyers for the subject property advertised for sale by the City and to present any prospective buyers' offers to the City for consideration. Other licensed real estate brokers will also be eligible to enter into a similar nonexclusive listing agreement with the City for the recruitment of, and presentation to the City of, purchase agreements from prospective buyers. Other real estate brokers that enter into nonexclusive listing agreements with the City for the subject property are excluded from the scope of services provided by the adviser.

Submit proposals for advisory services, which include the name of the advisory company and contact person, and describe the following:

- 1. Individuals who will provide the advisory services and their experience.
- 2. Experience with marketing real estate.
- 3. Knowledge of industrial properties in the Fargo metro area.
- 4. Experience with real estate development including rezoning and subdivisions.
- 5. Knowledge of the City property to be sold and adjoining properties.
- 6. Experience working with other realtors.

The decision to select the adviser will be based on the six factors above.

A description of the property to be sold is attached.

Contact Jim Gilmour with any questions or comments:
Phone 701-566-4097 or email JGilmour@FargoND.gov

Submit proposals via email to: JGilmour@FargoND.gov by October 18, 2024 at 4:00 p.m.

LEGAL DESCRIPTION OF "LANDFILL PROPERTY" TAKEN FROM DRAFT SURVEY

That part of the Northwest Quarter of Section 4, Township 139 North, Range 49 West of the Fifth Principal Meridian, in the City of West Fargo, Cass County, North Dakota, described as follows:

Commencing at the northwest corner of said Northwest Quarter; thence North 87°39'19" East, along the northerly line of said Northwest Quarter, for a distance of 155.00 feet to the northeast corner of a tract described in Document No. 1439657, on file at the Cass County Recorder's Office; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1439657, for a distance of 50.00 feet to a point of intersection with the southerly line of the North 50.00 feet of said Northwest Quarter and the True Point of Beginning; thence continue South 02°59'15" East, along the easterly line of a tract described in said Document No. 1439657, for a distance of 110.00 feet; thence South 87°39'19" West, along the southerly line of a tract described in said Document No. 1439657, for a distance of 155.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South 02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 100.00 feet to the northwest corner of a tract described in Document No. 954625, on file at said Recorder's Office; thence North 87°39'19" East, along the northerly line of a tract described in said Document No. 954625, for a distance of 130.00 feet to the northeast corner of a tract described in said Document No. 954625; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 954625, for a distance of 35.00 feet to the southeast corner of said Document No. 954625; thence South 87°39'19" West, along the southerly line of a tract described in said Document No. 954625, for a distance of 130.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South 02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 647.27 feet to the northwest corner of a tract described in Document No. 1648825, on file at said Recorder's Office; thence North 87°41'21" East, along the northerly line of a tract described in said Document No. 1648825, the northerly line of tract described in Book 292, Page 103, Book 290, Page 287, and Book 300, Page 641, all on file in said Recorder's Office, and along the northerly line of a tract described in Document No. 1641774, on file at said Recorder's Office, for a distance of 550.00 feet to the northeast corner of a tract described in said Document No. 1641774; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1641774, for a distance of 150.00 feet to the southeast corner of a tract described in said Document No. 1641774; thence South 87°41'21" West, along the southerly line of the tracts described in said Document No. 164177, said Book 300, Page 641, said Book 290, Page 287, said Book 292, Page 103, and said Document No. 1648825, for a distance of 550.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South

02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 50.00 feet to the northwest corner of a tract described in Document No. 1699553, on file at said Recorder's Office; thence North 87°41'21" East, along the northerly line of a tract described in said Document No. 1699553, and along the northerly line of tracts described in Document Nos. 985739, 1456361, 925139, 1625673, 1356145, and 598509, all on file at said Recorder's Office, for a distance of 950.22 feet to the northeast corner of a tract described in said Document No. 598509; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 598509, for a distance of 218.63 feet to a point of intersection with the northerly line of Auditor's Lot No. 2 of the Northwest Quarter of said Section 4, on file at said Recorder's Office; thence North 87°44'23" East, along the northerly line of said Auditor's Lot No. 2, for a distance of 48.86 feet to the northeast corner of said Auditor's Lot No. 2; thence South 02°59'15" East, along the easterly line of said Auditor's Lot No. 2 and its southerly extension, for a distance of 199.96 feet to a point of intersection with the northerly line of a tract described in Document No. 1374936, on file at said Recorder's Office; thence North 87°44'23" East, along the northerly line of a tract described in said Document No. 1374936, for a distance of 1.68 feet; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1374936, for a distance of 198.19 feet; thence North 87°42'51" East, along the northerly line of a tract described in said Document No. 1374936, for a distance of 326.04 feet to a point of intersection with the westerly line of a tract of land described in Document No. 1651350, on file at said Recorder's Office; thence North 03°00'57" West, along the westerly line of a tract described in said Document No. 1651350, for a distance of 36.65 feet to the northwest corner of a tract described in said Document No. 1651350; thence North 88°35'54" East, along the northerly line of a tract described in said Document No. 1651350, for a distance of 267.79 feet to the northwest corner of Auditor's Lot No. 1 of the Northwest Quarter of said Section 4, on file at said Recorder's Office; thence North 88°35'54" East, along the northerly line of said Auditor's Lot No. 1, for a distance of 264.98 feet to the northwest corner of Kautzman's First Addition, on file at said Recorder's Office; thence North 88°35'54" East, along the northerly line of said Kautzman's First Addition, for a distance of 480.00 feet; thence North 03°02'44" West, along the northerly line of said Kautzman's First Addition, for a distance of 228.86 feet; thence North 02°53'21" West for a distance of 757.83 feet; thence South 87°39'19" West for a distance of 806.14 feet; thence North 02°53'21" West for a distance of 703.32 feet to a point of intersection with the southerly line of the North 50.00 feet of said Northwest Quarter; thence South 87°39'19" West, along the southerly line of the North 50.00 feet of said Northwest Quarter, for a distance of 1379.73 feet to the True Point of Beginning.

Said tract contains 61.846 acres, more or less, and is subject to easements as may be of record.

Exhibit A

COMMERCIAL REAL ESTATE ADVISORY AGREEMENT

This Commercial Real Estate Advisory Agreement ("Agreement") is made effective as of _____, ("Effective Date") between SUCCESSFUL RFP PROPOSER, INC., located at _____ [insert address] ("Advisor") and the City of Fargo, a North Dakota municipal corporation ("Owner"), located at 225 4th Street North, Fargo, ND 58102.

RECITALS:

WHEREAS, The City has, by resolution of the board of city commissioners dated the ____ day of _____, 2024, determined that certain real property, described more fully below, be broken into one or more separate parcels and said parcel or parcels then be offered for sale to prospective buyers; and,

WHEREAS, said resolution directed that the City engage licensed real estate brokers to attempt to sell the described property by way of nonexclusive listing agreements and the resolution provided a maximum rate of commission to be paid to the particular broker that presents to the City the best offer of purchase, said rate of commission being a maximum commission of three percent (3%) of the purchase price for the parcel being sold; and,

WHEREAS, said resolution further provided that the City reserves the right to reject any and all offers for the purchase of the property determined to be insufficient; and,

WHEREAS, said resolution also provides and directs that the City wishes to engage a licensed real estate broker to provide certain real estate brokerage advisory services to the City, which broker and services is to be procured by a public request-for-proposals process and the Advisor having made a proposal to the City and the City having selected such proposal and, therefore, the Advisor and City being desirous of entering into an agreement containing the terms for the engagement of the Advisor by the City;

NOW, THEREFOR, it is hereby agreed;

1. Property: The real property that is the subject of this Agreement is situate in the County of Cass, and the State of North Dakota, further described as follows:

[insert legal description];

the street address for which is generally known as _____, West Fargo, North Dakota, and the West Fargo Parcel Number is 02-3000-00560-010 (*Legal Description to Govern*). Said real property may be subdivided into various parcels for marketing and sale by the City to one or more buyers and said parcels shall be referred to individually as a "Subject Property Parcel" and cumulatively as the "Subject Property Parcels" or as the "Subject Property."

2. Engagement of Services: The City and the Advisor agree that, upon request by the City, Advisor will provide certain advisory services to the Owner with respect to the prospective offering for sale of the Subject Property, in one or more parcels as determined by the City, to prospective buyers.
3. Scope of Services: The scope of services to be provided to the City by the Advisor, may include, but are not limited to:

- A. Providing market analysis and research relevant to commercial real estate in the City of Fargo and to assist the City in identifying a marketing strategy for the Subject Property.
 - B. Advising on Subject Property acquisition, disposition, leasing, and development strategies.
 - C. Assisting in negotiations with property owners, tenants, developers, and other relevant parties.
 - D. Offering recommendations on property valuation, investment opportunities, and potential risks.
 - E. Marketing services including but not limited to creating marketing materials, advertising listings, organizing property showings, on-site signage and implementing digital marketing strategies.
 - F. Any additional services as mutually agreed upon by both parties.
4. **Scope of Services Excluded.** The parties recognize that the Advisor and City will also be entering into a nonexclusive listing agreement in a form substantially similar to Exhibit A hereto, [the "Listing Agreement"] by which Listing Agreement the Advisor will be authorized to recruit prospective buyers for the Subject Property and/or the Subject Property Parcels advertised for sale by the City and to present any prospective buyers' offers to the City for consideration. The parties further recognize that other licensed real estate brokers will also be eligible to enter into a similar nonexclusive listing agreement with the City for the recruitment of, and presentation to the City of, purchase agreements from prospective buyers. Advisor and City acknowledge and agree that the services provided to the City by Advisor and by any other real estate brokers that enter into nonexclusive listing agreements with the City for the Subject Property and/or the Subject Property Parcels are excluded from the scope of services provided to the City by Advisor pursuant to this Agreement.
 5. **Term:** This Agreement shall commence on the Effective Date and shall continue until terminated by either party upon sixty (60) day written notice.
 6. **Compensation:** The Owner agrees to compensate Advisor for services rendered a fee of three percent (3%) of the selling price of the Subject Property at closing if it is sold as one parcel and of the selling price of each of the Subject Property Parcels at closing as to each such parcel.
 7. **Confidentiality:** Both parties agree to maintain the confidentiality of all information exchanged during the term of this Agreement. This includes, but is not limited to, proprietary data, financial information, and business strategies.
 8. **Independent Contractor:** SUCCESSFUL RFP PROPOSER, INC., shall perform all services under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship between the parties.
 9. **Execution in Counterpart:** This Agreement may be executed in one (1) or more counterparts, each of them shall be considered an original document, but all of which shall be considered one (1) and the same agreement and shall become binding when one (1) or more counterparts have been signed by each of the parties.
 10. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.
 11. **Entire Agreement:** This Agreement constitutes the entire understanding between the parties concerning the subject matter hereof and supersedes all prior agreements, whether written or oral, relating to such subject matter, recognizing that Advisor and Owner may also enter into a Listing Agreement pertaining to excluded services as recognized above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

[Remainder of page blank—execution pages to follow]

Exhibit B

NORTH DAKOTA
NON-EXCLUSIVE RIGHT TO SELL

This Non-Exclusive Right to Sell agreement is made effective as of _____ (“Effective Date”) between **XYZ Real Estate Brokerage Firm, Inc.**, a North Dakota corporation (“Broker”), with an address of _____, _____, ND 58103, and City of Fargo, a North Dakota municipal corporation (“Owner”), with an address 225 4th Street North, Fargo, ND 58102. This Agreement shall commence on the Effective Date and shall continue until terminated by either party upon sixty (60) day written notice.

Property

The Property is situated in the City of West Fargo, County of Cass and the State of North Dakota, further described as follows:

Parcel Number: 02-3000-00560-010 (*Legal Description to Govern*) ***}}}DRAFTING COMMENT: This may need to be revised depending upon whether there will be a separate non-exclusive listing agreement for each subdivided parcel or a single agreement for the entire “Property”}}}***

Offering Price

Owner and Broker agree to offer the Parcel for sale for TBD or approximately \$X.XX/SF on the following terms: cash to owner at closing, or at such other price and terms as shall be acceptable to owner.

Type of Listing

This listing is and shall be considered by the parties to be a Non-Exclusive listing and Broker’s right to a commission will arise upon the procurement of a ready, willing, and able purchaser by Broker. ***}}}Drafting comment: shouldn't right to commission arise only if property sale closes?}}}***

Sharing of Closed Sales Data

Owner authorizes Broker to share the final selling price with licensed appraisers and Realtors for purposes of determining comparative sales data. If Owner **DOES NOT** permit sharing of final sales price initial here _____.

Representation

Owner acknowledges Broker is a brokerage firm that represents multiple owners and buyers. Owner desires the Property be presented to such persons or entities and consents to the dual representation created. Broker will not disclose the confidential information of one principal to the other. Broker does however warrant it will disclose the parties it represents to all parties to the transaction.

Broker Responsibilities

Broker agrees to pursue these duties and obligations with diligence: To undertake efforts to find a buyer for the Properties. To furnish data requested by cooperating brokers. To furnish the information provided herein to third parties. To offer the Properties in compliance with all applicable federal, state, and local laws and regulations. To promptly communicate all purchase proposals to Owner. To hold in trust all moneys in the transaction paid to Broker.

Owner Responsibilities

Owner agrees: To furnish a Certificate of Title or Abstract from a reliable abstract company. To furnish a Limited Warranty Deed conveying a good and marketable title. To provide evidence of an environmental survey, if any. To make available to Broker and prospective purchasers all data, records, and documents pertaining to the Property. To disclose to Broker and to prospective buyers any and all information that Owner has regarding present and future zoning requirements, environmental matters, and other information that may affect the Property or the prospect’s right to know. To allow Broker, or any other broker with whom Broker chooses to cooperate, to show the Property at reasonable times and upon reasonable notice. To commit no act that might tend to obstruct the Broker’s performance hereunder. To hold Broker harmless from any causes of action or other liability arising out of incorrect information furnished by Owner or undisclosed information. To

notify Broker within seven (7) days of any changes in rentals or substantial expenses of the Property. To pay Broker a sales commission.

Commission Compensation

Owner agrees to pay Broker as compensation for services rendered a fee of three percent (3%) of the selling price under any of the following conditions:

1. Broker procures a purchaser upon the terms specified herein or pursuant to other terms acceptable to Owner.

Authority to Receive Deposit

Broker is authorized to receive a deposit from any purchaser who offers to buy the property, and shall promptly notify Owner of the receipt of any such deposit. Any such deposit shall be considered accepted only when Owner accepts buyer's offer.

Dispute Remedies

In the event of any dispute between Owner and Broker relating to this Non-Exclusive Right to Sell, Owner and Broker agree such dispute will be resolved by means of binding arbitration. If the parties cannot agree on an arbitrator the parties shall each select one arbitrator with the two chosen arbitrators then choosing an impartial third arbitrator so that a total of three (3) arbitrators will review and resolve the dispute. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator will be limited to awarding compensatory damages and will have no authority to award punitive, exemplary or similar type damages. The prevailing party will be entitled to recover its expenses, including the costs of the arbitration proceeding and reasonable attorney fees.

The failure by Owner to pay the commission to Broker when due and without demand, will be subject to interest at the rate of one percent (1%) per month on the total amount outstanding. This clause does not grant Owner the right to make installment payments.

The undersigned Owner warrants that he is the Owner of record of the Property or has the authority to execute this agreement.

Receipt of a copy is hereby acknowledged.

BROKER:
XYZ Real Estate Brokerage Firm, Inc.

OWNER:
City of Fargo, a North Dakota municipal corporation

By: _____

By: _____

Dated: _____

Dated: _____

By: _____

Dated: _____

Request for Proposals

The City of Fargo is requesting proposals from realtors to enter into a nonexclusive listing agreement to list for sale property owned by the City of Fargo located immediately to the west of the Fargo landfill. It is located in the City of West Fargo. The City intends to retain a portion of the property for monitoring wells and a snow dump. Realtors must be licensed commercial realtors.

The City will also be entering into an entering into a contract for advisory services to assist with the sale of the property, so certain services will be excluded. The attached listing agreement outlines the services needed from the realtor. Except for the adviser, other real estate brokers who enter into nonexclusive listing agreements with the City for the subject property are excluded from the scope of services provided by the adviser.

Submit proposals to include the name of the realtor, where they are licensed and the contact person.

A description of the property to be sold is attached.

Contact Jim Gilmour with any questions or comments:
Phone 701-566-4097 or email JGilmour@FargoND.gov.

Submit proposals via email to: JGilmour@FargoND.gov by October 18, 2024 at 4:00 p.m.

LEGAL DESCRIPTION OF "LANDFILL PROPERTY" TAKEN FROM DRAFT SURVEY

That part of the Northwest Quarter of Section 4, Township 139 North, Range 49 West of the Fifth Principal Meridian, in the City of West Fargo, Cass County, North Dakota, described as follows:

Commencing at the northwest corner of said Northwest Quarter; thence North 87°39'19" East, along the northerly line of said Northwest Quarter, for a distance of 155.00 feet to the northeast corner of a tract described in Document No. 1439657, on file at the Cass County Recorder's Office; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1439657, for a distance of 50.00 feet to a point of intersection with the southerly line of the North 50.00 feet of said Northwest Quarter and the True Point of Beginning; thence continue South 02°59'15" East, along the easterly line of a tract described in said Document No. 1439657, for a distance of 110.00 feet; thence South 87°39'19" West, along the southerly line of a tract described in said Document No. 1439657, for a distance of 155.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South 02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 100.00 feet to the northwest corner of a tract described in Document No. 954625, on file at said Recorder's Office; thence North 87°39'19" East, along the northerly line of a tract described in said Document No. 954625, for a distance of 130.00 feet to the northeast corner of a tract described in said Document No. 954625; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 954625, for a distance of 35.00 feet to the southeast corner of said Document No. 954625; thence South 87°39'19" West, along the southerly line of a tract described in said Document No. 954625, for a distance of 130.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South 02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 647.27 feet to the northwest corner of a tract described in Document No. 1648825, on file at said Recorder's Office; thence North 87°41'21" East, along the northerly line of a tract described in said Document No. 1648825, the northerly line of tract described in Book 292, Page 103, Book 290, Page 287, and Book 300, Page 641, all on file in said Recorder's Office, and along the northerly line of a tract described in Document No. 1641774, on file at said Recorder's Office, for a distance of 550.00 feet to the northeast corner of a tract described in said Document No. 1641774; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1641774, for a distance of 150.00 feet to the southeast corner of a tract described in said Document No. 1641774; thence South 87°41'21" West, along the southerly line of the tracts described in said Document No. 164177, said Book 300, Page 641, said Book 290, Page 287, said Book 292, Page 103, and said Document No. 1648825, for a distance of 550.00 feet to a point of intersection with the westerly line of said Northwest Quarter; thence South

02°59'15" East, along the westerly line of said Northwest Quarter, for a distance of 50.00 feet to the northwest corner of a tract described in Document No. 1699553, on file at said Recorder's Office; thence North 87°41'21" East, along the northerly line of a tract described in said Document No. 1699553, and along the northerly line of tracts described in Document Nos. 985739, 1456361, 925139, 1625673, 1356145, and 598509, all on file at said Recorder's Office, for a distance of 950.22 feet to the northeast corner of a tract described in said Document No. 598509; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 598509, for a distance of 218.63 feet to a point of intersection with the northerly line of Auditor's Lot No. 2 of the Northwest Quarter of said Section 4, on file at said Recorder's Office; thence North 87°44'23" East, along the northerly line of said Auditor's Lot No. 2, for a distance of 48.86 feet to the northeast corner of said Auditor's Lot No. 2; thence South 02°59'15" East, along the easterly line of said Auditor's Lot No. 2 and its southerly extension, for a distance of 199.96 feet to a point of intersection with the northerly line of a tract described in Document No. 1374936, on file at said Recorder's Office; thence North 87°44'23" East, along the northerly line of a tract described in said Document No. 1374936, for a distance of 1.68 feet; thence South 02°59'15" East, along the easterly line of a tract described in said Document No. 1374936, for a distance of 198.19 feet; thence North 87°42'51" East, along the northerly line of a tract described in said Document No. 1374936, for a distance of 326.04 feet to a point of intersection with the westerly line of a tract of land described in Document No. 1651350, on file at said Recorder's Office; thence North 03°00'57" West, along the westerly line of a tract described in said Document No. 1651350, for a distance of 36.65 feet to the northwest corner of a tract described in said Document No. 1651350; thence North 88°35'54" East, along the northerly line of a tract described in said Document No. 1651350, for a distance of 267.79 feet to the northwest corner of Auditor's Lot No. 1 of the Northwest Quarter of said Section 4, on file at said Recorder's Office; thence North 88°35'54" East, along the northerly line of said Auditor's Lot No. 1, for a distance of 264.98 feet to the northwest corner of Kautzman's First Addition, on file at said Recorder's Office; thence North 88°35'54" East, along the northerly line of said Kautzman's First Addition, for a distance of 480.00 feet; thence North 03°02'44" West, along the northerly line of said Kautzman's First Addition, for a distance of 228.86 feet; thence North 02°53'21" West for a distance of 757.83 feet; thence South 87°39'19" West for a distance of 806.14 feet; thence North 02°53'21" West for a distance of 703.32 feet to a point of intersection with the southerly line of the North 50.00 feet of said Northwest Quarter; thence South 87°39'19" West, along the southerly line of the North 50.00 feet of said Northwest Quarter, for a distance of 1379.73 feet to the True Point of Beginning.

