

FARGO CITY COMMISSION AGENDA  
Tuesday, September 5, 2023 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, August 21, 2023).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Letter of Support for the Beyond Boundaries project to the ND Opportunity Fund.
- 2. Receive and file an Ordinance Amending Section 8-1321 of Article 8-13 of Chapter 8 of the Fargo Municipal Code Relating to Use of Safety Belts Required in Certain Motor Vehicles.
- 3. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Wentz Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 8/21/23.
- 4. 2nd reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in University South Fourth Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 8/21/23.
- 5. Gaming Site Authorization for the Fargo Post 2 Baseball Club at El Zagal.
- 6. Applications for Games of Chance:
  - a. North Dakota Dental Foundation for a raffle on 9/14/23.
  - b. Dakota Medical Foundation – Henrik’s Heroes for a raffle on 9/7/23.
  - c. Abou Zahr Benefit for a raffle on 9/11/23; Public Spirited Resolution.
  - d. Hope, Inc. for a raffle on 11/21/23.
  - e. North Dakota CPA Society Foundation for a raffle on 9/19/23.
  - f. United Way of Cass-Clay for a raffle and raffle board on 10/19/23 and 10/27/23.
  - g. United Way of Cass-Clay for a raffle board on 9/15/23.
  - h. Fargo Area Conservatives PAC for a raffle on 12/8/23.
  - i. North Dakota Long Term Care Association for a raffle on 9/27/23.
- 7. Direct the City Attorney to amend the Fargo Municipal Code to allow the Fargo Police Department or its designee to boot or tow for unpaid parking citations.
- 8. Appoint Commissioner Strand as the Liaison Commissioner to the Civil Service Commission.
- 9. Indemnity Agreement with the Metro Flood Diversion Authority for the Southwest Metro Regional Pond (Project No. FP-19-A).

10. Resolution ratifying the Mayoral Signature on the permanent bike trail easement and a temporary construction easement from TLofts U32 Properties, LLC (Project No. SN-23-A).
11. Change Order No. 1 in the amount of \$13,739.68 and time extension to the substantial and final completion dates to 6/15/24 and 7/15/24 for Improvement District No. BN-22-G1.
12. Negative Final Balancing Change Order No. 4 in the amount of -\$97,573.92 for Improvement District No. BR-22-B1.
13. Change Order No. 1 in the amount of \$29,108.91 for Improvement District No. UR-23-A1.
14. Memorandum of Offer to Landowner for an Easement (Temporary Construction Easement) with Blue Moon Holdings, LLC (Improvement District No. BR-23-G2).
15. Easement (Temporary Construction Easement) with Dakota Flats, LLC (Improvement District No. BR-24-A1).
16. Change Order No. 5 in the amount of \$22,420.00 for the GTC Underground Parking Garage (AFB20017).
17. Amendment to the Professional Services Agreement with JLG Architects in the amount of \$6,500.00 for the Fargo Police Department Master Facility Planning (RFP23078).
18. Amendment to the Professional Services Agreement with JLG Architects in the amount of \$35,500.00 for the Fargo Public Libraries Sunshades Replacement Project (RFQ23059).
19. Agreement with R.L. Engebretson Architects Fargo LLC for the Newman Outdoor Field exiting improvements (SSP19112).
20. Budget adjustment in the amount of \$186,544.00 from Fund 101 to Fund 411 related to the 2023 Spring Flood emergency.
21. Agreement with AE2S Communications for the Tobacco Media Campaign (RFP23120).
22. Purchase of Service Agreement with the ND Department of Health and Human Services for Emergency Response Services (CFDA #93.069).
23. Purchase of Service Agreement with The Medicine Shoppe.
24. Purchase of Service Agreement with Southeast Human Service Center (RFP23120).
25. Notice of Subaward from the ND Department of Environmental Quality for Abandoned Auto Program.
26. Piggyback purchase through the Minnesota State Contract with EnviroTech Services for the purchase of an ice slicer at a cost of \$209.43 per ton (PBC23152).
27. Bid award to Bailey Nurseries, Inc. in the amount of \$65,106.23 plus shipping for the 2024 spring tree order (RFP23151).
28. Amendment to Contract No. 38220653 with the ND Department of Transportation.
29. Bills.

**REGULAR AGENDA:**

- 30. **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](http://FargoND.gov/VirtualCommission)).