Said tract contains 61.846 acres, more or less, and is subject to easements as may be of record.



**Report of Action:
FAHR Meeting of 9/16/2024**

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

Department: Facilities
Description: Amendment to KLI Task Order 3 See Memo
Net Financial Impact: \$42,375 (included with project budget)

At their meeting, FAHR endorsed this request.

Suggested Motion:

Approve Amendment 1 to Task Order 3 for KLF to begin Phase 2 of the North Parking Deck repairs project, along with related costs.

Memorandum

To: Fargo City Commission
From: Bekki Majerus, Director of Facilities Management
Date: September 9, 2024
Re: North Parking Deck Repairs – Amendment to KLJ Task Order 3 (RFP24010)

The North Parking Deck at City Hall has significant drainage issues. In March of 2024, under the Engineering MSA (RFP24010), KLJ was assigned Task Order 3 to complete a non-invasive investigation of the North Parking Deck and provide a report summarizing findings, two recommendations for remedy and a rough order of magnitude range for construction costs related to those recommendations.

In August of 2024, KLJ provided the report to complete Phase 1 of this project. The estimated costs have been provided to Administration and Finance. Finance is currently working to secure the funding for this project through a bond.

KLJ has provided the scope for Phase 2 of this project as an amendment to Task Order 3 of the Engineering MSA. This phase includes construction documents, bidding assistance and construction administration to assist with supplemental investigative work to determine the full extent of repairs required to mitigate water and drainage issues on the North Parking Deck.

The additional cost for this task order is \$42,375. We are requesting approval to move forward with this phase in order to complete the investigative work necessary to develop final construction plans for the repairs.

Please note that a second amendment will be forthcoming following the completion of Phase 2. The second amendment will detail Phase 3: Construction to be initiated in 2025.

Recommended Action:

Approve the costs associated with Amendment 1 to Task Order 3 for KLJ to begin Phase 2 of the North Parking Deck Repairs Project.



300 23rd Ave E, Suite 100
West Fargo, ND 58078-7820
701 232 5353
KLJENG.COM

August 28, 2024

Bekki Majerus
Director of Facilities
224 4th Street North
Fargo, ND 58102

Re: Amendment 1 - City Hall Parking Structure Assessment & Repairs – Fargo, ND

Dear Ms. Majerus:

We would like to thank you for your interest in additional services needed to complete the investigative services outlined in conjunction with recommendations included in the report titled “Fargo City Hall North Parking Plaza – Drainage Peer Review and Assessment” (KH Report) prepared by Kimley Horn on July 31, 2024, as a subconsultant to KLJ. We have attached our proposed scope of services and fees in Exhibits A and B respectively.

Upon acceptance of our proposal, we will work with you to execute a task order amendment in conjunction with our MSA dated December 15, 2023. We can begin work once the amendment is in place.

If you have any questions regarding the information provided, please let us know. We look forward to working with you.

Sincerely,

KLJ

A handwritten signature in black ink that reads "Cassie McNames".

Cassie McNames, PE
Senior Project Manager

Enclosure(s): (2) Exhibit A-1, Exhibit B-1
Project #: 2204-01305
cc: File



**Exhibit A-1
Amendment No. 1
Engineering Services
City Hall Deck Repairs
Fargo, ND**

Engineer's Services

The City of Fargo has requested KLJ provide additional services, including construction documents, bidding assistance and construction administration, to assist with supplemental investigative work required to determine the full extent of repairs required to mitigate water and drainage issues on the north parking deck of the City Hall building located at 225 4th Avenue North in Fargo, North Dakota. This work is being completed in conjunction with recommendations included in the report titled "Fargo City Hall North Parking Plaza – Drainage Peer Review and Assessment" (KH Report) prepared by Kimley Horn on July 31, 2024, as a subconsultant to KLJ. The initial report services are included in Attachment A/Exhibit A of RFP24010 Task Order No. 3. Scope of supplemental investigation is anticipated to include:

- Development of plans/specifications illustrating selective demolition and construction services necessary for investigation and assessment of the conditions at the deck perimeter.
- Bidding services to assist the City in procuring a contract to complete the investigative removals and repairs. Since the construction budget is estimated to be below the \$200,000 threshold defined in Chapter 48 of ND Century Code (NDCC), it is anticipated the City will procure quotes from contractors and a formal/public bid process will not be required.
- On-site condition assessment of the opened conditions, verification of final repairs scope, and partial construction phase services to an agreed to scope.
- Construction administration to review progress and scope of contractor's services.
- Test pits are anticipated to be located at various points around the perimeter of the slab, strategic locations in the perimeter veneer walls, joints between the precast planks and precast bearing points, and along/at grade/grass area to review foundation wall waterproofing system.
- Exploratory openings and subsequent restoration will be completed by a general contractor to be procured by the City.

The services anticipated to assist in this task are as follows.

I. Engineer's Services

A. Construction Documents

1. Assemble and prepare detailed plans and specifications detailing selective demolition and replacement test pits as described above. Plans will identify size and location of openings for test pits. Plan notes will be provided for restoration requirements at each opening.
 - a. Miller Dunwiddie will prepare plans and will coordinate structural considerations/requirements with Kimley-Horn.
2. Prepare final plans stamped and signed by design professionals licensed in the State of North Dakota. Deliver one electronic set of documents and one original signed set of documents to City of Fargo.
3. Permits shall be responsibility of contractor.

B. Bidding Assistance

1. Bidding phase is anticipated to be administered by the City of Fargo. KLJ will provide plans detailing construction requirements associated with exploratory test pits and restoration.



- 2. Answer contractor questions during the bidding phase.
- 3. KLJ will attend pre-bid site visit to be held at City Hall. KLJ subconsultants will not be in attendance. Questions arising from pre-bid site visit will be relayed to KLJ subconsultants and an addendum will be issued to clarify questions.
- 4. Bid opening, tabulation of bids, and bid award will be completed by City.

C. Construction Administration:

- 1. City shall execute city’s standard contract for construction with selected contractor.
- 2. Answer questions and issue RFI’s as necessary to clarify drawings or specifications.
- 3. Shop drawing review.
- 4. Review of pay requests.
- 5. KLJ will administer up to two (2) construction meetings with Kimley-Horn and Miller Dunwiddie attending via conference call. Construction is estimated to extend no more than 2-months. KLJ will conduct a site visit to review construction progress concurrent with the construction meetings.
- 6. Once test pits are opened, Miller Dunwiddie will perform up to two (2) site visits to review exposed conditions. Documentation of issues identified after review of test pits will be provided along with recommendations for remedial repairs and opinions of probable cost.
- 7. Preparation of a punch list prior to substantial completion.
- 8. Final walkthrough.

II. Team responsibilities:

- A. KLJ – Project Management, bidding assistance, and construction administration.
- B. Kimley-Horn –Structural engineering, bidding assistance, and construction administration.
- C. Miller Dunwiddie – Construction documents, architecture, bidding assistance, and construction administration.

III. Anticipated Project Schedule

Contract Execution/Notice to Proceed (NTP)	September 16, 2024
Construction Documents (CDs)	October 4, 2024
Bidding Assistance.....	October 2024
Construction Administration.....	November – December 2024

IV. Services Not Included

These services can be provided upon request and will be negotiated at the time services are rendered and will be addressed in an amendment to the contract.

- A. Design of final repairs for Repair Option 1 or Repair Option 2 as described in KH Report.
- B. Construction documents, bidding assistance and construction administration associated with final repairs for Repair Option 1 or Repair Option 2 as described in KH Report.
- C. Design, preparation of construction documents, bidding assistance and construction administration associated with repair recommendations resulting from the services identified above.
- D. City of Fargo permitting and plan review.
- E. Public bidding per NDCC Chapter 48, re-bidding a bid package or preparation of multiple bid packages.
- F. Preparation of as-built drawings.
- G. Additional services, tasks, and meetings not described in tasks outlined above.

**Exhibit B-1
Amendment 1
Engineering Services
City Hall Parking Structure Assessment & Repairs
Fargo, ND**

Payment for Services

I. Compensation - Lump Sum Method of Payment

A. Client shall pay Engineer for services listed in Exhibit A-1 as follows:

- | | |
|---|----------|
| 1. Engineering Services | \$42,375 |
| 2. Additional Services | |
| 1. Additional services above and beyond those listed in Exhibit A will be invoiced per Engineer's Hourly Rates as agreed to in the Master Service Agreement between City of Fargo and KJ dated December 15, 2023. | |

Note: The lump sum amounts above include compensation for Engineer's services. Appropriate amounts have been incorporated in the lump sum to account for labor, overhead, profit, and reimbursable expenses.

2204-01305
AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 1

Background Data

- a. Effective Date of Engineer-Owner Agreement: March 12, 2024
- b. Engineer: KLJ Engineering LLC
- c. Owner: City of Fargo
- d. Project: City Hall Parking Structure Assessment & Repairs
- e. This Part of the Project: Supplemental Investigative Engineering/Architectural Services

Nature of Amendment (check all that apply)

- Additional services to be performed by Engineer
- Modifications to services of Engineer
- Modifications to responsibilities of Owner
- Modifications to payment to Engineer
- Modifications to time(s) for rendering Services

Description of Modifications:
Refer to Exhibit A-1 attached.

Agreement Summary

- a. Original agreement amount: \$21,500
- b. Net change for prior amendments: \$0
- c. This amendment amount: \$42,375
- d. Adjusted Agreement amount: \$63,875

Engineer and Owner hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is September 3, 2024.

ENGINEER: KLJ Engineering LLC

OWNER: City of Fargo





By: Luke LaLiberty

By: Bekki Majerus

Title: Associate VP Municipal

Title: Director of Facilities Management

Date Signed: August 28, 2024

Date Signed: _____



**Exhibit A-1
Amendment No. 1
Engineering Services
City Hall Deck Repairs
Fargo, ND**

Engineer's Services

The City of Fargo has requested KLJ provide additional services, including construction documents, bidding assistance and construction administration, to assist with supplemental investigative work required to determine the full extent of repairs required to mitigate water and drainage issues on the north parking deck of the City Hall building located at 225 4th Avenue North in Fargo, North Dakota. This work is being completed in conjunction with recommendations included in the report titled "Fargo City Hall North Parking Plaza – Drainage Peer Review and Assessment" (KH Report) prepared by Kimley Horn on July 31, 2024, as a subconsultant to KLJ. The initial report services are included in Attachment A/Exhibit A of RFP24010 Task Order No. 3. Scope of supplemental investigation is anticipated to include:

- Development of plans/specifications illustrating selective demolition and construction services necessary for investigation and assessment of the conditions at the deck perimeter.
- Bidding services to assist the City in procuring a contract to complete the investigative removals and repairs. Since the construction budget is estimated to be below the \$200,000 threshold defined in Chapter 48 of ND Century Code (NDCC), it is anticipated the City will procure quotes from contractors and a formal/public bid process will not be required.
- On-site condition assessment of the opened conditions, verification of final repairs scope, and partial construction phase services to an agreed to scope.
- Construction administration to review progress and scope of contractor's services.
- Test pits are anticipated to be located at various points around the perimeter of the slab, strategic locations in the perimeter veneer walls, joints between the precast planks and precast bearing points, and along/at grade/grass area to review foundation wall waterproofing system.
- Exploratory openings and subsequent restoration will be completed by a general contractor to be procured by the City.

The services anticipated to assist in this task are as follows.

I. Engineer's Services

A. Construction Documents

1. Assemble and prepare detailed plans and specifications detailing selective demolition and replacement test pits as described above. Plans will identify size and location of openings for test pits. Plan notes will be provided for restoration requirements at each opening.
 - a. Miller Dunwiddie will prepare plans and will coordinate structural considerations/requirements with Kimley-Horn.
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- G. Additional services, tasks, and meetings not described in tasks outlined above.

**Report of Action:
FAHR Meeting of 9/16/2024**



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

Department: Finance & Human Resources

Description: At their August Meeting, the Metro Flood Diversion Authority (MFDA) approved interim compensation for City Administrator Michael Redlinger and County Administrator Robert Wilson for their duties as MFDA co-executive director until a permanent Executive Director has been hired.

11. OTHER BUSINESS

a. Co-Executive Director's Interim Compensation

Mr. Peterson and Mr. Grindberg addressed the workload that Mr. Wilson and Mr. Redlinger have taken on with the departure of the executive director and recommend additional compensation. Mr. Peterson and Mr. Grindberg proposed to compensate the co-executive directors a flat rate based on the average of their respective hourly rates, assuming that the additional workload is consuming 20% of their time, monthly, retroactive to June 1, 2024, until the position is filled.

MOTION PASSED

Mr. Grindberg moved to approve the proposed co-executive director's interim compensation and Mrs. Scherling seconded the motion. On a roll call vote, the motion carried.

Each co-executive director will be paid \$3250 per month (retroactive to June 2024), until the position is permanently filled. Compensation will be paid by their respective employers, with bill-backs to MFDA for the identified salary, related payroll tax, and related pension expense.

Net Financial Impact: \$0 (Direct Bill-Back to MFDA)

At their meeting, FAHR endorsed this request.

Suggested Motion:

Approve interim compensation for City Administrator Michael Redlinger as has been identified by MFDA, along with respective bill back to MFDA for net \$0 impact to City of Fargo.



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

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: FIRE CHIEF STEVE DIRKSEN

DATE: SEPTEMBER 12, 2024

SUBJECT: CONSTRUCTION CONTRACT APPROVAL FOR FIRE STATION #5 CONSTRUCTION

At the August 19, 2024 Fargo City Commission meeting, the Commission accepted bids for the Fire Station 5 Renovation project and authorized staff to negotiate contracts with successful bidders for the construction of Fire Station #5. Over the past two weeks, staff have worked with the engineer and architect to develop the contracts and are ready for approval.

The total bid with are as follows:

The low base bid results are as follows:

General Contractor – Roers Construction	\$1,173,000
Electrical Contractor – Grotberg Electric, Inc.	\$ 421,445
Mechanical Contractor – Laney’s, Inc.	<u>\$ 416,863</u>

Total Base Bid Amount - \$2,011,308

RECOMMENDED MOTION:

Authorize the Mayor to sign contracts with Roers Construction for general construction services, Grotberg Electric for electrical construction, and Laney’s, Inc. for mechanical construction services.

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between the City of Fargo ("Owner") and Roers Construction Joint Venture, LLC ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Partial demolition and reconstruction of a single-story fire station. The area to be demolished and reconstructed is approx. 3,000sf. The existing building is constructed with CIP foundation/slab, reinforced masonry walls, and precast hollowcore roof planks. The new building is constructed with insulated precast concrete walls and precast hollowcore roof planks. The work will include utilities, pavement, grading/seeding/planting, fencing, building construction (including structural, architectural, mechanical, electrical, and fire protection), and installation of a new fiber line.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

Fire Station No. 5 Addition

ARTICLE 3—ENGINEER

3.01 The Owner has retained KIJ Engineering LLC ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by the Engineer.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

A. The Work will be substantially complete on or before **August 13, 2025**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **August 27, 2025**.

4.03 *Liquidated Damages*

- A. Contractor and Owner agree that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$1,600 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$480 for each day that expires after such time until the Work is completed and ready for final payment. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For a lump sum of: \$1,173,000.00.
 - B. Final bid tabulation is attached to this contract.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on a monthly during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Owner may retain five percent (5%) of the amount due Contractor until the completion of the entire Contract work. In no case will the Owner make payment to a contractor who is in default under the terms of the Contract unless expressly authorized by the Board of City Commissioners.
 2. The retained amounts will be according to the following table:

EJCDC® C-520, Agreement between Owner and Contractor for Construction Contract (Stipulated Price).
Copyright© 2018 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.

Percentage of Completion	Percent Retained
0-90%	5%
91-100%	1-5%*
* Reduction of retainage is at the discretion of the Engineer based on the progress of the contract	

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

A. All amounts not paid when due shall bear interest at the rate of 1.5 percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of all of the following:

1. This Agreement.
2. Bonds (not attached but incorporated by reference):
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
3. General Conditions.
4. Supplementary Conditions.
5. City of Fargo Standard Specifications (not attached but incorporated by reference).
6. Supplemental Specifications for this Contract (not attached but incorporated by reference).
7. Drawings (not attached but incorporated by reference) consisting of **80** sheets with each sheet bearing the following general title: **Fire Station No. 5 Addition**.
8. Addenda (numbers **1** to **3**, inclusive; not attached but incorporated by reference).
9. Exhibits to this Agreement (enumerated as follows):
 - a. Bid Tabulation
 - b. Contractor's License

10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 9—MISCELLANEOUS

9.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on **August 23, 2024** (which is the Effective Date of the Contract).

Owner: City of Fargo

Contractor: Roers Construction Joint Venture, LLC

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: Timothy Mahoney
(typed or printed)

Title: Mayor
(typed or printed)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:
225 4th Street North
Fargo, ND 58102

(typed or printed name of organization)

By: _____
(individual's signature)

Date: 8/27/2024
(date signed)

Name: David Wood
(typed or printed)

Title: Construction Executive
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Title: DeEtte Goerger
(typed or printed)

Address for giving notices:
200 45th St S
Fargo, ND 58103

Designated Representative:

Name: Tim Binfet
(typed or printed)

Title: Division Chief
(typed or printed)

Address:
Fire Station No. 1
637 NP Ave
Fargo, ND 58102

Phone: 701-241-8138

Email: tbinfet@fargond.gov

Designated Representative:

Name: Tyler Miller
(typed or printed)

Title: Project Manager
(typed or printed)

Address:
Roers Construction Joint Venture, LLC
200 45th St S
Fargo, ND 58103

Phone: 701-356-5050

Email: tmiller@roers.com

License No.: 000042385
(where applicable)

State: North Dakota

**WRITTEN ACTION OF
THE MANAGING MEMBER
ROERS CONSTRUCTION JOINT VENTURE LLC**

The undersigned, being the managing member (the "*Managing Member*") of Roers Construction Joint Venture LLC, a North Dakota limited liability company (the "*Company*"), acting pursuant to the Operating Agreement to the Company dated July 1, 2019 (the "*Operating Agreement*"), does hereby consent to the adoption of and do hereby adopt the following resolutions, effective as of July 1, 2019:

Delegation of Authority / Removal of Officers

RESOLVED, that the Managing Member hereby confirms that David Wood ("*Wood*") is duly appointed as Construction Executive of the Company and shall continue in such role until the Managing Member removes him from such position.

FURTHER RESOLVED, that the Managing Member hereby delegates its day-to-day management responsibilities to Wood, as Construction Executive, and Wood shall have the authority to contract for, negotiate on behalf of and otherwise represent the interests of the Company, as so authorization by the Managing Member and in accordance with the provisions of the Operating Agreement.

FURTHER RESOLVED, that such delegation shall constitute the delegation to Wood of the authority and fiduciary duties that are normally associated with an agent authorized by a business corporation formed under the North Dakota Business Corporation Act; provided that in all events, Wood shall be subject to the direction and control of the Managing Member.

IN WITNESS WHEREOF, the undersigned have executed this Written Action effective the date first above written.

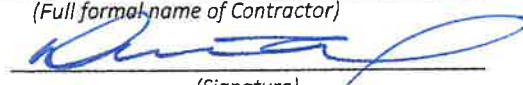
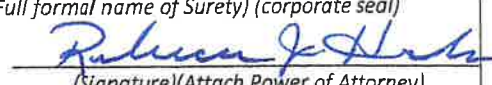

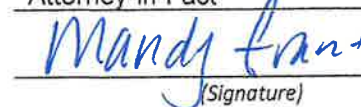
ROERS MANAGEMENT, INC.



By: James P. Roers
Its: President

PERFORMANCE BOND

Bond No. 41BCSJ2451

<p>Contractor Name: Roers Construction Joint Venture, LLC Address (<i>principal place of business</i>): 200 45th St. S Fargo, ND 58103</p>	<p>Surety Name: Hartford Fire Insurance Company Address (<i>principal place of business</i>): One Hartford Plaza Hartford, CT 06155-0001</p>
<p>Owner Name: City of Fargo Mailing address (<i>principal place of business</i>): 225 4th Street North Fargo, ND 58102</p>	<p>Contract Description (<i>name and location</i>): Fire Station No. 5 Addition - Fargo, ND Fargo, ND \$1,173,000.00 - One Million One Hundred Seventy-three Thousand And No/100 Contract Price: Effective Date of Contract: 8/23/2024</p>
<p>Bond Bond Amount: \$1,173,000.00 - One Million One Hundred Seventy-three Thousand And No/100 Date of Bond: 08/27/2024 (<i>Date of Bond cannot be earlier than Effective Date of Contract</i>) Modifications to this Bond form: <input checked="" type="checkbox"/> None <input type="checkbox"/> See Paragraph 16</p>	
<p>Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.</p>	
<p>Contractor as Principal <u>Roers Construction Joint Venture, LLC</u> (<i>Full formal name of Contractor</i>)</p>	<p>Surety <u>Hartford Fire Insurance Company</u> (<i>Full formal name of Surety</i>) (<i>corporate seal</i>)</p>
<p>By: <u></u> (<i>Signature</i>)</p>	<p>By: <u></u> (<i>Signature</i>)(<i>Attach Power of Attorney</i>)</p>
<p>Name: <u>David Wood</u> (<i>Printed or typed</i>)</p>	<p>Name: <u>Rebecca J. Hecker</u> (<i>Printed or typed</i>)</p>
<p>Title: <u>Construction Executive</u></p>	<p>Title: <u>Attorney-in-Fact</u></p>
<p>Attest: <u></u> (<i>Signature</i>)</p>	<p>Attest: <u></u> (<i>Signature</i>)</p>
<p>Name: <u>Deette Goerger</u> (<i>Printed or typed</i>)</p>	<p>Name: <u>Mandy Grant</u> (<i>Printed or typed</i>)</p>
<p>Title: <u>Construction Accountant</u></p>	<p>Title: <u>Sr. Client Advocate</u></p>
<p><i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i></p>	

EJCDC® C-610, Performance Bond.

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 and American Society of Civil Engineers. All rights reserved.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

- 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

- 14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
 - 14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows: None

ACKNOWLEDGMENT OF PRINCIPAL (CORPORATION)

State of _____)
County of _____)

On this _____ day of _____ 20 24 , before me personally appeared
David Wood known to be the Construction Executive of the corporation that is
described in and that he or she executed the within instrument, and acknowledged to me that such
corporation executed the same.

ACKNOWLEDGMENT OF PRINCIPAL (INDIVIDUAL OR PARTNERSHIP)

State of North Dakota)
County of Cass)

On this 28th day of August 2024 , before me personally
Appeared David Wood known to be the person described in and who
executed the within instrument, and acknowledged to me that he/she executed the same.

DEETTE GOERGER
Notary Public
State of North Dakota
My Commission Expires April 19, 2025

Deette Goerger

ACKNOWLEDGMENT OF SURETY

State of North Dakota)
County of Cass)

On this 27th day of August 20 24 , before me personally
appeared Rebecca J. Hecker known to be the person who is described in
and whose name is subscribed to the within instrument as Attorney in Fact of
Hartford Fire Insurance Company and acknowledged to me that he or she
subscribed the name of Hartford Fire Insurance Company thereto as surety and
his or her own name as Attorney in Fact.

MANDY GRANT
Notary Public
State of North Dakota
My Commission Expires Jan. 14, 2026

Mandy Grant

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: MARSH & MCLENNAN AGENCY LLC

Agency Code: 41-721584

- Hartford Fire Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company**, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois**, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest**, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast**, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of Unlimited :**

Daniel Armbrust, Rebecca J. Hecker, Braeden P Nelson, Bridget Nitz, Josie L. Wing of FARGO, North Dakota

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA

COUNTY OF SEMINOLE



ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.



Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of 08/27/2024.

Signed and sealed in Lake Mary, Florida.

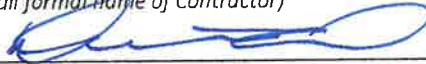
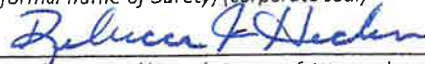
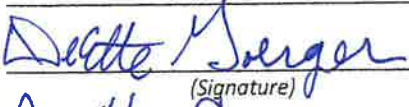
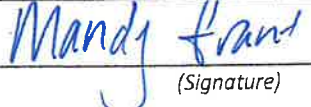


Keith Dozois

Keith D. Dozois, Assistant Vice President

PAYMENT BOND

Bond No. 41BCSJ2451

<p>Contractor Name: Roers Construction Joint Venture, LLC Address (principal place of business): 200 45th St. S Fargo, ND 58103</p>	<p>Surety Name: Hartford Fire Insurance Company Address (principal place of business): One Hartford Plaza Hartford, CT 06155-0001</p>
<p>Owner Name: City of Fargo Mailing address (principal place of business): 225 4th Street North Fargo, ND 58102</p>	<p>Contract Description (name and location): Fire Station No. 5 Addition - Fargo, ND Fargo, ND \$1,173,000.00 - One Million One Hundred Contract Price: Seventy-three Thousand And No/100 Effective Date of Contract: 8/23/2024</p>
<p>Bond Bond Amount: \$1,173,000.00 - One Million One Hundred Seventy-three Thousand And No/100 Date of Bond: 08/27/2024 (Date of Bond cannot be earlier than Effective Date of Contract) Modifications to this Bond form: <input checked="" type="checkbox"/> None <input type="checkbox"/> See Paragraph 18</p>	
<p>Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.</p>	
<p>Contractor as Principal Roers Construction Joint Venture, LLC _____ (Full formal name of Contractor)</p>	<p>Surety Hartford Fire Insurance Company _____ (Full formal name of Surety) (corporate seal)</p>
<p>By: <u></u> _____ (Signature)</p>	<p>By: <u></u> _____ (Signature)(Attach Power of Attorney)</p>
<p>Name: <u>David Wood</u> _____ (Printed or typed)</p>	<p>Name: <u>Rebecca J. Hecker</u> _____ (Printed or typed)</p>
<p>Title: <u>Construction Executive</u> _____</p>	<p>Title: <u>Attorney-in-Fact</u> _____</p>
<p>Attest: <u></u> _____ (Signature)</p>	<p>Attest: <u></u> _____ (Signature)</p>
<p>Name: <u>Dettle Goerger</u> _____ (Printed or typed)</p>	<p>Name: <u>Mandy Grant</u> _____ (Printed or typed)</p>
<p>Title: <u>Construction Accountant</u> _____</p>	<p>Title: <u>Sr. Client Advocate</u> _____</p>
<p>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</p>	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1. *Claim*—A written statement by the Claimant including at a minimum:
 - 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
 - 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;

- 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic’s lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of “labor, materials, or equipment” that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor’s subcontractors, and all other items for which a mechanic’s lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: None

ACKNOWLEDGMENT OF PRINCIPAL (CORPORATION)

State of _____)
County of _____)

On this _____ day of _____ 2024, before me personally appeared David Wood known to be the Construction Executive of the corporation that is described in and that he or she executed the within instrument, and acknowledged to me that such corporation executed the same.

ACKNOWLEDGMENT OF PRINCIPAL (INDIVIDUAL OR PARTNERSHIP)

State of North Dakota)
County of Cass)

On this 28th day of August 2024, before me personally Appeared David Wood known to be the person described in and who executed the within instrument, and acknowledged to me that he/she executed the same.

DEETTE GOERGER
Notary Public
State of North Dakota
My Commission Expires April 19, 2025

Deette Goerger

ACKNOWLEDGMENT OF SURETY

State of North Dakota)
County of Cass)

On this 27th day of August 2024, before me personally appeared Rebecca J. Hecker known to be the person who is described in and whose name is subscribed to the within instrument as Attorney in Fact of Hartford Fire Insurance Company and acknowledged to me that he or she subscribed the name of Hartford Fire Insurance Company thereto as surety and his or her own name as Attorney in Fact.

MANDY GRANT
Notary Public
State of North Dakota
My Commission Expires Jan. 14, 2026

Mandy Grant

Direct Inquiries/Claims to:
THE HARTFORD
BOND, T-11
One Hartford Plaza
Hartford, Connecticut 06155
Bond.Claims@thehartford.com
call: 888-266-3488 or fax: 860-757-5835

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: MARSH & MCLENNAN AGENCY LLC
Agency Code: 41-721584

- Hartford Fire Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company**, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois**, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest**, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast**, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of Unlimited** :

Daniel Armbrust, Rebecca J. Hecker, Braeden P Nelson, Bridget Nitz, Josie L. Wing of FARGO, North Dakota

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA

COUNTY OF SEMINOLE

ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.



Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of 08/27/2024.

Signed and sealed in Lake Mary, Florida.



Keith Dozois

Keith D. Dozois, Assistant Vice President



EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
9/10/2024

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY Dawson Insurance, a Marsh & McLennan Agency LLC company 505 Broadway North, Suite 100 Fargo, ND 58102		PHONE (A/C, No, Ext): 701-237-3311	COMPANY Travelers Property Casualty Co of Amer One Tower Square, Bond (S202B) Corp Hartford, CT 06183	
FAX (A/C, No): 701-232-4442		E-MAIL ADDRESS: Jenaah.Nyhof@MarshMMA.com		
CODE:		SUB CODE:		
AGENCY CUSTOMER ID #: ROERSCONST		LOAN NUMBER		POLICY NUMBER 6303T875658
INSURED Roers Construction Joint Venture LLC Roers West LLC 200 45th St. S #200 Fargo ND 58103		EFFECTIVE DATE 05/01/2024	EXPIRATION DATE 05/01/2025	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION
Builders Risk Reporting Form

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION	PERILS INSURED				AMOUNT OF INSURANCE	DEDUCTIBLE
	BASIC	BROAD	X	SPECIAL		
COVERAGE / PERILS / FORMS						
Builders Risk Reporting Form - Hard Cost (MNC, Fire Resistive PC)					10,000,000	5,000
Builders Risk Reporting Form - Hard Cost (Non-Combustible)					5,000,000	5,000
Builders Risk Reporting Form - Hard Cost (Joisted Masonry)					2,000,000	5,000
Builders Risk Reporting Form - Hard Cost (Frame)					2,000,000	5,000
Property in Transit/Temporary Storage					250,000	5,000
Soft Costs					100,000	5,000

REMARKS (Including Special Conditions)

Project: Fire Station No. 5 Addition, 637 NP Ave Fargo, ND 58102
 Engineer: KLJ Engineering LLC

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

NAME AND ADDRESS City of Fargo 225 4th Street North Fargo, ND 58102	<input type="checkbox"/> ADDITIONAL INSURED	<input type="checkbox"/> LENDER'S LOSS PAYABLE	<input type="checkbox"/> LOSS PAYEE
	<input type="checkbox"/> MORTGAGEE	LOAN #	
AUTHORIZED REPRESENTATIVE 			



North Dakota Workforce Safety & Insurance

Art Thompson
Director

Scott Wirth
Roers Construction Company LLC
200 45th St S
Fargo ND 58103-0907

April 29, 2024

Account Information	Employer account number:	798058
	Issue date:	04/29/2024
	Expiration date:	06/14/2025

Certificate of Payment

Reason For Notice Workforce Safety & Insurance (WSI) certifies Roers Construction Company LLC has North Dakota workers' compensation coverage from 04/01/2024 to 03/31/2025. Employees of Roers Construction Company LLC are entitled to apply for WSI benefits.

Required Action Employers must post this Certificate of Payment in a conspicuous manner at the workplace. A penalty of \$250 may apply for failure to comply with this requirement. See North Dakota Century Code § 65-04-04.

Additional Information Coverage under this certificate extends to employers for their North Dakota exposure. Limited coverage may be extended for temporary and/or incidental exposure outside of North Dakota.

WSI may revoke the Certificate of Payment for failure to make required premium payments.

For More Information Contact customer service at 800-777-5033 or 701-328-3800 with questions.

Class	Classification Description
3630	Auto Repair-Body Shops-Mech
5410F	Bldg Const-Inclu Concrete Work
8747	Professional/Business Reps
8805	Clerical Office Employees

Sincerely,

Barry Schumacher
Chief of Employer Services

PL5

- Development
- Construction
- Property Management
- Commercial & Residential Real Estate

9/11/2024

To: KLJ Engineering

RE: Fire Station No. 5 Addition
North Dakota Worker's Comp Insurance

Dear KLJ Engineering:

With regards to North Dakota worker's compensation insurance, there is no workers compensation insurance carried by Roers Construction Joint Venture LLC. Roers Construction Joint Venture LLC is a partnership between Roers Construction Company LLC and Roers West LLC. When the partnership was formed, it was decided that there would be no employees under the partnership of Roers Construction Joint Venture LLC due to the differing WSI rates between Western North Dakota and Eastern North Dakota. All employees doing work on behalf of Roers Construction Joint Venture LLC are subcontracted from Roers Construction Company LLC and Roers West LLC. Due to the location of the project, employees under Roers Construction Company LLC will be working on the project.



Jim Roers, Owner Roers Construction Company LLC



Jim Roers, Owner Roers West LLC

ROERS

Building success.

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between the City of Fargo (“Owner”) and **Grotberg Electric Inc** (“Contractor”). Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Partial demolition and reconstruction of a single-story fire station. The area to be demolished and reconstructed is approx. 3,000sf. The existing building is constructed with CIP foundation/slab, reinforced masonry walls, and precast hollowcore roof planks. The new building is constructed with insulated precast concrete walls and precast hollowcore roof planks. The work will include utilities, pavement, grading/seeding/planting, fencing, building construction (including structural, architectural, mechanical, electrical, and fire protection), and installation of a new fiber line.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

Fire Station No. 5 Addition

ARTICLE 3—ENGINEER

3.01 The Owner has retained KLJ Engineering LLC (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by the Engineer.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

A. The Work will be substantially complete on or before **August 13, 2025**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **August 27, 2025**.

4.03 *Liquidated Damages*

- A. Contractor and Owner agree that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$1,600 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$480 for each day that expires after such time until the Work is completed and ready for final payment. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For a lump sum of: \$421,445.00.
 - B. Final bid tabulation is attached to this contract.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on a monthly during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Owner may retain five percent (5%) of the amount due Contractor until the completion of the entire Contract work. In no case will the Owner make payment to a contractor who is in default under the terms of the Contract unless expressly authorized by the Board of City Commissioners.
 2. The retained amounts will be according to the following table:

Percentage of Completion	Percent Retained
0-90%	5%
91-100%	1-5%*
* Reduction of retainage is at the discretion of the Engineer based on the progress of the contract	

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

A. All amounts not paid when due shall bear interest at the rate of 1.5 percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
1. This Agreement.
 2. Bonds (not attached by incorporated by reference):
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 3. General Conditions.
 4. Supplementary Conditions.
 5. City of Fargo Standard Specifications (not attached but incorporated by reference).
 6. Supplemental Specifications for this Contract (not attached but incorporated by reference).
 7. Drawings (not attached but incorporated by reference) consisting of **80** sheets with each sheet bearing the following general title: **Fire Station No. 5 Addition**.
 8. Addenda (numbers **1** to **3**, inclusive; not attached by incorporated by reference).
 9. Exhibits to this Agreement (enumerated as follows):
 - a. Bid Tabulation
 - b. Contractor License

10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 9—MISCELLANEOUS

9.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on **August 23, 2024** (which is the Effective Date of the Contract).

Owner: City of Fargo

Contractor: Grotberg Electric, Inc.

(typed or printed name of organization)

(typed or printed name of organization)

By: _____
(individual's signature)

By: _____
(individual's signature)

Date: _____
(date signed)

Date: _____
(date signed)

Name: Timothy Mahoney
(typed or printed)

Name: Kyle Sorby
(typed or printed)

Title: Mayor
(typed or printed)

Title: CEO
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Title: Secretary/Treasurer
(typed or printed)

Address for giving notices:

Address for giving notices:

225 4th Street North

1109 W Main St

Fargo, ND 58102

Valley City, ND 58072

Designated Representative:

Designated Representative:

Name: Tim Binfet
(typed or printed)

Name: Tom Moltzan
(typed or printed)

Title: Division Chief
(typed or printed)

Title: Branch Manager/Project Manager
(typed or printed)

Address:

Address:

Fire Station No. 1

Grotberg Electric, Inc.

637 NP Ave

1049 5th Ave NE

Fargo, ND 58102

West Fargo, ND 58078

Phone: 701-241-8138

Phone: 701-373-5705

Email: tbinfet@fargond.gov

Email: thomas_moltzan@grotbergelectric.com

License No.: 784
(where applicable)

State: North Dakota

PERFORMANCE BOND

Bond Number: 54225688

<p>Contractor</p> <p>Name: Grotberg Electric Inc</p> <p>Address (<i>principal place of business</i>): 1049 5th Ave NE West Fargo ND 58078</p>	<p>Surety</p> <p>Name: United Fire & Casualty Company</p> <p>Address (<i>principal place of business</i>): 118 2nd Ave SE Cedar Rapids IA 52401</p>
<p>Owner</p> <p>Name: City of Fargo</p> <p>Mailing address (<i>principal place of business</i>): 225 4th Avenue North Fargo, ND 58102</p>	<p>Contract</p> <p>Description (<i>name and location</i>): Fire Station No. 5 Addition</p> <p>Contract Price: \$421,445.00</p> <p>Effective Date of Contract: August 24, 2024</p>
<p>Bond</p> <p>Bond Amount: \$421,445.00</p> <p>Date of Bond: August 24, 2024 <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i></p> <p>Modifications to this Bond form: <input checked="" type="checkbox"/> None <input checked="" type="checkbox"/> See Paragraph 16</p>	
<p>Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.</p>	
<p>Contractor as Principal</p> <p>Grotberg Electric Inc <i>(Full formal name of Contractor)</i></p>	<p>Surety</p> <p>United Fire & Casualty Company <i>(Full formal name of Surety) (corporate seal)</i></p>
<p>By: _____ <i>(Signature)</i></p>	<p>By: _____ <i>(Signature)(Attach Power of Attorn</i></p>
<p>Name: Kyle Sorby <i>(Printed or typed)</i></p>	<p>Name: Sue Peterson <i>(Printed or typed)</i></p>
<p>Title: President</p>	<p>Title: Attorney-In-Fact</p>
<p>Attest: Stephanie Ness <i>(Signature)</i></p>	<p>Attest: Krista L Johnson <i>(Signature)</i></p>
<p>Name: Stephanie Ness <i>(Printed or typed)</i></p>	<p>Name: Krista L Johnson <i>(Printed or typed)</i></p>
<p>Title: Secretary/Treasurer</p>	<p>Title: Administrative Assistant</p>
<p><i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i></p>	



1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

- 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.