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

- 31. **PUBLIC HEARING** – Hearing on a dangerous building located at 1449 4th Avenue South.
- 32. **PUBLIC HEARING** - Appeal of a Planning Commission decision on 8/1/23 to approve a Conditional Use Permit (CUP) that would allow Group Living in the SR-4, Single-Dwelling Residential zoning district on Lot 7, Block 1, Golden Valley Second Addition (2545 69th Avenue South).
- 33. Update on the NDSCS Career Workforce Academy.
- 34. Project Update for Main Avenue from University Drive to 25th Street.
- 35. Recommendation for appointment of the Director of Finance.
- 36. Recommendation to approve the Third Amendment to the Developer Agreement with Great Plains NP Holdings, LLC for the NP Parking Garage.
- 37. Recommendation for an extension to no later than October 30, 2023 for repairs to a Dangerous Building located at 437 23rd Street South.
- 38. Recommendation to approve the Agreement on Use of Opioid Settlement Funds.
- 39. Recommendation to approve the Ground Lease with the Red River Regional Dispatch Center for property adjacent to 4630 15th Avenue North.
- 40. **FARGODOME Remodeling and Conference Center Project:**
  - a. Letter of Recommendation from the Fargo Dome Authority.
  - b. Recommendation to adopt a Resolution (Amendment of Home Rule Charter Lodging/Sales and Use Tax).
    - 1. Receive and file an Ordinance Enacting Article 3-24 of Chapter 3 of the Fargo Municipal Code Relating to a Lodging Tax for Fargodome Including Conference Center.
    - 2. Receive and file an Ordinance Enacting Article 3-25 of Chapter 3 of the Fargo Municipal Code Relating to a Sales Tax for Fargodome Including Conference Center.
  - c. Recommendation to adopt a Resolution (Special Election Matters – Lodging/Sales and Use Taxes).
- 41. Liaison Commissioner Assignment Updates.

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

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



11

City Administration  
225 4th Street North  
Fargo, ND 58102

## MEMORANDUM

**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research 

**DATE:** August 31, 2023

**SUBJECT:** Letter of Support for Beyond Boundaries

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

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

Beyond Boundaries currently provides outpatient medically based occupational, physical and speech-language therapy services. The plan is to provide the opportunity to add 26 employees over the next 4-5 years. The new building will have 33,000 sf and provide on-site child care. The site is 3244 51st Street South.

### **Recommended Motion**

Provide a letter in support of the Beyond Boundaries project to the North Dakota Opportunity Fund providing match of the Bank of ND interest buydown program.





August 29, 2023

Mr. Jim Gilmour, Director  
Strategic Planning & Research  
225 4<sup>th</sup> St. North  
Fargo, ND 58102

Dear Mr. Gilmour,

I am requesting the city's consideration to provide me a letter of support for the Flex PACE program through the state of ND for my building project for Beyond Boundaries Real Estate, LLC and Beyond Boundaries Therapy Services located at 3244 51<sup>st</sup> St. So., Fargo, ND 58104. Your letter of support for my project will allow Lewis & Clark Development Group to provide the local match needed for the Bank of North Dakota to allow Beyond Boundaries to participate in the Flex PACE program.

The Flex PACE program will provide Beyond Boundaries the opportunity to go from 39 employees to an additional 26 employees with a total of 65 employees over the next 4-5 years. These employees will include occupational therapists, physical therapists, speech-language therapists, massage therapists, dietician, behavioral therapists, psychology, and counseling. These positions will be higher paying positions that will economically support the city of Fargo.

Beyond Boundaries started in 2004 as a one-woman operation working out of a home office and vehicle and then to grow to afford to lease a physical location at 317 So. University Drive. Then, graduating to leased space at 3001 11<sup>th</sup> St. So., and additionally leasing space at 3501 45<sup>th</sup> St. So. This building will allow us to consolidate both current locations into one location to provide a better, more centralized facility for our patients, parents, and caregivers. Beyond Boundaries currently provides outpatient medically based occupational, physical, and speech-language therapy services, serving all ages. We currently serve approximately 350 patients. This more modern facility of 33,000 SF will provide additional space and safety for our patients and families.

This facility will also provide on-site childcare, which is in great need in our community. It will additionally provide space for individuals with special needs employment opportunities as well as learning additional life skills.