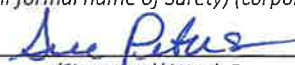


14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.

16. Modifications to this Bond are as follows: None.

PAYMENT BOND

<p>Contractor</p> <p>Name: Grotberg Electric Inc</p> <p>Address (principal place of business): 1049 5th Ave NE West Fargo ND 58078</p>	<p>Surety</p> <p>Name: United Fire & Casualty Company</p> <p>Address (principal place of business): 118 2nd Ave SE Cedar Rapids IA 52401</p>
<p>Owner</p> <p>Name: City of Fargo</p> <p>Mailing address (principal place of business): 225 4th Avenue North Fargo, ND 58102</p>	<p>Contract</p> <p>Description (name and location): Fire Station No. 5 Addition</p> <p>Contract Price: \$421,445.00</p> <p>Effective Date of Contract: August 24, 2024</p>
<p>Bond</p> <p>Bond Amount: \$421,445.00</p> <p>Date of Bond: August 24, 2024 <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i></p> <p>Modifications to this Bond form: <input checked="" type="checkbox"/> None <input checked="" type="checkbox"/> See Paragraph 18</p>	
<p>Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.</p>	
<p>Contractor as Principal</p> <p style="text-align: center;">Grotberg Electric Inc <i>(Full formal name of Contractor)</i></p>	<p>Surety</p> <p style="text-align: center;">United Fire & Casualty Company <i>(Full formal name of Surety) (corporate seal)</i></p>
<p>By: <u></u> <i>(Signature)</i></p> <p>Name: Kyle Sorby <i>(Printed or typed)</i></p> <p>Title: President</p>	<p>By: <u></u> <i>(Signature)(Attach Power of Attorney)</i></p> <p>Name: Sue Peterson <i>(Printed or typed)</i></p> <p>Title: Attorney-In-Fact</p>
<p>Attest: <u></u> <i>(Signature)</i></p> <p>Name: Stephanie Ness <i>(Printed or typed)</i></p> <p>Title: Secretary / Treasurer</p>	<p>Attest: <u></u> <i>(Signature)</i></p> <p>Name: Krista L Johnson <i>(Printed or typed)</i></p> <p>Title: Administrative Assistant</p>
<p><i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i></p>	



1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1. *Claim*—A written statement by the Claimant including at a minimum:
 - 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
 - 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;

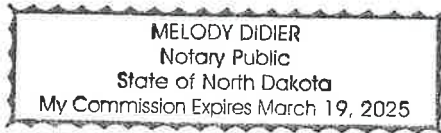
- 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic’s lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of “labor, materials, or equipment” that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor’s subcontractors, and all other items for which a mechanic’s lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows: None.

ACKNOWLEDGMENT OF SURETY

State of North Dakota
County of Barnes SS.

On this 28th day of August, 2024.

personally appeared before me Sue Peterson who being duly sworn did depose and say that he is the attorney-in-fact of the United Fire & Casualty Company of Cedar Rapids, Iowa, that the seal affixed to the attached instrument is the Corporate Seal of said Corporation, and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and the said Sue Peterson acknowledged that he executed said instrument as such attorney-in-fact and as the free act and deed of said Corporation.



Melody Didier
Notary Public, _____
County, _____
My commission expires:



UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA
UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX
FINANCIAL PACIFIC INSURANCE COMPANY, LOS ANGELES, CA
CERTIFIED COPY OF POWER OF ATTORNEY
(original on file at Home Office of Company – See Certification)

Inquiries: Surety Department
118 Second Ave SE
Cedar Rapids, IA 52401

KNOW ALL PERSONS BY THESE PRESENTS, That United Fire & Casualty Company, a corporation duly organized and existing under the laws of the State of Iowa; United Fire & Indemnity Company, a corporation duly organized and existing under the laws of the State of Texas; and Financial Pacific Insurance Company, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint

SUE PETERSON, JENNY HARE, EACH INDIVIDUALLY

their true and lawful Attorney(s)-in-fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$25,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted shall expire the 29th day of July, 2025 unless sooner revoked by United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted by the Boards of Directors of United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

“Article VI – Surety Bonds and Undertakings”

Section 2, Appointment of Attorney-in-Fact. “The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this 29th day of July, 2023

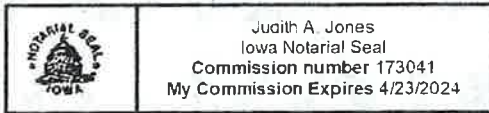


UNITED FIRE & CASUALTY COMPANY
UNITED FIRE & INDEMNITY COMPANY
FINANCIAL PACIFIC INSURANCE COMPANY

By: *Dennis J. Richmann*
Vice President

State of Iowa, County of Linn, ss:

On 29th day of July, 2023, before me personally came Dennis J. Richmann to me known, who being by me duly sworn, did depose and say; that he resides in Cedar Rapids, State of Iowa; that he is a Vice President of United Fire & Casualty Company, a Vice President of United Fire & Indemnity Company, and a Vice President of Financial Pacific Insurance Company the corporations described in and which executed the above instrument; that he knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



Judith A. Jones
Notary Public
My commission expires: 4/23/2024

I, Mary A. Bertsch, Assistant Secretary of United Fire & Casualty Company and Assistant Secretary of United Fire & Indemnity Company, and Assistant Secretary of Financial Pacific Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations this 28 day of August, 2024.



By: *Mary A. Bertsch*
Assistant Secretary,
UF&C & UF&I & FPIC



North Dakota Workforce
Safety & Insurance

Art Thompson
Director

Stephanie Ness
Grotberg Electric Inc
Triton Mechanical Nordick Electric
1109 W Main St
Valley City ND 58072-3939

May 6, 2024

Account Information Employer account number: 485557
Issue date: 05/06/2024
Expiration date: 06/14/2025

Certificate of Payment

Reason For Notice Workforce Safety & Insurance (WSI) certifies Grotberg Electric Inc has North Dakota workers' compensation coverage from 04/01/2024 to 03/31/2025. Employees of Grotberg Electric Inc are entitled to apply for WSI benefits.

Required Action Employers must post this Certificate of Payment in a conspicuous manner at the workplace. A penalty of \$250 may apply for failure to comply with this requirement. See North Dakota Century Code § 65-04-04.

Additional Information Coverage under this certificate extends to employers for their North Dakota exposure. Limited coverage may be extended for temporary and/or incidental exposure outside of North Dakota.

WSI may revoke the Certificate of Payment for failure to make required premium payments.

For More Information Contact customer service at 800-777-5033 or 701-328-3800 with questions.

Class	Classification Description
5183	Plumbing-Htg-Sheet Metal
5190A	Electrical-Wiring-Svc-Repair
5190X	Officer/Owner or Family Member Coverage
8292	General Warehouse & Storage
8747	Professional/Business Reps
8747X	Officer/Owner or Family Member Coverage
8805	Clerical Office Employees

Sincerely,

Barry Schumacher



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
BRIAN KROSHUS, COMMISSIONER

October 31, 2023

Ref: L1568486528

Acct: 0264402-CCT-005

GROTBERG ELECTRIC INC
PO BOX 426
VALLEY CITY ND 58072-0426

(083) 

001155-1290



North Dakota Contractor's Tax Clearance – Expires December 31, 2024.

As of the date of this letter, the North Dakota Office of State Tax Commissioner's records show that the above-named taxpayer does not owe any North Dakota income, sales, use, or gross receipts taxes. This tax clearance does not release the taxpayer from paying any additional income, sales, use, or gross receipts tax that may become due as the result of an audit.

A copy of this Contractor's Tax Clearance may be required to be filed with the North Dakota Secretary of State for contractor licensing purposes. If you enter into a contract with a state or local governmental agency or board, a copy of this Tax Clearance must be provided to that entity.

This is the only copy of the North Dakota Tax Clearance that will be issued and should be retained in your files. It is recommended that you make multiple copies of this document.

Brittany Herberholz
Supervisor, Tax Registration

Please Note: If You Are No Longer Doing Business In North Dakota, indicate in the space below the date you ceased operations in this state, sign and date, **make a copy for your records**, and return this document to our office.

Date Operations Ceased
In North Dakota

Signature

Date

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between the City of Fargo (“Owner”) and Laney’s, Inc. (“Contractor”).

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Partial demolition and reconstruction of a single-story fire station. The area to be demolished and reconstructed is approx. 3,000sf. The existing building is constructed with CIP foundation/slab, reinforced masonry walls, and precast hollowcore roof planks. The new building is constructed with insulated precast concrete walls and precast hollowcore roof planks. The work will include utilities, pavement, grading/seeding/planting, fencing, building construction (including structural, architectural, mechanical, electrical, and fire protection), and installation of a new fiber line.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

Fire Station No. 5 Addition

ARTICLE 3—ENGINEER

3.01 The Owner has retained KLJ Engineering LLC (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by the Engineer.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

A. The Work will be substantially complete on or before **August 13, 2025**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **August 27, 2025**.

4.03 *Liquidated Damages*

- A. Contractor and Owner agree that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$1,600 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$480 for each day that expires after such time until the Work is completed and ready for final payment. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For a lump sum of: \$416,863.00.
 - B. Final bid tabulation is attached to this contract.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on a monthly during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Owner may retain five percent (5%) of the amount due Contractor until the completion of the entire Contract work. In no case will the Owner make payment to a contractor who is in default under the terms of the Contract unless expressly authorized by the Board of City Commissioners.
 2. The retained amounts will be according to the following table:

EJCDC® C-520, Agreement between Owner and Contractor for Construction Contract (Stipulated Price).
Copyright© 2018 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.

Percentage of Completion	Percent Retained
0-90%	5%
91-100%	1-5%*
* Reduction of retainage is at the discretion of the Engineer based on the progress of the contract	

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

A. All amounts not paid when due shall bear interest at the rate of 1.5 percent per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
1. This Agreement.
 2. Bonds (not attached but incorporated by reference):
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 3. General Conditions.
 4. Supplementary Conditions.
 5. City of Fargo Standard Specifications (not attached but incorporated by reference).
 6. Supplemental Specifications for this Contract (not attached by incorporated by reference).
 7. Drawings (not attached but incorporated by reference) consisting of **80** sheets with each sheet bearing the following general title: **Fire Station No. 5 Addition**.
 8. Addenda (numbers **1** to **3**, inclusive; not attached but incorporated by reference).
 9. Exhibits to this Agreement (enumerated as follows):
 - a. Bid Tabulation
 - b. Contractor’s License

10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 9—MISCELLANEOUS

9.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on **August 23, 2024** (which is the Effective Date of the Contract).

Owner: City of Fargo

Contractor: Laney's, Inc.

(typed or printed name of organization)

(typed or printed name of organization)

By: _____
(individual's signature)

By: _____
(individual's signature)

Date: _____
(date signed)

Date: 9/13/24
(date signed)

Name: Timothy Mahoney
(typed or printed)

Name: Tom Nelson
(typed or printed)

Title: Mayor
(typed or printed)

Title: President
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Title: Plg. Coordinator
(typed or printed)

Address for giving notices:
225 4th Street North
Fargo, ND 58102

Address for giving notices:
55 27th St South
Fargo, ND 58103

Designated Representative:
Name: Tim Binfet
(typed or printed)

Designated Representative:
Name: Dave Thene
(typed or printed)

Title: Division
(typed or printed)

Title: Commercial Estimator/Project Manager
(typed or printed)

Address:
Fire Station No. 1
637 NP Ave
Fargo, ND 58102

Address:
Laney's Inc.
55 27th St South
Fargo, ND 58103

Phone: 701-241-8138

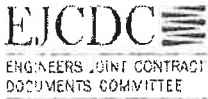
Phone: 701-219-5633

Email: tbinfet@fargond.gov

Email: dave.thene@laneyinc.com

License No.: 31053
(where applicable)

State: North Dakota



PERFORMANCE BOND

CONTRACTOR (name and address):

Laney's, Inc.
PO Box 2562
Fargo, ND 58108

SURETY (name and address of principal place of business):

Merchants Bonding Company (Mutual)
P.O. Box 14498
DES MOINES, IA 50306-3498

OWNER (name and address): City of Fargo
225 4th Street North
Fargo, ND 58102

CONSTRUCTION CONTRACT

Effective Date of the Agreement: 8/23/2024
Amount: \$416,863.00 - Four Hundred Sixteen Thousand Eight Hundred Sixty-three And No/100
Description (name and location):
Fire Station No. 5 Addition - Fargo, ND

BOND

Bond Number: 101233074
Date (not earlier than the Effective Date of the Agreement of the Construction Contract): 08/26/2024
Amount: \$416,863.00 - Four Hundred Sixteen Thousand Eight Hundred Sixty-three And No/100
Modifications to this Bond Form: None See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Laney's, Inc. _____ (seal)
Contractor's Name and Corporate Seal

By: Tom Nelson
Signature

Tom Nelson
Print Name

President
Title

Attest: [Signature]
Signature

Plg. Coordinator
Title

SURETY

Merchants Bonding Company (Mutual) _____ (seal)
Surety's Name and Corporate Seal

By: Rebecca Hecker
Signature (attach power of attorney)

Rebecca Hecker
Print Name

Attorney-in-Fact
Title

Attest: Mandy Grant
Signature

Surety Asst.
Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the

Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract; and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than

the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including

allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

ACKNOWLEDGMENT OF PRINCIPAL (CORPORATION)

State of ND
County of Cass

On this 3rd day of Sept. 2024, before me personally appeared Tom Nelson known to be the President of the corporation that is described in and that he or she executed the within instrument, and acknowledged to me that such corporation executed the same.

HEATHER BUNN
Notary Public
State of North Dakota
My Commission Expires Sept. 3, 2026

Heather Bunn

ACKNOWLEDGMENT OF PRINCIPAL (INDIVIDUAL OR PARTNERSHIP)

State of _____
County of _____

On this _____ day of _____ 2024, before me personally appeared _____ known to be the person described in and who executed the within instrument, and acknowledged to me that he/she executed the same.

ACKNOWLEDGMENT OF SURETY

State of North Dakota
County of Cass

On this 26th day of August 2024, before me personally appeared Rebecca Hecker known to be the person who is described in and whose name is subscribed to the within instrument as Attorney in Fact of Merchants Bonding Company (Mutual) and acknowledged to me that he or she subscribed the name of Merchants Bonding Company (Mutual) thereto as surety and his or her own name as Attorney in Fact.

MANDY GRANT
Notary Public
State of North Dakota
My Commission Expires Jan. 14, 2026

Mandy Grant

MERCHANTS BONDING COMPANY™ POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Braeden Nelson; Bridget Nitz; Daniel Armbrust; Jill Graveline; Joe Olson; Josie Wing; Rebecca Hecker; T M Crittenden

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 16th day of May, 2024.



MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 16th day of May, 2024, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



Penni Miller
Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 26th day of August, 2024.



William Warner Jr.
Secretary



PAYMENT BOND

CONTRACTOR (name and address):
Laney's, Inc.
PO Box 2562
Fargo, ND 58108

SURETY (name and address of principal place of business):
Merchants Bonding Company (Mutual)
P.O. Box 14498
DES MOINES, IA 50306-3498

OWNER (name and address):
City of Fargo
225 4th Street North
Fargo, ND 58102

CONSTRUCTION CONTRACT

Effective Date of the Agreement: 8/23/2024

Amount: \$416,863.00 - Four Hundred Sixteen Thousand Eight Hundred Sixty-three And No/100

Description (name and location):

Fire Station No. 5 Addition - Fargo, ND

BOND

Bond Number: 101233074

Date (not earlier than the Effective Date of the Agreement of the Construction Contract): 08/26/2024

Amount: \$416,863.00 - Four Hundred Sixteen Thousand Eight Hundred Sixty-three And No/100

Modifications to this Bond Form: None See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Laney's, Inc. _____ (seal)

Contractor's Name and Corporate Seal

Merchants Bonding Company (Mutual) _____ (seal)

Surety's Name and Corporate Seal

By: [Signature]

Signature

By: [Signature]

Signature (attach power of attorney)

TOM NELSON

Print Name

Rebecca Hecker

Print Name

President

Title

Attorney-in-Fact

Title

Attest: [Signature]

Signature

Attest: [Signature]

Signature

Plg. Coordinator

Title

Surety Asst.

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and

8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

ACKNOWLEDGMENT OF PRINCIPAL (CORPORATION)

State of _____)
County of _____)

On this _____ day of _____ 2024, before me personally appeared _____ known to be the _____ of the corporation that is described in and that he or she executed the within instrument, and acknowledged to me that such corporation executed the same.

ACKNOWLEDGMENT OF PRINCIPAL (INDIVIDUAL OR PARTNERSHIP)

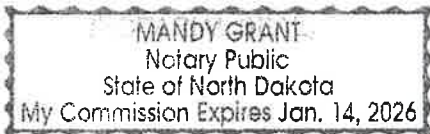
State of _____)
County of _____)

On this _____ day of _____ 2024, before me personally Appeared _____ known to be the person described in and who executed the within instrument, and acknowledged to me that he/she executed the same.

ACKNOWLEDGMENT OF SURETY

State of North Dakota)
County of Cass)

On this 26th day of August 2024, before me personally appeared Rebecca Hecker known to be the person who is described in and whose name is subscribed to the within instrument as Attorney in Fact of Merchants Bonding Company (Mutual) and acknowledged to me that he or she subscribed the name of Merchants Bonding Company (Mutual) thereto as surety and his or her own name as Attorney in Fact.



Mandy Grant

MERCHANTS BONDING COMPANY™ POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Braeden Nelson; Bridget Nitz; Daniel Armbrust; Jill Graveline; Joe Olson; Josie Wing; Rebecca Hecker; T M Crittenden

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

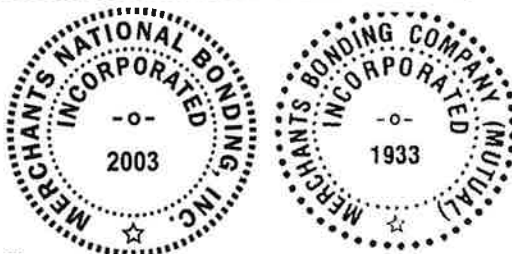
"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 16th day of May, 2024.

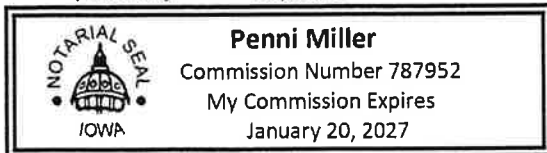


MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 16th day of May, 2024, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

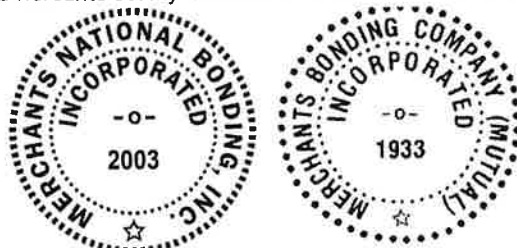


Penni Miller
Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 26th day of August, 2024.



William Warner Jr.
Secretary



North Dakota Workforce
Safety & Insurance

Art Thompson
Director

Jodi Kylo
Lanays Inc
55 S 27th St
PO Box 2562
Fargo ND 58108-2562

March 11, 2024

Account Information Employer account number: 952044
Issue date: 03/11/2024
Expiration date: 03/16/2025

Certificate of Payment

Reason For Notice Workforce Safety & Insurance (WSI) certifies Lanays Inc has North Dakota workers' compensation coverage from 01/01/2024 to 12/31/2024. Employees of Lanays Inc are entitled to apply for WSI benefits.

Required Action Employers must post this Certificate of Payment in a conspicuous manner at the workplace. A penalty of \$250 may apply for failure to comply with this requirement. See North Dakota Century Code § 65-04-04.

Additional Information Coverage under this certificate extends to employers for their North Dakota exposure. Limited coverage may be extended for temporary and/or incidental exposure outside of North Dakota.

WSI may revoke the Certificate of Payment for failure to make required premium payments.

For More Information Contact customer service at 800-777-5033 or 701-328-3800 with questions.

Class	Classification Description
5183	Plumbing-Htg-Sheet Metal
5190A	Electrical-Wiring-Svc-Repair
6221	Excavating
8292	General Warehouse & Storage
8747	Professional/Business Reps
8747X	Officer/Owner or Family Member Coverage
8805	Clerical Office Employees

Sincerely,

Barry Schumacher



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/12/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh & McLennan Agency LLC 505 Broadway North, Suite 100 Fargo ND 58102	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">CONTACT NAME: Shane Kennedy</td> </tr> <tr> <td>PHONE (A/C, No, Ext): 701-237-3311</td> <td>FAX (A/C, No): 701-232-4442</td> </tr> <tr> <td colspan="2">E-MAIL ADDRESS: Shane.Kennedy@MarshMMA.com</td> </tr> </table>	CONTACT NAME: Shane Kennedy		PHONE (A/C, No, Ext): 701-237-3311	FAX (A/C, No): 701-232-4442	E-MAIL ADDRESS: Shane.Kennedy@MarshMMA.com							
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E-MAIL ADDRESS: Shane.Kennedy@MarshMMA.com													
INSURER(S) AFFORDING COVERAGE													
INSURED Laney's, Inc. 55 S 27th St Fargo ND 58103	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">INSURER A : Phoenix Insurance Company</td> <td style="width: 50%; text-align: right;">NAIC # 25623</td> </tr> <tr> <td>INSURER B : Standard Fire Insurance Company</td> <td style="text-align: right;">19070</td> </tr> <tr> <td>INSURER C : Travelers Property Casualty Co of Amer</td> <td style="text-align: right;">25674</td> </tr> <tr> <td>INSURER D : Hanover Insurance Company</td> <td style="text-align: right;">22292</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER A : Phoenix Insurance Company	NAIC # 25623	INSURER B : Standard Fire Insurance Company	19070	INSURER C : Travelers Property Casualty Co of Amer	25674	INSURER D : Hanover Insurance Company	22292	INSURER E :		INSURER F :	
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INSURER E :													
INSURER F :													

COVERAGES **CERTIFICATE NUMBER: 854237515** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR 1,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	CO9H304688	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	8101L619954	12/31/2023	12/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	Y	CUP9H476634	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	UB9H304480	12/31/2023	12/31/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Builders Risk			IHX J833013 00	9/12/2024	9/12/2025	Limit at Location Property in Transit \$416,863 Temporary Storage \$100,000 \$100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Workers Compensation coverage applies in Minnesota also includes ND Stop Gap. Certificate holder is included as an Additional Insured on the General Liability policy per form CGD246 (primary/non-contributory and completed operations applies if required in written contract). Additional Insured applies on the Automobile policy per form CAT353. Additional Insured status on a primary and non-contributory basis also applies on the Umbrella when required by written contract. Waiver of Subrogation applies to the General Liability, Auto and Umbrella policies.
 Project: Fire Station No. 5 Addition
 Engineer's Project No. 2404-00262
 Engineer: KLJ Engineering LLC
 Additional insured status and waivers of subrogation apply to the City of Fargo, KLJ and EAPC. Waiver of subrogation also applies on the builders risk policy when required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Fargo 225 N 4th Street Fargo ND 58103 United States	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p>
--	--

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED – PRIMARY AND
NON-CONTRIBUTORY WITH OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

1. The following is added to Paragraph **A.1.c., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

This includes any person or organization who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. **Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|--|--|
| <ul style="list-style-type: none"> A. BROAD FORM NAMED INSURED B. BLANKET ADDITIONAL INSURED C. EMPLOYEE HIRED AUTO D. EMPLOYEES AS INSURED E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS G. WAIVER OF DEDUCTIBLE – GLASS | <ul style="list-style-type: none"> H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT J. PERSONAL PROPERTY K. AIRBAGS L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS M. BLANKET WAIVER OF SUBROGATION N. UNINTENTIONAL ERRORS OR OMISSIONS |
|--|--|

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the **Who Is An Insured** provision contained in Section II.

C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph b. in B.5., **Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., **Deductible**, of SECTION III – **PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of SECTION III – **PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of SECTION III – **PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL PROPERTY

The following is added to Paragraph A.4., **Coverage Extensions**, of SECTION III – **PHYSICAL DAMAGE COVERAGE**:

Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph B.3., **Exclusions**, of SECTION III – **PHYSICAL DAMAGE COVERAGE**:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of SECTION IV – **BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of SECTION IV – **BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED
(Includes Products-Completed Operations If Required By Contract)

This endorsement modifies insurance provided under the following:
 COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you agree in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only:

- a. With respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and
- b. If, and only to the extent that, such injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies. Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

- a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.
- b. The insurance provided to such additional insured does not apply to:

- (1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and

- (b) Supervisory, inspection, architectural or engineering activities.

- (2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

- c. The additional insured must comply with the following duties:

- (1) Give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

- (a) How, when and where the "occurrence" or offense took place;

- (b) The names and addresses of any injured persons and witnesses; and

- (c) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- (2) If a claim is made or "suit" is brought against the additional insured:

COMMERCIAL GENERAL LIABILITY

- (a) Immediately record the specifics of the claim or "suit" and the date received; and
 - (b) Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.
- (3) Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- (4) Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph 4., Other Insurance, of Section IV – Commercial General Liability Conditions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR CONTRACTORS

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|--|---|
| <p>A. Who Is An Insured – Unnamed Subsidiaries</p> <p>B. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</p> | <p>C. Incidental Medical Malpractice</p> <p>D. Blanket Waiver Of Subrogation</p> <p>E. Contractual Liability – Railroads</p> <p>F. Damage To Premises Rented To You</p> |
|--|---|

PROVISIONS

A. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and
- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. An organization other than a partnership, joint venture or limited liability company; or
- b. A trust;

as indicated in its name or the documents that govern its structure.

B. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

COMMERCIAL GENERAL LIABILITY

C. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a), (b), (c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician or paramedic; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following replaces the last sentence of Paragraph **5.** of **SECTION III – LIMITS OF INSURANCE**:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph **2.**, **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of

pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or

- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

6. The following is added to Paragraph **4.b.**, **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph **2.a.(1)** of Section II – Who Is An Insured.

D. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph **8.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or

- b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.

E. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:

- c. Any easement or license agreement;

COMMERCIAL GENERAL LIABILITY

2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

F. DAMAGE TO PREMISES RENTED TO YOU

The following replaces the definition of "premises damage" in the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
- b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.



12

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: JENN FAUL
DIRECTOR OF PUBLIC HEALTH

DATE: SEPTEMBER 12, 2024

**RE: GRANT AGREEMENT WITH ND DEPARTMENT OF HEALTH
AND HUMAN SERVICES, OFFICE OF REFUGEE SUPPORT
SERVICES FOR TB CARE COORDINATION SERVICES.
NO: 355-14037 ASSISTANCE LISTING: 93.566
FUNDS: \$28,080
EXPIRES: 09/30/2024**

The attached grant agreement with ND Department of Health and Human Service, Office of Refugee Support Services is for Tuberculosis Care Coordination which include TB follow-up services when there is a positive skin or blood test.

BUDGET ADJUSTMENT

None

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve this grant award amendment from the ND Department of Health and Human Services, Office of Refugee Support Services.

JF/lls
Attachment

GRANT AGREEMENT

The state of North Dakota, acting through its North Dakota Department of Health and Human Services, Office of Refugee Support Services (Grantor), has determined the services identified in the Scope of Service paragraph below form an appropriate basis for the expenditure of funds allocated to Grantor.

City of Fargo (Grantee), 1240 25th St S, Fargo, ND 58103, proposes to provide those services.

Grantor and Grantee therefore enter into the following:

1. TERM OF GRANT

This Grant runs from October 1, 2024, through September 30, 2025. This Grant will not automatically renew.

2. SCOPE OF SERVICE

Grantee shall provide Tuberculosis (TB) Care Coordination services, which include TB follow-up services when there is a positive skin or blood test, Class A or B/TB classification, or clients with suspect or known active TB during their initial health screening, education, referral to community resources, coordination with other health care providers, and outreach.

In addition to TB care coordination, Grantee shall provide targeted health education and outreach services, which include developing and translating health promotion materials into the languages of the Office of Refugee Resettlement (ORR) eligible populations who are within their first five years of eligibility. Eligible population includes: Refugees, Asylees, Cuban and Haitian Entrants, Unaccompanied Refugee Minors and Unaccompanied Alien Children, Amerasians, Victims of severe form of trafficking, Special Immigrant Visa holder, Afghan Humanitarian Parolees, and Ukrainian Humanitarian Paroles in its jurisdiction. Grantee shall communicate with the patient and their primary health care provider to assure compliance, and to provide TB follow-up services. Grantee shall collect data for reporting to ORR, as requested, by Grantor for the purpose of semi-annual and year-end outcome measures. Services are to be provided in a linguistically and culturally-appropriate manner. The funds are not to be supplanted if covered under other funding sources.

Grantee shall advance equity consistent with the Executive Order on Advancing Racial Equity and Support for Underserved Communities (E.O. 13985) in all of its programming.

Grantee shall:

- a. Use an equity lens when developing new programming to ensure that all ORR-eligible populations, regardless of race, religion, gender identity, sexual orientation, disability, or other characteristic(s), receive fair treatment, access, and opportunity;
- b. Review existing programming with an equity lens; and
- c. Identify and eliminate barriers that may prevent the full participation of some groups.

Grantee shall comply with the following Grantor requirements:

- a. Grantee shall develop a plan of care for each patient served.
- b. Grantee shall maintain appropriate patient files to document services provided. Patient files shall include, but are not limited to, documentation of status-verification and eligibility determination, documentation of interpretation and translation services, and notes related to care coordination services provided.
- c. Grantee shall provide services in a linguistically and culturally-appropriate manner.
- d. Grantee shall attend Quarterly Consultation meetings and meetings organized by Grantor and provide goals, outcomes, new initiatives, and barriers in providing health care services to refugees and ORR-eligible populations.
- e. Grantee shall communicate with the Grantor Refugee Health Coordinator on a regular basis.

Grantee shall comply with the following reporting requirements:

- a. Grantee shall compile and submit semi-annual reports as requested by Grantor. Semi-annual reports are due by April 30 for the reporting period October 1- March 31 and September 30 for the reporting period April 1- September 30.
- b. Grantee shall compile and submit program activities in a narrative format semi-annually in the Refugee Data Management System (RDMS). This may include, but is not limited to, accomplishment, new initiatives, dissemination, and outreach events and challenges.
- c. Grantee shall submit SFN 1763 Request for Reimbursement by the 30th of the following month to reflect the actual expenses. The final SFN 1763 shall be submitted no later than 30 days after the expiration or termination of the Grant.
- d. Grantee shall submit any additional reports as deemed necessary by Grantor shall be submitted upon request.

Grantee shall be monitored to ensure programmatic and fiscal responsibilities have been achieved at least once a year. Grantor will conduct monitoring visits in person or virtually.

3. COMPENSATION

Grantor, upon receipt and approval of SFN 1763 Request for Reimbursement or other form required by Grantor, shall reimburse Grantee for allowable expenses incurred. "Allowable expenses" are defined by the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards cited under Section 11 of this Grant. The total amount paid under this Grant may not exceed \$28,080. No funds will be paid for services until they have been provided. Grantee shall submit its request for reimbursement to Grantor monthly. Grantee shall submit its final reimbursement request to Grantor no later than 30 days after the expiration or termination of this Grant. Grantor may not pay Grantee until Grantee signs and returns to Grantor the Certification of the 2 CFR Part 200 Informational Guide, which is made a part of this Grant by its reference here.

Payment for services under this Grant may include federal monies. Anticipated funding at the time this Grant is executed is listed below. The funding source of actual payments and the federal program can be verified by contacting DHHS' Finance Division.

Anticipated Funding:

Federal	\$28,080	State	\$
Other	\$	Unknown	\$

Assistance Listing Number 93.566, Refugee and Entrant Assistance State/Replacement Designee Administered Programs.

Federal Award Identification Number: 2401NDRUMA

Federal Award Date: April 30, 2024

Unique Entity ID Number: N/A

This award is not for Research and Development.

4. TERMINATION

a. Termination by Mutual Agreement or Notice

This Grant may be terminated at any time by mutual consent of both parties executed in writing, or upon 30-days' written notice by either party, with or without cause.

b. Termination for Lack of Funding or Authority

Grantor may terminate the whole or any part of this Grant, effective upon delivery of written notice to Grantee or on any later date stated in the notice, under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or for the indicated term. The Grant may be modified by mutual consent of the parties in writing to accommodate a reduction in funds.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Grant or are no longer eligible for the funding proposed for payments authorized by this Grant.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Grant, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Grant under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

c. Termination for Cause

Grantor may terminate this Grant effective upon delivery of written notice to Grantee, or any later date stated in the notice:

- 1) If Grantee fails to provide services required by this Grant within the time specified or within any extension agreed to by Grantor; or
- 2) If Grantee fails to perform any of the other provisions of this Grant, or so fails to pursue the work in a way that endangers performance of this Grant in accordance with its terms.

The rights and remedies of Grantor provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Grant.

5. NONPERFORMANCE

Failure by Grantee to perform the terms of this Grant constitutes a breach of contract and will result in the termination of the Grant. If a breach by Grantee renders the Grant impossible of performance by Grantee and is caused by circumstances beyond the control of Grantee, and through no fault of Grantee, the Grant will be terminated and Grantor may set off, against any liability or obligations owed to Grantee under this Grant or otherwise, any amounts paid for individual items of work which are incomplete at the time of the breach.

6. FORCE MAJEURE

Neither party shall be held responsible for delay or default caused by fire, flood, riot, terrorism, pandemics, acts of God, or war if the event is beyond the party's reasonable control, and the affected party gives notice to the other party immediately upon occurrence of the event that caused, or is reasonably expected to cause, the delay or default.

7. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

Grantee understands that this Grant is a one-time grant, and acknowledges that it has received no assurances that this Grant may be extended beyond its expiration date.

8. GRANTEE ASSURANCES

Grantee agrees to comply with the applicable assurances set forth in the Grantee Assurances found in Attachment A, which is part of this Grant.

9. AUTHORITY TO CONTRACT

Grantee may subcontract with qualified providers of services, provided that any subcontract acknowledges the binding nature of this Grant, and incorporates this Grant, together with its attachments as appropriate. Grantee is solely responsible for the performance of any subcontractor. Grantee may not contract for or on behalf of or incur obligations on behalf of Grantor. Grantee may not assign or otherwise transfer or delegate any right or duty without Grantor's express written consent.

10. INDEPENDENT ENTITY

Grantee is an independent entity under this Grant. Grantee, its employees, agents, or representatives are not employees of Grantor for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. No part of this Grant may be construed to represent the creation of an employer/employee relationship between Grantor and Grantee. Grantee retains sole and absolute discretion in the manner and means of carrying out Grantee's activities and responsibilities under this Grant, except to the extent specified in this Grant.

11. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

Grantee agrees to keep financial records necessary to fully disclose the complete financial status of the Grant. Grantee must submit documentation supporting requests for reimbursement for review by Grantor or its agents, upon request. If Grantee has expended federal funds (when considering all sources) during Grantee's fiscal year at the amount specified in 2 CFR Part 200 Uniform Grant Guidance, which is made a part of this grant by reference here, that CFR must be followed pursuant to the Single Audit Act of 1984, Public Law 98-502; and the Single Audit Act Amendments of 1996, Public Law 104-156.

Additionally, Grantee agrees to spend all assistance received from Grantor in accordance with applicable laws and regulations from the 2 CFR Part 200 Informational Guide.

12. RETENTION OF RECORDS

Grantee agrees to retain records for at least three years following completion of this Grant or, if subject to audit, from the date the audit is completed and closed, whichever occurs later. Program records must be maintained for a period of six years or until an audit is completed and closed, whichever occurs later. All records, regardless of physical form, and the accounting practices and procedures of Grantee relevant to this Grant are subject to examination by the North Dakota State Auditor, the Auditor's designee, Grantor Contract Monitoring, or federal auditors and Grantee must be able to provide them at any reasonable time. State, State Auditor, Auditor's designee, or Grantor Contract Monitoring shall provide reasonable notice.

13. CONTINGENT LIABILITY

During the term of this Grant, and for three years after this Grant expires or is terminated, Grantee agrees to reimburse Grantor for any claims submitted by Grantor for financial participation in the cost of this Grant to the extent those claims are disallowed by any agency for failure on the part of Grantee to comply with this Grant or any federal or state statutory or regulatory provisions which govern the source of funding. Grantor agrees to give Grantee prompt written notice of any disallowed claims subject to reimbursement by Grantee. Any amount disallowed as described is a debt owing to Grantor. Action may be brought by Grantor as allowed by law.

14. INDEMNITY

Grantor and Grantee each agree to assume their own liability for any and all claims of any nature, including all costs, expenses, and attorneys' fees which may in any manner result from or arise out of this Grant.

15. INSURANCE

a. Grantee shall provide certificate of insurance and any endorsements to Grantor electronically via to:

Name: Kyle J. Nelson
Email Address: kylnelson@nd.gov
Email Subject Line: Certificate of Insurance – 355-14037

b. Grantee shall secure and keep in force during the term of this Grant, from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$2,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$500,000 per person and \$2,000,000 per occurrence.

- 3) Workers' compensation coverage meeting all statutory requirements.
- c. The insurance coverages listed above must meet the following additional requirements:
- 1) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by Grantor. The policies shall be in form and terms approved by Grantor.
 - 2) Grantee shall furnish a certificate of insurance to the undersigned Grantor representative prior to commencement of this Grant.
 - 3) Failure to provide insurance as required in this Grant is a material breach of contract entitling Grantor to terminate this Grant immediately.
 - 4) Grantee shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. An updated, current certificate of insurance shall be provided in the event of any change to a policy.

16. NOTICE

Any notice or other communication required under this Grant must be given by registered or certified mail and is complete on the date mailed when addressed to the parties at the following addresses:

City of Fargo
1240 25th St S
Fargo, ND 58103

OR ND Department of Health and
Human Services
Office of Refugee Support Services
600 East Boulevard Ave, Dept. 325
Bismarck, ND 58505-0250

Notice provided under this provision does not meet the notice requirements for monetary claims against Grantor found at North Dakota Century Code § 32-12.2-04.

17. INTEGRATION, MODIFICATION, AND CONFLICT IN DOCUMENTS

This Grant constitutes the entire Grant between Grantee and Grantor. There are no understandings, agreements, or representations, oral or written, not specified within this Grant. No alteration, amendment, or modification of this Grant is effective unless it is reduced to writing, signed by the parties, and attached to the Grant.

All terms and conditions contained in any end user agreements (e.g., automated click-throughs, shrink wrap, or browse wrap) are specifically excluded and null and void, and shall not alter the terms of this Grant. Clicking shall not represent acknowledgement or agreement to any terms or conditions contained in those agreements.

If any inconsistency exists between this Grant and other provisions of collateral contractual grants which are made a part of this Grant by reference or otherwise, the provisions of this Grant control.

18. SEVERABILITY

If any term of this Grant is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Grant does not contain the illegal or unenforceable term.

19. APPLICABLE LAW AND VENUE

This Grant is governed by and construed according to the laws of the state of North Dakota. Any action to enforce this Grant must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

20. ASSIGNMENT

Grantee may not assign this Grant without Grantor's express written consent, provided, however, that Grantee may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Grant, whether by merger, reorganization, operation of law, or otherwise. Should the assignee be a business or entity with whom Grantor is prohibited from conducting business, Grantor shall have the right to terminate without cause. This Grant is equally binding on the respective parties and their successors and assigns.

21. SPOILIATION – PRESERVATION OF EVIDENCE

Grantee shall promptly notify Grantor of all potential claims that arise or result from this Grant. Grantee shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to Grantor the opportunity to review and inspect the evidence, including the scene of an accident.

22. WORKS FOR HIRE

Grantee acknowledges that all work(s) under this Grant is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to Grantor all rights and interests Grantee may have in the work(s) it prepares under this Grant, including any right to derivative use of the work(s). All software and related materials developed by Grantee in performance of this agreement for Grantor shall be the sole property of Grantor, and Grantee hereby assigns and transfers all its right, title, and interest therein to Grantor. Grantee shall execute all necessary documents to enable Grantor to protect Grantor's intellectual property rights under this section.

23. WORK PRODUCT, EQUIPMENT, AND MATERIALS

All work product, equipment, and materials created or purchased under this Grant belong to Grantor and must be delivered to Grantor at Grantor's request upon expiration or termination of this Grant.

24. CONFIDENTIAL INFORMATION

Grantee shall not use or disclose any information it receives from Grantor under this Grant that Grantor has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Grant or as authorized in advance by Grantor. Grantor shall not disclose any information it receives from Grantee that Grantee has previously identified as confidential and that Grantor determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law found in N.D.C.C. § 44-04-18. The duty of Grantor and Grantee to maintain confidentiality of information under this section continues beyond the term of this Grant, including any extensions or renewals.

25. COMPLIANCE WITH PUBLIC RECORDS LAWS

Grantee understands that, except for disclosures prohibited in this Grant, Grantor must disclose to the public upon request any records it receives from Grantee. Grantee further understands that any records obtained or generated by Grantee under this Grant, except for records that are confidential under this Grant, may be open to the public upon request under certain circumstances under the North Dakota open records law. Grantee agrees to contact Grantor immediately upon receiving a request for information under the open records law and to comply with Grantor's instructions on how to respond to the request.

26. ATTORNEY FEES

If a lawsuit is filed by Grantor to obtain performance due under this Grant, and Grantor is the prevailing party, Grantee shall pay Grantor's reasonable attorney fees and costs in connection with the lawsuit except when prohibited by North Dakota Century Code § 28-26-04.

27. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

Grantor does not agree to binding arbitration, mediation, or any other form of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. Grantor does not waive any right to a jury trial.

28. NONDISCRIMINATION – COMPLIANCE WITH LAWS

Grantee shall comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.)

Grantee shall timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation, and workers' compensation premiums. Grantee also shall have and keep current at all times during the term of this Grant all licenses and permits required by law.

Grantee is prohibited from boycotting Israel for the duration of this Grant. (See N.D.C.C § 54-44.4-15.) Grantee represents that it does not and will not engage in a boycotting Israel during the term of this Grant. If State receives evidence that Grantee boycotts Israel, State shall determine whether the company boycotts Israel. The foregoing does not apply to contracts with a total value of less than \$100,000 or if Grantee has fewer than ten full-time employees.

Grantee's failure to comply with this section may be deemed a material breach by Grantee entitling State to terminate in accordance with the Termination for Cause section of this Grant.

29. DIRECT AND INDIRECT RATES

The terms of this Grant provide for an indirect rate. This rate is limited to the rate negotiated for the time frame the direct expenditures were incurred, which is 8%. Grantee may claim such direct and indirect costs provided they are consistent with the 2 CFR Part 200 Informational Guide.

CITY OF FARGO

By _____
Timothy J. Mahoney, Mayor, City of Fargo

By Jenn Faul 09/12/2024
DATE
Its Director of Public Health, Jenn Faul

Date _____

45-6002069
Grantee's Federal Taxpayer Identification Number

ATTEST

Steve Sprague, City Auditor

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES

By _____
HOLLY TRISKA-DALLY, DIRECTOR DATE
OFFICE OF REFUGEE SUPPORT SERVICES

By _____
KYLE J. NELSON DATE
CONTRACT OFFICER
Approved for form and content

GRANTEE ASSURANCES

- A. In connection with furnishing supplies or performing work under this Grant, persons who contract with or receive funds to provide services to Grantor are obligated and agree to comply with all local, state, and federal laws, regulations, and executive orders related to the performance of this Grant, including the following: Fair Labor Standards Act, the North Dakota Human Rights Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1970, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Drug-free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, the Pro-Children Act of 1994, Title IX of the Education Amendments of 1972, and Section 1557 of the Affordable Care Act.
- B. Unless otherwise authorized by federal law, the charges to be made by Grantee do not include costs financed by federal monies other than those generated by this Grant.
- C. By signing this Grant, Grantee certifies that neither Grantee, Subcontractor, nor their principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with state or federal government by any department or agency of the state or federal government.
- D. Grantee must be an approved vendor with the Office of Management and Budget within the state of North Dakota as required by N.D.C.C. § 54-44.4-09.
- E. Grantee assures that:
 - 1) No Federal funds from this Grant will be paid by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract; the making of any Federal grant, the making of any Federal loan, the entering of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2) If any grant funds other than Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Grantee agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - 3) Grantee shall require that the language of the Grantee Assurances in this Attachment be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall comply with these Grantee Assurances.



13

Memorandum

DATE: September 16, 2024
TO: Mayor and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Dangerous Building at 1710 1 Ave S – Vacation request

Background:

The property at 1710 1 Ave S., Fargo was found to be a Dangerous Building during the regular meeting of the City Commission on October 30, 2023. The property owner, Jamie Swenson, received several extensions to complete repairs to the structure and turn it from an illegal three unit structure to a single family structure. Mr. Swenson contracted Precision Concrete Cutters, Inc. a/k/a Ram Jack to repair the foundation, which was completed in December of 2023 at a cost of \$16,000. We have received information from Precision Concrete Cutters, Inc. a/k/a Ram Jack pertaining to the basement repair and have determined the system used to be adequate for the repair.

Significant improvements have been done with the property. The Inspections Department has determined that sufficient work has been completed on the structure and a vacation of the "dangerous building" Findings of Fact, Conclusions and Order, and any amendment is appropriate.

The recommendation is **to vacate the amended Findings of Fact, Conclusions and Order, for the property located at 1710 1 Ave S due to sufficient repairs having been completed and the building inspector's determination that the property is no longer a dangerous building.**



14

Memorandum

DATE: September 16, 2024
TO: Mayor and Board of City Commissioners
FROM: Shawn Ouradnik, Inspections Director
SUBJECT: Dangerous Building at 909 4 St N – Extension Request

Background:

The home and garage structures at 909 4TH ST N, Fargo, ND were declared “dangerous buildings” during the regular meeting of the City Commission on June 24, 2024. At that time, the property was in legal foreclosure proceedings with the mortgagee, Wilmington Savings Fund Society, FSB, (“Wilmington”). The foreclosure proceedings are completed, and Wilmington is the current legal owner of the property.

An extension was granted on August 14, 2024 to Wilmington to evaluate the structures and determine if they are salvageable or if they will be demolished. During the allotted time extension it was discovered that the redemption period for the structures at 909 4TH ST N, Fargo would not expire until September 22, 2024. When the discrepancy was noticed an additional request for extension requested by Wilmington to allow time to clear any legal action taking place. Wilmington would like the additional time to take possession of the property, clear all contents, and evaluate the structure for repair or demolition. The Inspections Department supports this extension. All previous Findings of Fact and Conclusions and Order will remain in full force and effect.

RECOMMENDED MOTION: To direct the City Attorney’s Office to amend the Findings of Fact, and Conclusions and Order to allow Wilmington Savings Fund Society, FSB a 90-day extension of time to December 22, 2024, to evaluate the dangerous buildings at 909 4TH ST N, and either demolish the building or seek the necessary permits to rehabilitate the structure so that it is no longer dangerous.



PLANNING & DEVELOPMENT

FARGO CITY HALL
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: Planning@FargoND.gov
FargoND.gov

15

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR
KRISTI SYLSKAR, HUD GRANTS ADMINISTRATOR

DATE: SEPTEMBER 11, 2024

RE: 2024 CDBG & HOME FUNDING AGREEMENTS

City of Fargo has received annual grant agreements from U.S. Department of Housing and Urban Development (HUD). City of Fargo will receive the following allocations in the form of Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) funds. These funds were allocated in the 2024 HUD Action Plan, which was approved by City Commission on June 24, 2024.

- \$822,824.00 in CDBG (CFDA #14.218 – grant number B-24-MC-38-0001)
- \$444,620.36 in HOME (CFDA #14.239 – grant number M-24-MC-38-0220)

RECOMMENDED MOTION: Accept and receive the 2024 Community Development Block Grant and HOME Investment Partnerships allocations to City of Fargo from U.S. Department of Housing and Urban Development.



Funding Approval and HOME Investment Partnerships Agreement

Title II of the National Affordable Housing Act

Assistance Listings #14.239 – HOME Investment Partnerships Program

1. Grantee Name (must match the name associated with 3b.) and Address City of Fargo, C/O City Audit 200 North 3rd Street Fargo, ND 58102		2. Grant Number (Federal Award Identification Number (FAIN)) M24-MC380220	
		3a. Tax Identification Number 456002069	3b. Unique Entity Identifier (formerly DUNS) K2QJQZVHSPM6
		4. Appropriation Number 86 4/7 0205	5. Budget Period Start and End Date FY 2024 through FY 2032
6. Previous Obligation (Enter "0" for initial FY allocation)			\$0.00
a. Formula Funds		\$	
7. Budget Approved by the Federal Awarding Agency/Current Transaction (+ or -)			\$444,620.36
a. Formula Funds		\$444,620.36	
1. CHDO (For deobligations only)		\$	
2. Non- CHDO (For deobligations only)		\$	
8. Revised Obligation			\$
a. Formula Funds		\$	
9. Special Conditions (check applicable box) <input type="checkbox"/> Not applicable <input checked="" type="checkbox"/> Attached		10. Federal Award Date (HUD Official's Signature Date) (mm/dd/yyyy) 09/03/2024	
11. Indirect Cost Rate* See Addendum		12. Period of Performance Start and End Date Date in Box #10 - 09/30/2033	

This Agreement between the Department of Housing and Urban Development (HUD) and the Grantee is made pursuant to the authority of the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.). The Grantee's approved Consolidated Plan submission/Application, the HUD regulations at 24 CFR Part 92 (as is now in effect and as may be amended from time to time) and this HOME Investment Partnership Agreement, form HUD-40093, including any special conditions, constitute part of this Agreement. Subject to the provisions of this Agreement, HUD will make the funds for the Fiscal Year specified, available to the Grantee upon execution of this Agreement by the parties. All funds for the specified Fiscal Year provided by HUD by formula reallocation are covered by this Agreement upon execution of an amendment by HUD, without the Grantee's execution of the amendment or other consent. HUD's payment of funds under this Agreement is subject to the Grantee's compliance with HUD's electronic funds transfer and information reporting procedures issued pursuant to 24 CFR 92.502. To the extent authorized by HUD regulations at 24 CFR Part 92, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Grantee without the Grantee's execution of the amendment or other consent. The Grantee agrees that funds invested in affordable housing under 24 CFR Part 92 are repayable when the housing no longer qualifies as affordable housing. Repayment shall be made as specified in 24 CFR Part 92. The Grantee agrees to assume all of the responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58.

The Grantee must comply with the applicable requirements at 2 CFR part 200 that are incorporated by the program regulations, as may be amended from time to time. Where any previous or future amendments to 2 CFR part 200 replace or renumber sections of part 200 that are cited specifically in the program regulations, activities carried out under the grant after the effective date of the part 200 amendments will be governed by the 2 CFR part 200 requirements as replaced or renumbered by the part 200 amendments.

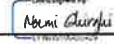
The Grantee must use the Grant Funds only for costs (including indirect costs) that meet the applicable requirements in 2 CFR part 200 (including appendices). The Grantee must complete the Addendum to Agreement Grantee Indirect Cost Rate(s) (Addendum) and return it to HUD with this Agreement. The Addendum will be incorporated into and made part of this Agreement, if, and only if, the rate information provided by Grantee in the Addendum is consistent with the applicable requirements under 2 CFR part 200. The Grantee must immediately notify HUD upon any change in the Grantee's indirect cost rate, so that HUD can amend the Agreement to reflect the change if necessary.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

The Period of Performance for the funding assistance shall begin on the date specified in item 12 and shall end on September 1st of the 6th fiscal year after the expiration of the period of availability for obligation. Funds remaining in the account will be cancelled and thereafter not available for obligation or expenditure for any purpose. Per 31 U.S.C. 1552. The Grantee shall not incur any obligations to be paid with such assistance after the end of the Period of Performance.

The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 U.S.C. 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001) [2023-05698.pdf \(govinfo.gov\)](https://www.govinfo.gov/2023-05698.pdf), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

Waste, Fraud, Abuse, and Whistleblower Protections: Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of any HUD award must report such incidents to both the HUD official responsible for the award and to HUD's Office of Inspector General (OIG). HUD OIG is available to receive allegations of fraud, waste, and abuse related to HUD programs via its hotline number (1-800-347-3735) and its online hotline form. You must comply with 41 U.S.C. § 4712, which includes informing your employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a government contractor, subcontractor, grantee, and subgrantee- as well as personal services contractor- who make a protected disclosure about a Federal grant or contract cannot be discharged, demoted, or otherwise discriminated against as long as they reasonably believe the information they disclose is evidence of: 1. Gross mismanagement of a contract or grant; 2. Waste of Federal funds; 3. Abuse of authority relating to a Federal contract or grant; 4. Substantial and specific danger to public health and safety; or 5. Violations of law, rule, or regulation related to a Federal contract or grant.

13. For the U.S. Department of HUD (Name and Title of Authorized Official) Noemi Ghirghi, CPD Director (Acting)		14. Signature 	15. Date 9/3/2024
16. For the Grantee (Name and Title of Authorized Official) Timothy J Mahoney, Mayor, City of Fargo		17. Signature	18. Date 9/16/2024

Initial Agreement

Amendment #

20. Funding Information: *HOME*

Source of Funds	Appropriation Code	PAS Code	Amount
2024	86 4/7 0205	HMF (N)	\$444,124.21
2023	86 3/6 0205	HMF (M)	\$ 496.15

Attachment to Agreement M24-MC380220

Grantee Indirect Cost Rate(s)

As the duly authorized representative of the Grantee, I certify that the Grantee:

- Will not use an indirect cost rate to calculate and charge indirect costs under the grant.
- Will calculate and charge indirect costs under the grant by applying a *de minimis* rate as provided by 2 CFR 200.414(f), as may be amended from time to time.
- Will calculate and charge indirect costs under the grant using the indirect cost rate(s) listed below, and each rate listed is included in an indirect cost rate proposal developed in accordance with the applicable appendix to 2 CFR part 200 and, *if required*, was approved by the cognizant agency for indirect costs.

Agency/department/major function	Indirect cost rate	Type of Direct Cost Base
	%	
	%	
	%	

Instructions for the Grantee's Authorized Representative:

You must mark the one (and only one) checkbox above that best reflects how the Grantee's indirect costs will be calculated and charged under the grant. Do not include indirect cost rate information for subrecipients.

Name of Authorized Official:

Timothy J Mahoney

Signature:

X _____

Date (mm/dd/yyyy):

9/16/2024

Title:

Mayor, City of Fargo

The table following the third box must be completed only if that box is checked. When listing a rate in the table, enter both the percentage amount (e.g., 10%) and the type of direct cost base to be used. For example, if the direct cost base used for calculating indirect costs is Modified Total Direct Costs, then enter "MTDC" in the "Type of Direct Cost Base" column.

If using the Simplified Allocation Method for indirect costs, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

If using the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

If the Grantee is a government and more than one agency or department will carry out activities under the grant, enter each agency or department that will carry out activities under the grant, the indirect cost rate(s) for that agency or department, and the type of direct cost base to which each rate will be applied.

To learn more about the indirect cost requirements, see 2 CFR part 200, subpart E; Appendix IV to Part 200 (for nonprofit organizations); and Appendix VII to Part 200 (for state and local governments).

General Instructions: This Agreement is used for one of three purposes: 1) the initial Agreement between HUD and the Participating Jurisdiction (PJ) that obligates HOME formula funds; 2) the initial Agreement between HUD and the PJ/entity that obligates Community Housing Development Organization (CHDO) competitive reallocation funds; 3) the amendment to the Agreement that deobligates an amount of a PJ/entity's HOME funds previously obligated because of a reduction of funds by HUD.

For all initial Agreements - The Agreement (HUD-40093) must have an original or electronic signature by the appropriate HUD official, who is usually the Community Planning and Development (CPD) Director in the Field Office. After the HUD official signs the Agreement, it must be sent to the jurisdiction (or entity) for signature. The jurisdiction (or entity) must sign or electronically sign the Agreement and should retain a copy for its records. The jurisdiction (or entity) must return the signed Agreement to the HUD Field Office. The HUD Field Office must forward the executed Agreement to the CFO National Accounting Center for recording and retain a copy for the Field Office files.

For amendments to the Agreement that deobligate funds because of a reduction by HUD - after notification from the Headquarters' Office of Affordable Housing (OAHP) to proceed, the Agreement (HUD-40093) must be signed or electronically signed by the appropriate HUD official, who is usually the CPD Director in the Field Office. **It is not** necessary to have the jurisdiction sign the form. (Also, please See #8 below) The Field Office should send one copy to the jurisdiction (or entity) for its records. Forward the HUD signed amendment to the CFO National Accounting Center to initiate the deobligation. Email a copy to Headquarters, OAHP, Financial and Information Services Division so that Headquarters can track the deobligation. Retain a copy for the Field Office files.

1. **Participant Name and Address.** The participating jurisdiction's (or entity's) name and address as shown in Box 4 of Standard Form 424.
2. **Grant Number.** The applicable grant number assigned by the HUD for the PJ/entity that corresponds to the fiscal year source of funds for this transaction.
- 3a. **Tax Identification Number. Enter the Tax (Employer).** Identification Number (TIN) shown in Box 8b of Standard Form 424. For jurisdictions (or entities) that are already participating in the HOME Program, this must be the TIN associated

with the jurisdiction (or entity) for the HOME Program.

- 3b. **Unique Entity Identifier.** The identifier required for SAM registration to uniquely identify business entities shown in Box 8c of Standard Form 424 (formerly known as DUNS). For jurisdictions (or entities) that are already participating in the HOME Program, this must be the Unique Entity Identifier associated with the jurisdiction (or entity) for the HOME Program.
4. **Appropriation Number.** The Appropriation Number from the HUD-185 sub-assigning funds for the Fiscal Year source of funds for this transaction.
5. **Budget Start and End Date.** Indicate the fiscal years of funds for this transaction.
6. **Previous Obligation.** Enter the total amount of funds that have been previously obligated for this participant for this FY source of funds.
 - a. **Formula Funds.** Enter the total amount of formula funds previously obligated to the participant. If this is the funding approval form for the participant's initial allocation for the fiscal year, the amount will be "0". If this is a funding approval form for reallocating or deobligating funds, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.
 - b. **Community Housing Development Organization (CHDO) Competitive Reallocation.** Enter the amount of funds previously obligated to the PJ/entity by competition for CHDOs. If this is a funding approval form for reallocating or deobligating funds previously allocated by competition for CHDOs, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.
7. **Current Transaction.** Enter the total amount of funds for this action. Indicate a deobligation either by placing parentheses around the amount deobligated or a minus sign before the amount deobligated.
 - a. **Formula Funds.** Of the amount indicated in Box 7, indicate the amount that is for formula funds. If this is a formula fund deobligation, show the distribution of that amount of funds in Box 7a.1 CHDO funds and/or Box 7a.2 non-CHDO funds.
 1. **CHDO.** Of the amount indicated in Box 7a, indicate the amount that is CHDO funds. If none, enter "0." Note: If this is a CHDO competitive reallocation, enter the amount in 7b.

Instructions for Completing the Funding Approval and HOME Investment Partnerships Agreement

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- 2. Non-CHDO.** Of the amount indicated in Box 7a, indicate the amount that is Non-CHDO funds. If none, enter "0."
- b. CHDO Competitive Reallocation or Deobligation.** Of the amount indicated in Box 7, indicate the amount that is reallocated or deobligated from the CHDO competition funds.
- 8. Revised Obligation.** Enter the total amount of funds available to the jurisdiction (or entity) after this transaction (Box 6 plus/minus Box 7). Most grants have several source years of funds, therefore, the funding information in #20 must be filled out with the applicable source year of funds and amounts to be deobligated.
- a. Formula Funds.** Enter the total amount of formula funds available to the participating jurisdiction after this transaction (Box 6a plus/minus Box 7a).
- b. CHDO Competitive Reallocation.** Enter the total amount of funds available to the PJ/entity as a competitive reallocation for CHDOs after this transaction (Box 6b plus/minus Box 7b).
- 9. Special Conditions.** If applicable, check the box and attach any special conditions that are part of the Agreement.
- 10. Federal Award Date.** This is the date of obligation which is the **initial date of the HUD Authorized Official's signature** (Box 15) This date of the initial obligation does not change regardless of the Agreement being amended for a deobligation because of a reduction by HUD.
- 11. Indirect Cost Rate.** If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, complete the Addendum to Agreement Grantee (Indirect Cost Rate(s), including the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414(f)), and the direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTCD)). If the rate information provided by Recipient in the Addendum is consistent with the applicable requirements in 2 CFR Part 200, the Addendum will be incorporated into and made part of the Agreement. The Recipient also shall provide HUD with a revised schedule if changes occur, and shall become incorporated herein upon HUD's amendment to the Agreement. If there are more than four agencies/departments carrying out activities with the Funding Assistance, attach a list with the additional agencies/departments that will carry out activities with the Funding Assistance. Do not include indirect cost rates for subrecipients.
- 12. Period of Performance.** Performance begins on the **initial date of the HUD Authorized Official's signature** (Box 15 and Box 10) and ends on September 30th¹ of the 6th fiscal year after the expiration of the period of availability for obligation.
- 13. For the U.S. Department of HUD (Name and Title of Authorized Official).** Enter the name and title of the HUD official who is authorized to sign the Agreement on behalf of HUD. This is usually the Field Office CPD Director.
- 14. Signature.** The authorized HUD official signs the Agreement here.
- 15. Date.** Enter the date the authorized HUD official signed the form. In the case of initial agreements. This is also the same date as the **Federal Award Date**, date of obligation (Box 10).
- 16. For the Participating Jurisdiction/Entity (Name and Title of Authorized Office).** Enter the name and title of the official authorized to sign on behalf of the participating jurisdiction/entity. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
- 17. Signature of PJ/Entity Official.** The PJ/entity official signs the Agreement here. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
- 18. Date.** Enter the date the PJ/Entity official signs the Agreement. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
-

Instructions for Completing the Funding Approval and HOME Investment Partnerships Agreement

19. Type of Agreement. Check either Initial Agreement or Amendment #. If an amendment, indicate the amendment number.

20. Funding Information. For each source year of funding, the following information is provided: Source year of Funds, Appropriation Code, PAS Code (with fiscal year indicator code), and amount.

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383) HI-00515R of 20515R

U.S. Department of Housing and Urban Development

Office of Community Planning and Development Community Development Block Grant Program

OMB Approval No. 2506-0193 exp 1/31/2025

Table with 3 columns: 1. Name of Grantee (as shown in item 5 of Standard Form 424) City of Fargo; 3a. Grantee's 9-digit Tax ID Number 456002069; 3b. Grantee's 9-digit DUNS Number K2QJQZVH5PM6 (UEI); 2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 200 North 3rd Street Fargo, ND 58102; 4. Date use of funds may begin 05/01/2024; 5a. Project/Grant No. 1 B-24-MC-38-0001; 5b. Project/Grant No. 2; 6a. Amount Approved \$822,824.00 (by this action); 6b. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any additional and/or special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the additional and/or special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

Table with 4 columns: U.S. Department of Housing and Urban Development (By Name) Noemi Ghirghi; Title CPD Director (Acting); Signature X; Date (mm/dd/yyyy) 9/3/2024; Grantee Name (Contractual Organization) CITY OF FARGO, C/O CITY AUDIT; Title Mayor, City of Fargo; Signature X; Date (mm/dd/yyyy) 09/16/2024

Table with 4 columns: 7. Category of Title I Assistance for this Funding Action: Entitlement, Sec 106(b); 8. Additional/Special Conditions (check one) [] None [x] Attached; 9a. Date HUD Received Submission (mm/dd/yyyy); 9b. Date Grantee Notified (mm/dd/yyyy); 9c. Date of Start of Program Year 05/01/2024; 10. check one [x] a. Orig. Funding Approval [] b. Amendment Amendment Number; 11. Amount of Community Development Block Grant: a. Funds Reserved for this Grantee; b. Funds now being Approved \$822,807.00; c. Reservation to be Cancelled (11a minus 11b)

Table with 2 columns: 12a. Amount of Loan Guarantee Commitment now being Approved N/A; Loan Guarantee Acceptance Provisions for Designated Agencies: The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.; 12b. Name and complete Address of Public Agency; 12c. Name of Authorized Official for Designated Public Agency; Title; Signature X

HUD Accounting use Only

Table with 10 columns: Batch, TAC, Program Y, A, Reg, Area, Document No., Project Number, Category, Amount, Effective Date (mm/dd/yyyy), F. Includes sub-tables for Project Number and Amount.

8. Additional Conditions.

- (a) The period of performance and single budget period for the funding assistance specified in the Funding Approval (“Funding Assistance”) shall each begin on the date specified in item 4 and shall each end on September 1, 2031. The Grantee shall not incur any obligations to be paid with such assistance after September 1, 2031.
- (b) The Grantee must complete Addendum #1 to Agreement “Grantee Indirect Cost Rate(s)” and return it to HUD with this Agreement. The addendum HUD receives from the Grantee will be incorporated into and made part of this Agreement, provided that the rate information is consistent with the applicable requirements under 2 CFR part 200. The Grantee must immediately notify HUD upon any change in the Grantee’s indirect cost rate, so that HUD can amend the Agreement to reflect the change if necessary.
- (c) In addition to the conditions contained on form HUD 7082, the grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS); the System for Award Management (SAM.gov.); the Federal Funding Accountability and Transparency Act as provided in 2 CFR part 25, Universal Identifier and General Contractor Registration; and 2 CFR part 170, Reporting Subaward and Executive Compensation Information.
- (d) The grantee shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water- related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain.
- (e) The Grantee or unit of general local government that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.
- (f) E.O. 12372-Special Contract Condition - Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt

of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

- (g) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." (Source - P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund).
- (h) The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.
- (h) Waste, Fraud, Abuse, and Whistleblower Protections. Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of any HUD award must report such incidents to both the HUD official responsible for the award and to HUD's Office of Inspector General (OIG). HUD OIG is available to receive allegations of fraud, waste, and abuse related to HUD programs via its hotline number (1-800-347-3735) and its online hotline form. You must comply with 41 U.S.C. § 4712, which includes informing your employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a government contractor, subcontractor, grantee, and subgrantee—as well as a personal services contractor—who make a protected disclosure about a Federal grant or contract cannot be discharged, demoted, or otherwise discriminated against as long as they reasonably believe the information they disclose is evidence of: 1. Gross mismanagement of a Federal contract or grant; 2. Waste of Federal funds; 3. Abuse of authority relating to a Federal contract or grant; 4. Substantial and specific danger to public health and safety; or 5. Violations of law, rule, or regulation related to a Federal contract or grant.
- (i) The Grantee will comply with the right to report crime and emergencies protections at 34 U.S.C. 12495 of the Violence Against Women Act.

**Addendum # 1 to Agreement B-24-MC-38-0001
 Grantee Indirect Cost Rate(s)**

As the duly authorized representative of the Grantee, I certify that the Grantee:

- Will not use an indirect cost rate to calculate and charge indirect costs under the grant.
- Will calculate and charge indirect costs under the grant by applying a *de minimis* rate as provided by 2 CFR 200.414(f), as may be amended from time to time.
- Will calculate and charge indirect costs under the grant using the indirect cost rate(s) listed below, and each rate listed is included in an indirect cost rate proposal developed in accordance with the applicable appendix to 2 CFR part 200 and, *if required*, was approved by the cognizant agency for indirect costs.

Agency/department/major function	Indirect cost rate	Type of Direct Cost Base
	%	
	%	
	%	

Name of Authorized Official:

Signature:
 X _____

Date (mm/dd/yyyy):

Title:

09/16/2024

Instructions for the Grantee’s Authorized Representative:

You must mark the one (and only one) checkbox above that best reflects how the Grantee’s indirect costs will be calculated and charged under the grant. Do not include indirect cost rate information for subrecipients.

The table following the third box must be completed only if that box is checked. When listing a rate in the table, enter both the percentage amount (e.g., 10%) and the type of direct cost base to be used. For example, if the direct cost base used for calculating indirect costs is Modified Total Direct Costs, then enter “MTDC” in the “Type of Direct Cost Base” column.

If using the Simplified Allocation Method for indirect costs, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

If using the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

If the Grantee is a government and more than one agency or department will carry out activities under the grant, enter each agency or department that will carry out activities under the grant, the indirect cost rate(s) for that agency or department, and the type of direct cost base to which each rate will be applied.

To learn more about the indirect cost requirements, see 2 CFR part 200, subpart E and Appendix VII to Part 200 (for state and local governments).

16

City of Fargo Staff Report			
Title:	College Third Addition	Date: Update:	06/26/2024 09/12/2024
Location:	1038 25th Street North	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Portion of Lot 1 and all of Lots 2 and 3, Block 16, College 2nd Addition		
Owner(s)/Applicant:	Aomeed Rasool Murad / Cole Neset	Engineer:	Neset Land Surveys
Entitlements Requested:	Minor Subdivision (Replat of a portion of Lot 1 and all of Lots 2 and 3, Block 16, College 2nd Addition, to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Consent Agenda: September 16 th , 2024		

Existing	Proposed
Land Use: Residential	Land Use: Residential
Zoning: SR-3	Zoning: No change
Uses Allowed: Allows detached houses, daycare centers up to 12 children, attached houses, duplexes, parks and open space, religious institutions, safety services, schools, and basic utilities	Uses Allowed: No change
Maximum Density Allowed: 8.7 dwelling unit per acre	Maximum Density Allowed: No change

Proposal:
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> 1. A minor subdivision, to be known as College Third Addition, replat of a portion of Lot 1 and all of Lots 2 and 3, Block 16, College 2nd Addition, to the City of Fargo, Cass County, North Dakota <p>This project was reviewed by the City’s Planning and Development, Engineering, Public Works, and Fire Departments (“staff”), whose comments are included in this report.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: SR-3 with residential uses • East: LI, Limited Industrial; with industrial uses (north of 11th Avenue) and GC, General Commercial with commercial uses (south of 11th Avenue) • South: SR-3 with residential uses • West: SR-3 with residential uses
Area Plans:
<p><i>NOTE: This project was proposed, and went to Planning Commission hearing, under the Core Neighborhoods Plan. The new Fargo Growth Plan 2024 was adopted on August 19th, 2024. The Core Neighborhoods Plan remains in effect as part of the new growth plan. The proposed project is also consistent with 2024 growth plan’s place type designation of “Urban Neighborhood.”</i></p> <p>The subject property is located within the Madison / Unicorn Park Neighborhood area of the Core Neighborhoods Plan. Various aspects of this neighborhood are addressed in the neighborhood implementation brief:</p> <ul style="list-style-type: none"> • The land use map in that brief identifies the current land uses but also identifies some opportunities for change. The subject property is identified as “Single-Family Residential.”

- The brief recommends that the area that includes the subject property—the area around Madison Elementary School--be allowed to preserve its single-family character (p.146). The proposed subdivision would create a second lot zoned for single-family development.



Single-Family Residential	Industrial/Warehousing
Multi-Family Residential	Park, Open Space and Trails
Institutional	Commercial
Schools with recreational amenities	Mixed Use Neighborhood Commercial

Context:

Schools: The subject property is located within the Fargo School District and is served by Madison Elementary, Ben Franklin Middle and Fargo North High schools.

Neighborhood: The subject property is located within the Madison / Unicorn Park neighborhood.

Parks: 123 Park, located at 925 27th Street North, is approximately 0.14 mile southwest of the subject property and provides amenities of picnic table and playground for ages 2-5.

Pedestrian / Bicycle: There are no shared use paths adjacent to the subject property.

MATBUS Route: A stop for MATBUS Route 17 is located near the intersection of 26th Street and 12th Avenue North, approximately 0.15 miles from the subject property. This route connects to the downtown transit hub.

Staff Analysis:

The plat will divide the subject property into two lots. The existing residence and garage will remain on proposed Lot 1. The applicant intends to construct a new residence on Lot 2. Both lots will meet the 5,000 square foot minimum lot area requirement of the SR-3 zone.

ACCESS: As 25th Street North is an arterial, no direct access can be taken from this street. The plat depicts a negative access easement (NAE) along the 25th Street property frontage to indicate that access from 25th Street is prohibited. The plat also depicts an NAE along the diagonal property frontage along 11th Avenue North. Lot 1 will take access from the alley, as the current residence does. Lot 2 would be able to take access from 11th Avenue.

PUBLIC COMMENT PRIOR TO THE JULY 2nd, 2024 PLANNING COMMISSION HEARING: Following notification of the Madison / Unicorn Park Neighborhood representatives, Planning staff received comments from a neighbor about the subject property being used as a rental property; disruptive behavior by the tenants of this property; and stating opposition to the property owner creating a second lot on this property. Planning staff referred this neighbor to the code enforcement staff, and continued contact with the neighbor. The applicant provided a response e-mail to these concerns. Copies of these e-mails are attached.

Planning staff also received a phone call from another neighbor who opposed the project. The neighbor had similar comments to those noted above, and expressed the concern that a second residence here would also be used a rental that could be disruptive to the neighborhood.

PUBLIC COMMENT AT THE JULY 2nd, 2024 PLANNING COMMISSION HEARING:

At the July 2nd, 2024 Planning Commission hearing, five neighbors spoke in opposition to the application stating the following concerns:

- minimal parking availability;
- small alley size;
- too many people currently residing at the home;
- current residents holding loud parties, which bring many people and cars to the area;
- people attending the parties display disorderly behavior
- not enough space for a second home;
- this home being rental versus other parts of the neighborhood being resident owned and occupied;
- increased traffic speeds; and
- garage not being utilized for parking.

Planning staff explained that these concerns were code violations and that the case before the Planning Commission was a subdivision. Code violations are handled by City staff, not the Planning Commission.

Following the Planning Commission hearing, Planning staff connected some of the testifiers to code enforcement staff.

Minor Subdivision

The LDC stipulates that the following criteria is met before a minor plat can be approved:

- 1. Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

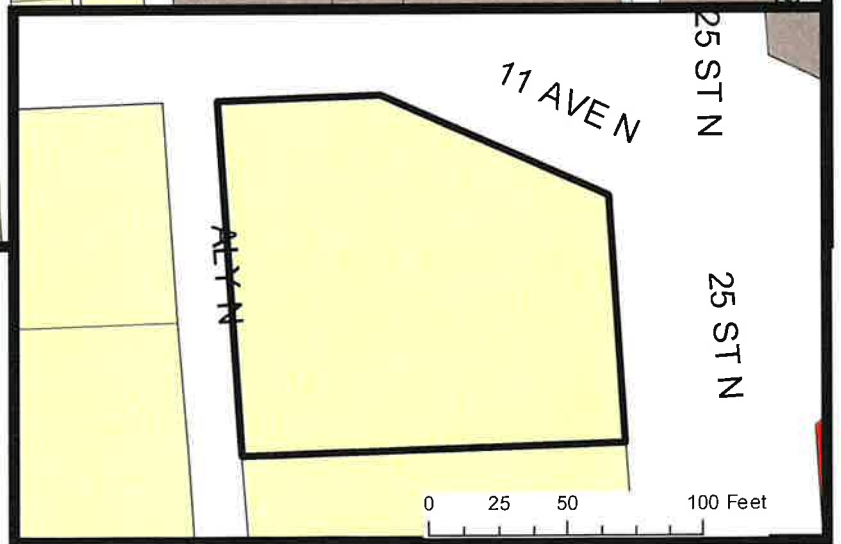
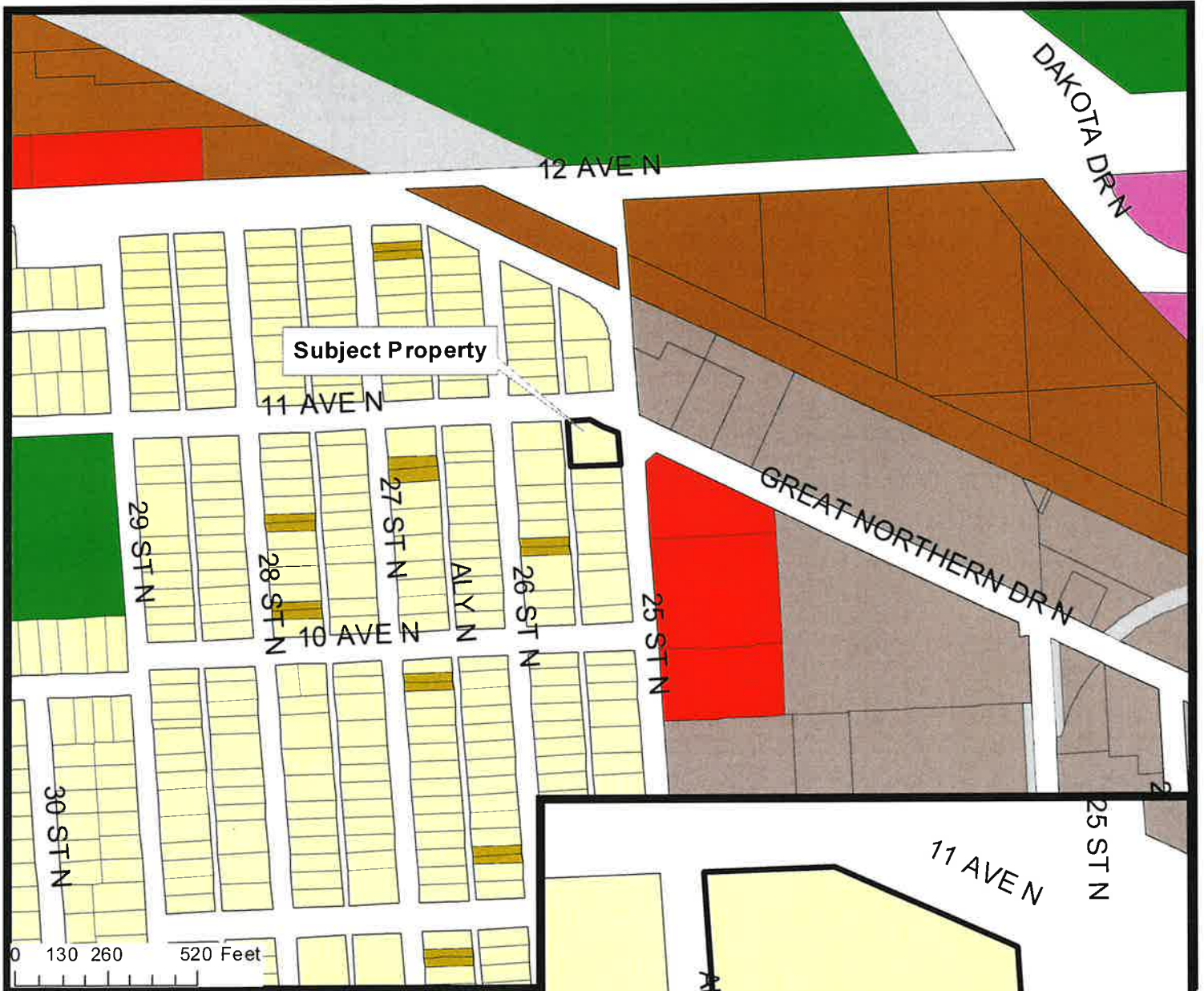
The requested minor subdivision divides an existing lot into a two lot, one block subdivision for residential development. The current zoning is SR-3, Single Dwelling Residential. No zone change is proposed. The subject property is located within Madison / Unicorn Park Neighborhood area of the Core Neighborhoods Plan. The proposed development is consistent with recommendations of the neighborhood implementation brief. The proposed development is also consistent with the newly-adopted Fargo Growth Plan 2024's place type designation of "Urban Neighborhood." In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received the comments noted above and attached. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

<p>2. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.</p> <p>While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. (Criteria Satisfied)</p>
<p>Staff Recommendation:</p> <p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and approve the proposed subdivision plat, College Third Addition as outlined within the staff report, as the proposal complies with the adopted Madison / Unicorn Park Neighborhood area of the Core Neighborhoods Plan, Fargo Growth Plan 2024, the standards of Article 20-06, Section 20-0907.B. and C and all other applicable requirements of the Land Development Code."</p>
<p>Planning Commission Recommendation: July 2nd, 2024</p> <p>At the July 2nd, 2024 Planning Commission hearing, that Commission, by a vote of 8-1 with one Commissioner absent and one Commission seat vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed subdivision plat, College Third Addition as outlined within the staff report, as the proposal complies with the adopted Madison / Unicorn Park Neighborhood area of the Core Neighborhoods Plan, the standards of Article 20-06, Section 20-0907.B. and C and all other applicable requirements of the Land Development Code.</p>
<p>Attachments:</p> <ol style="list-style-type: none">1. Zoning Map2. Location Map3. Preliminary Plat4. Public Comments

Minor Subdivision

College Third Addition

1038 25th Street North



Legend

AG	DMU	LC	MHP	SR-2
GC	GO	MR-1	NO	SR-3
GO	MR-2	MR-3	PA	SR-4
			UMU	SR-5
				City Limits

Minor Subdivision

College Third Addition

1038 25th Street North



Legend
City Limits



Fargo Planning Commission
July 02, 2024

PLAT OF
COLLEGE THIRD ADDITION

A MINOR SUBDIVISION
A REPLAT OF PART OF LOT 1, AND ALL OF LOTS 2 AND 3, BLOCK 16, OF COLLEGE SECOND ADDITION
TO THE CITY OF FARGO, COUNTY OF CASS, STATE OF NORTH DAKOTA

CITY ENGINEER'S APPROVAL

THIS PLAT OF THE CITY OF FARGO IS HEREBY APPROVED THIS 15 DAY OF SEPTEMBER, 2024.

FOR WILLIAM P. E. CITY ENGINEER

STATE OF NORTH DAKOTA

COUNTY OF CASS

ON THIS 15 DAY OF SEPTEMBER, 2024, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MARONEY & STEVE SPRAGUE, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED SAID INSTRUMENT FREELY, FULLY, AND LEGALLY.

NOTARY PUBLIC, COUNTY CASS, STATE NORTH DAKOTA

MY COMMISSION EXPIRES _____

CITY COMMISSION APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS 15 DAY OF SEPTEMBER, 2024.

TIMOTHY J. MARONEY MAYOR

STEVE SPRAGUE CITY ENGINEER

STATE OF NORTH DAKOTA

COUNTY OF CASS

ON THIS 15 DAY OF SEPTEMBER, 2024, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MARONEY & STEVE SPRAGUE, TO ME KNOWN TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED SAID INSTRUMENT FREELY, FULLY, AND LEGALLY.

NOTARY PUBLIC, COUNTY CASS, STATE NORTH DAKOTA

MY COMMISSION EXPIRES _____

FARGO PLANNING COMMISSION APPROVAL

APPROVED BY THE CITY OF FARGO PLANNING COMMISSION THIS 15 DAY OF SEPTEMBER, 2024.

MARANDA R. PATA CHAIR

FARGO PLANNING COMMISSION

STATE OF NORTH DAKOTA

COUNTY OF CASS

ON THIS 15 DAY OF SEPTEMBER, 2024, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MARANDA R. PATA, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED SAID INSTRUMENT FREELY, FULLY, AND LEGALLY.

NOTARY PUBLIC, COUNTY CASS, STATE NORTH DAKOTA

MY COMMISSION EXPIRES _____

MORTGAGE HOLDER

AMERICAN FARMERS CITY BANK
1000 W. WASHINGTON AVE. SUITE 100
FARGO, ND 58102
STATE OF ND

COUNTY OF CASS

ON THIS 15 DAY OF SEPTEMBER, 2024, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED TIMOTHY J. MARONEY & STEVE SPRAGUE, TO ME KNOWN TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED SAID INSTRUMENT FREELY, FULLY, AND LEGALLY.

NOTARY PUBLIC, COUNTY CASS, STATE NORTH DAKOTA

MY COMMISSION EXPIRES _____



FOR RECORDING PURPOSES ONLY

PUBLIC COMMENTS RECEIVED AS OF 26 JUNE 24

From: Paula Denault
Sent: Monday, June 10, 2024 4:57 PM
To: Donald Kress <dkress@FargoND.gov>
Subject: Project of adding a house 1038 25th Street North

The project on 25th Street North needs to have input from our neighbors. We have already had issues with this landlord and he doesn't care what we think. I reside at 1122 25th Street North.
Paula Strom Sell

From: Donald Kress <dkress@FargoND.gov>
Sent: Wednesday, June 12, 2024 8:18:38 AM
To: 'Paula Denault'
Subject: RE: Project of adding a house 1038 25th Street North

Paula,

Thank you for this comment. We are working on more neighborhood outreach for this project. What are the issues you've had with this property? Thank you.

From: Paula Denault
Sent: Wednesday, June 12, 2024 9:16 AM
To: Donald Kress <dkress@FargoND.gov>
Subject: Re: Project of adding a house 1038 25th Street North

Noise, there are 7 unrelated people living there. The police were called a few weeks ago. The young men were drinking going on top of the HOUSE roof and urinating. My neighbor, Dustin called police. He also called Aomeed, abd told him what's been going over there.He didn't care! And, he was very rude.Told him that he planned on putting this project. I live at the end of the alley, 1122 25th Street North and I can hear those tenants when they party and I live at the end of this alley.

The neighbors to the north have a 3-4 year old while the language, drinking to excess, parties are going, this little girl is trying to sleep!

There is no where for parking. 25th Street North is an emergency route from November till April. The alley has no place for parking.

The tenants already park on the grass supposedly where this new place will be built.

As a result, Dustin and his wife are talking about selling their home if this goes through. They have been our neighbors for 10 years.

This renting to college kids and landlords not taking responsibility for noise, parking, indecent behavior must stop.

Just to tell you our neighbor to the north built 2 homes separated on the property line. Steve is his name. He rents each side out for a week or less. That is a business by definition. Apparently drugs were being sold from the one unit. Well, SWAT etc arrived straight across the alley from where we were standing by our garden. SHOCKED we have never had that and drug dealers here. We've been here 33 years and rarely and I can count on one hand the time police have ever been in this area.

This area is starting to be a bad area for us

Sorry for the long complaint but you need to know how many of us are feeling

PUBLIC COMMENTS RECEIVED AS OF 26 JUNE 24

Thank you
Paula Strom Sell

From: Donald Kress <dkress@FargoND.gov>
Sent: Thursday, June 13, 2024 8:25:00 AM
To: 'Paula'
Cc: 'zabsey; 'pastorjess'
Subject: RE: Project of adding a house 1038 25th Street North

Paula,

The City has a regulation on the maximum number of unrelated people who can live in a single dwelling unit. That number is no more than three unrelated people. There are requirements for parking on-site (that is, not in the street or alley or on the lawn).

You can report a suspected violation through Fargo
One https://iframe.publicstuff.com/#?client_id=962#picker-top or contact our Code Enforcement Inspector, Laura Langdahl, at 701-476-6710 or LLangdahl@FargoND.gov

Noise, disorderly conduct, and criminal complaints are handled by the police department.

Thank you.

From: Paula Denault
Sent: Thursday, June 13, 2024 8:44 AM
To: Donald Kress <dkress@FargoND.gov>
Cc: 'zabsey; 'pastorjess'
Subject: Re: Project of adding a house 1038 25th Street North

Thank you. I will do that reporting. Helpful information as I thought it was 5 unrelated and it's 3. Parking is an issue. I will tell Mr and Mrs Schmidt and Dusty and Melissa and a few other neighbors.

Paula Strom Sell

Sent: Thursday, June 20, 2024 11:34 AM
To: Nicole Crutchfield <ncrutchfield@FargoND.gov>
Subject: Nicole Crutchfield Contact Form

Name: Paula Strom-Sell

Email:

Question/Comment: I am looking for the Planning Office that is handling the unpopular project at 1038 25th Street North. My understanding from the email I received from Donald Kress that there will be a meeting July 2 at 3 pm. myself and neighbors will be attending to voice loudly our complaints with this project.

How do we get on the Agenda? Also who do we contact.

Thank you

Paula Strom Sell

PUBLIC COMMENTS RECEIVED AS OF 26 JUNE 24

1122 25th Street North
Fargo ND

From: Paula Sell
Sent: Thursday, June 20, 2024 6:52 PM
To: Planning E-mails <planning@FargoND.gov>
Subject: Project at 1038 25th Street North

My name is Paula Strom Sell and reside at 1122 25th St N, Fargo, ND 58102. My husband and myself and children have resided at this address for 33 years. This was a great neighborhood until landlords started buying up single family homes and turned them into housing for NDSU students.

No one in the city checks on these rentals. The house 1038 25th Street North has had up to 7 unrelated people living there. Parking is almost non existent here so parking on the lawn in the rear has been common. 25th Street North is a SNOW Emergency Route starting in November through April. The rear of 1038 25th has a small alley. No parking! The garage and small driveway in the back, which will remain, leaves parking a serious issue. Parking on 11th Ave has homes and driveways which could be blocked and during winter how do the snowplows clear the Avenue?

Next is the noise, drinking, climbing on the roof and urinating (indecent exposure) and endangering lives there. Also these young people don't know about using the burn pit. Fire Marshal wants it so many feet away from the home, which home? Then they never have a working hose close by. I have had to educate teens at 2501 11th Ave N as we share a privacy fence! A house on the same property as 1038 25th would be a fire Hazzard.

These landlords seem to trying to circumvent the zoning code here which is single family dwellings not apartments for college teens.

Regardless, several families in this area am planning on attending this meeting to voice our serious concerns
We will be at the meeting so please include us on the agenda for the meeting on July 2 at 3 pm. I will put together an agenda as to what we will address.
We do not want this second house on a small lot
Sincerely
Paula Strom Sell
1122 25th St N, Fargo, ND 58102

APPLICANT'S RESPONSE TO PUBLIC COMMENTS

From: bakhtyar murad
Sent: Wednesday, June 26, 2024 2:07 AM
To: Donald Kress <dkress@FargoND.gov>
Cc: Cole Neset
Subject: Re: College Third Addition---public comments

Good morning Donald,

Thank you for letting us know regarding some neighbors' concerns about tenant behavior residing in 1038 25 St N Fargo.

First I want to draw your attention that house been a rental property since 2020, during the last four years we did not receive a disturbance complaint or violation report from any one, and we will do our best to keep it like that, we will not tolerate any inappropriate behavior from our tenants toward any of our neighbors

We take our neighbors' concerns very seriously and we will take all the necessary action to resolve any issue that may happen as long as we are aware of it.

In early June I was approached by one of the neighbors crossing the Street from 1038 property, he mentioned that he saw inappropriate behavior from a person, but he did not specify if that person was a tenant that resides in the house or a visitor. regardless of who was, we took a proper action to resolve that issue :

1- I personally went to other neighbors houses, introduced myself and asked them if they have any complaints about the tenants residing in 1038 property, from the feedback i received it did not look like they have issues with the tenants.

I'm quoting from my conversation with them: (some time They Do Party but they don't Bother us)

2- we have a procedure that we follow in such a situation which is:

A- after we receive a complaint we will talk to the tenants and give them a verbal notice which we already did.

B- if the issue continues we will give the tenants a written notice .

C- if the issue still exists after that , we will check with the city inspection and police department about those complaints and after we receive a copy of those reports that show tenants fault, we will terminate their rental lease and ask them to evict the property .

3- we follow the city code when we sign a rental lease, in the case of 1038 property the city code only allow up to three unrelated person to live in the house permanently and that we have on our lease agreement, if we notice the tenants violating that section we will take a proper action to fix that issue, however we can not control how many visitors coming to the house, those three tenants have family members, friends and collage mate who may visit them & spend time with them, we can not tell a tenants they are not allow to have visitors, if that visitor does not cause disturbance to the community or endanger public safety.

4- I can't remember if any neighbor called me on the phone and tell me about any issue, because I don't think they have my phone number, That been said I'm using this opportunity to encourage our neighbors located around 1038 25 St N property to call me directly on my cell phone (218-790-7298) with any issue that may arise in future.

APPLICANT'S RESPONSE TO PUBLIC COMMENTS

5- We have designated parking space for our tenants which include a two car detached garage in the back of the house and a parking concrete slab for another two cars a total of 4 cars parking space.

6- I look forward listening to our neighbors closely about their concerns at the July 2nd meeting.

Thank you

Murad

ADDITIONAL NEIGHBOR COMMENT AND PLANNING STAFF RESPONSE July 1st, 2024

From: Paula
Sent: Thursday, June 27, 2024 3:02 PM
To: Donald Kress <dkress@FargoND.gov>
Subject: House 1038 25th Street North

It is appearing by the workers at that house, a new back entrance and new roof over that entrance, and a car full of bedroom furniture, that the owner is making it into a duplex! This zoned as a single family dwelling not a multi housing unit. Work today continues at that house. I went by there yesterday while carpenters were building the roof over the door. Landlord has never had a hearing to rezone that house or neighbors, including myself have never been notified.

Something must be done and now.

Thank you

Paula Strom Sell
1122 25th Street North
Fargo

From: Donald Kress [Planning Department]
Sent: Monday, July 1, 2024 4:35 PM
To: 'Paula Denault'
Subject: RE: House 1038 25th Street North

Paula,

The building permits are for:

- Covered back porch
- Enlarged front deck
- Internal remodel and electrical work
- Basement egress window

The remodel permit specifies that this is a single-family dwelling:

1- add one interior wall + two 34" interior door. 2- add two interior walls + one 34 inch interior door. A header of sufficient size and strength is required to support load over any new span. All interior remodel permits require smoke detectors and carbon monoxide detectors to be installed per currently adopted building code. All work to comply with all applicable requirements of the City of Fargo including the 2021 Fargo Building Code. Due to the history of this property being used as rental these rooms are not to be used for sleeping purposes. This property is a single family dwelling. The limit of unrelated tents in Fargo is 3.

Thank you.

97



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

OFFICE OF THE CHIEF

MEMORANDUM

To: City Commissioners
From: Chief David B. Zibolski
Date: September 12, 2024
RE: Name Change to the Badges of Unity

COPY

Dear Commissioners,

The Badges of Unity Fund is a 501(c)(3) organization that operates under the umbrella of the Dakota Medical Foundation that has supported the Fargo Police Department and our public safety mission for many years. On October 30, 2023, Commission approved an expansion of the Badges of Unity funding beyond its traditional youth and community engagement donations. The expansion included staff wellness for department members and expansion of supportive services to ensure the department has the tools, technology, and training necessary to adapt to the dynamic nature of policing. This expansion allowed the department to send many members to the National Law Enforcement Memorial in May of 2024 in honor of Officer Jake Wallin.

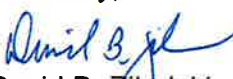
The Board of the Badges of Unity, which is made up of volunteer community members, seeks to change the name to the Fargo Police Foundation and remain under the umbrella of the Dakota Medical Foundation. The name change would not affect the mission of the foundation, but would better specify its purpose.

In order to maintain good and positive relationships with the City of Fargo and its elected officials, the Board is requesting consent to use the name Fargo Police Foundation. As the department representative to the Board, I'm making that request. The City Attorney was also consulted and could not find any law or regulation requiring approval. However, both I and the Board believe it is in the best interest of the foundation to acquire your consent. One or more Board representatives may be available at the Commission meeting to answer any questions regarding this request.

Recommended Motion:

That the City of Fargo Commission consents that the Badges of Unity Fund is renamed the Fargo Police Foundation.

Sincerely,


David B. Zibolski
Chief of Police



**PUBLIC
WORKS**

**FLEET MANAGEMENT, FORESTRY
STREETS & SEWERS
WATERMANS & HYDRANTS**
402 23rd Street North
Fargo, ND 58102
Phone: 701.241.1453 | Fax: 701.241.8100
FargoND.gov

18

September 4, 2024

The Honorable Board of City Commissioners
City of Fargo
Fargo, ND 58102

RE: Transfer of Property to Fargo Park District

Dear Commissioners:

Enclosed for City Commission review and approval please find a Quitclaim Deed conveying a tract of property from the City of Fargo to the Fargo Park District. Ownership of the property was initially intended to be conveyed to the Park District following the recordation of the Subdivision Plat "South Ridge First Addition". During the plating process it was fully identified within the Amenities Plan that the tract of property would be conveyed to the Park District. However, it was recently discovered that the transfer of ownership had never occurred.

The City Attorney's office has prepared the enclosed Quitclaim Deed and we are ready to finalize the transfer of ownership at this time.

RECOMMENDED MOTION:

I/we hereby move to approve and authorize the execution of the enclosed Quitclaim Deed conveying a tract of property from the City of Fargo to the Fargo Park District.

Respectfully submitted,

Benjamin Dow
Public Works Operations Director

QUITCLAIM DEED

THIS INDENTURE is made this 29th day of August, 2024, between **City of Fargo, Cass County, North Dakota**, a North Dakota municipal corporation, 225 4th Street North, Fargo, North Dakota 58102, **Grantor**, and **The Park District of the City of Fargo**, a municipal subdivision and a park district under Chapter 40-49 N.D.C.C., 6100 38th Street South, North Dakota 58104, **Grantee**.

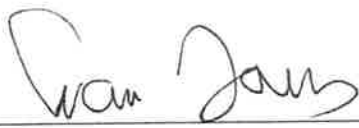
For and in consideration of sum of One Dollar (\$1.00) and other valuable consideration, Grantor does hereby QUITCLAIM to the Grantee, all of its interest in the following real property lying and being in the County of Cass, and State of North Dakota, and described as follows, to-wit:

Lot One, Block Two of South Ridge First Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

The legal description was obtained from a previously recorded document.

I certify that the requirement for a report or statement of full consideration paid does not apply because this deed is for one of the transactions exempted by subdivision (h) of subsection 6 of N.D.C.C. 11-18-02.2.

DATED: 8-29-24



Grantee or Agent

TO HAVE AND TO HOLD, the above quitclaimed premises, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its heirs and assigns, FOREVER.



**PUBLIC
WORKS**

**FLEET MANAGEMENT, FORESTRY
STREETS & SEWERS
WATERMANS & HYDRANTS**

402 23rd Street North

Fargo, ND 58102

Phone: 701.241.1453 | Fax: 701.241.8100

FargoND.gov

19

September 9, 2024

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

RE: Hook and Hoist Refuse Truck (RFP24297)

Commissioners:

On August 28, 2024, Solid Waste received two proposals for the purchase of a Hook and Hoist Refuse Truck. The results are as follows:

	<u>Cost:</u>
Northern Truck Equipment	\$195,525.00
Sanitation Products	\$203,704.00

The review committee consisting of Scott Olson, Dave Rheault and Tom Ganje determined that both vendors met the required specifications and the quoted costs were within expected parameters. Based on the low bid proposal, our recommendation is to award Northern Truck Equipment for the Hook and Hoist Refuse Truck. This item was approved during the FAHR Staff Meeting and City Commission Meeting on April 15, 2024. Funding for this project is included in the 2025 Solid Waste Budget.

SUGGESTED MOTION:

Approve RFP24297 for the quoted cost of purchase of a Hook and Hoist Refuse Truck from Northern Truck Equipment.

Respectfully,

Tom Ganje
Fleet Purchasing Manager

2025 Hook and Hoist Refuse Truck (RFP24297)

Solid Waste

8/29/2029

	Northern Truck Equipment	Sanitation Products
Chassis Make	Freightliner	Freightliner
Chassis Model	M2-106	M2-106
Body Make	SwapLoader	Galbreath
Body Model	SL520X	U5-DPHK-200
Price For (1) Hook and Hoist Refuse Truck	\$195,525.00	\$203,704.00
Estimated Delivery Date	2/1/2025	2/1/2025
Meet Specifications	YES	YES