We are looking forward to continuing to be a Fargo based business providing a great atmosphere for patients, caregivers, and the community. Thank you very much for your time and consideration in providing the letter of support. If you have any questions, feel free to contact me at (701) 371-7753 or email [ladonna@beyondboundaries.us](mailto:ladonna@beyondboundaries.us).

Sincerely,

A handwritten signature in cursive script that reads "LaDonna Bannach".

LaDonna Bannach  
President/CEO  
Beyond Boundaries Therapy Services  
[www.beyondboundaries.us](http://www.beyondboundaries.us)

**CITY ATTORNEY**  
Nancy J. Morris

**SERKLAND LAW FIRM**

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

**ASSISTANT CITY ATTORNEYS**

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

②

August 31, 2023

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

RE: Ordinance Amendment – Safety belts – 8-1321

Dear Mayor Mahoney and Commissioners,

At your direction at your August 21, 2023 meeting, I am enclosing for your consideration an amendment to Fargo Municipal Code, section 8-1321 (safety belts required).

The ordinance amendment provides that:

- (1) failure to wear a seatbelt is now a primary offense (recent State Law change);
- (2) seat belt compliance not limited to front seat occupants; and
- (3) seatbelts are not required for persons with certain disabling conditions or emergency medical services personnel (change consistent with existing State Law).

**Suggested Motion:** I move to receive and file the following ordinance amending Fargo Municipal Code section 8-1321 of Article 8-13 of Chapter 8, relating to “safety belts required” and to place the ordinance on for first reading at the next regularly-scheduled City of Fargo Commission meeting.

Sincerely,



William B. Wischer

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 AN ORDINANCE AMENDING SECTION 8-1321 OF ARTICLE 8-13 OF  
2 CHAPTER 8 OF THE FARGO MUNICIPAL CODE RELATING TO  
3 USE OF SAFETY BELTS REQUIRED IN CERTAIN MOTOR VEHICLES

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

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

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

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

13 NOW, THEREFORE,

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

15 Section 1. Amendment.

16 Section 8-1321 of Article 8-13 of Chapter 8 of the Fargo Municipal Code is hereby  
17 amended as follows:

18 8-1321. - Use of safety belts required in certain motor vehicles.

19 A driver may not operate on any street or highway in the City of Fargo, a motor vehicle  
20 designed for carrying fewer than 11 passengers, which was originally manufactured with  
21 safety belts, unless each ~~front~~ seat occupant is wearing a properly adjusted and fastened  
22 safety belt.  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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

A. This section shall not apply to the following:

1. A child in a child restraint device or seat belt as defined in § 39-21-41.2, N.D.C.C.
2. Drivers of implements of husbandry.
3. To operators of farm vehicles as defined in subsection 5 of § 39-04-19, N.D.C.C.
4. To rural mail carriers while on duty delivering mail.
5. When all ~~front seat~~ safety belts are in use by other occupants.
6. To an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician, physician assistant, or advanced practice registered nurse states in a signed writing the nature of the condition and the reason restraint is inappropriate.
7. To an occupant who is an emergency medical services personnel, during the provision of direct patient care.

~~B. — A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation.~~

Section 2. Penalty.

A person who violates Fargo Municipal Code section 8-1321 shall be deemed to have committed a non-criminal offense and shall pay a fee of \$40 as provided in Section 1-0305 of the Fargo Municipal Code, as may be amended from time to time.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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

Section 3. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading and Final Passage:  
Publication:

3

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE REZONING A CERTAIN PARCEL  
OF LAND LYING IN WENTZ ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in Wentz Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on August 1, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 21, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Sixteen (16), Block Six (6) of Wentz Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "SR-2", Single-Dwelling Residential, District to "SR-3", Single-Dwelling Residential, District.

Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 4. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

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

First Reading:  
Second Reading:  
Final Passage:

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



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

4

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

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN UNIVERSITY SOUTH FOURTH ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in University South Fourth Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on July 6, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 21, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block One (1) of University South Fourth Addition to the city of Fargo, Cass County, North Dakota,

that is currently zoned "MR-3", Multi-Dwelling Residential, District, with a "C-O", Conditional Overlay, District, as established by Fargo Municipal Ordinance No. 5332, will hereby retain its base zoning of "MR-3", Multi-Dwelling Residential, District, and said "C-O", Conditional Overlay, District, as established by Fargo Municipal Ordinance No. 5332, and continues to be subject to a "CUP", Conditional Use Permit issued by the Planning Department as approved by the Planning Commission at its meeting on February 7, 2023.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 2. The following described property:

1 Lot Two (2), Block One (1) of University South Fourth Addition to the city of Fargo, Cass  
2 County, North Dakota,

3 is hereby rezoned from “MR-3”, Multi-Dwelling Residential, District, with a “C-O”, Conditional  
4 Overlay, District, as established by Fargo Municipal Ordinance No. 5332, to “GC”, General  
5 Commercial, District, and repeal and re-establish the existing “C-O”, Conditional Overlay, District,  
6 to read as follows:

7 **1. Building Form and Style.**

8 1.1. All building elevations/façades greater than 150 feet in length, measured  
9 horizontally from vertical edge to vertical edge, shall incorporate wall plane projections  
10 or recesses. Each projection and/or recess shall have a depth of at least two (2) feet, and  
11 the cumulative total horizontal width of all projections and/or recesses within a façade  
12 shall equate to at least an accumulated total of twenty (20) percent of the overall  
13 horizontal length of the façade. No uninterrupted length of any façade shall exceed 150  
14 horizontal feet.

15 1.2. Ground floor façades that face public streets shall have arcades, display windows,  
16 entry areas, awnings, or other such features of pedestrian scale along no less than sixty  
17 (60) percent of their horizontal length. If the façade facing the street is not the front, it  
18 shall include the same features and/or landscaping in scale with the façade.

19 1.3. Principal Materials. Unless otherwise deemed acceptable by the Zoning  
20 Administrator, all exterior walls shall be constructed or clad with natural stone, synthetic  
21 stone, brick, stucco, integrally-colored and textured concrete masonry units or systems,  
22 exterior insulation finishing systems (EIFS), fiber cement, architectural metal panels,  
23 curtain walls, rainscreen systems or glass. All materials shall be commercial grade,  
durable, and have a multigenerational life span.

1.4. Accent Materials. In conjunction with the principal materials listed above, finished  
wood or vinyl may also be used to construct or clad exterior walls. Accent materials  
shall be applied to no greater than twenty (20) percent of each building façade.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 1.5. Loading/unloading areas, building service entrances, loading docks, overhead doors,  
2 and ground level HVAC units within 150 feet of public right-of-way shall be visually  
3 screened from adjacent public right-of-way by structures and/or landscaping. All  
4 structures used for visual screening shall be constructed or clad with the same materials  
5 used for the primary building.

6 1.6. Dumpsters, refuse containers, and outdoor storage areas shall be located at the side  
7 or rear of buildings and shall be visually screened from adjacent public right-of-way,  
8 when directly visible from the public right-of-way, by permanent walls. The permanent  
9 walls shall be constructed or clad with the same materials used for the primary building.  
10 Dumpsters and refuse containers shall contain permanent walls on at least three (3) sides  
11 with the service opening not directly facing any public right-of-way. The fourth side  
12 shall incorporate a metal gate to visually screen the dumpsters or refuse containers.

13 1.7. Service, loading, and utility areas visible from residential areas shall be screened  
14 with a wall, berm, trellising or combination thereof.

15 **2. Site Design.**

16 2.1. A minimum of five (5) percent of the internal surface area of the parking lot shall be  
17 landscaped through the use of planter islands and peninsulas.

18 2.2. Separate vehicular and pedestrian circulation systems shall be provided. Adjacent  
19 properties may share pedestrian circulation systems that connect to public sidewalks with  
20 Zoning Administrator approval. An on-site system of pedestrian walkways shall be  
21 provided between building entrances and the following:

22 2.2.1. Parking lots or parking structures;

23 2.2.2. Any public sidewalk or multi-use path along the perimeter of the lot;

2.2.3. Entrances of other buildings on the site;

2.2.4. Any public sidewalk system along the perimeter streets adjacent to the  
development; and

2.2.5. Adjacent pedestrian origins and destinations—including, but not limited to,  
transit stops, residential development, office buildings, and retail shopping  
buildings— where deemed practical and appropriate by the Zoning Administrator.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1     **3.     The following uses are prohibited:**

- 2           3.1. Detention facilities;  
3           3.2. Self-service storage;  
4           3.3. Vehicle repair;  
5           3.4. Vehicle service, limited;  
6           3.5. Industrial uses; and  
7           3.6. Adult establishment.

8     **4.     The following signs are prohibited:**

- 9           4.1. Pole or pylon sign: a sign that is mounted to a freestanding pole or pylon placed in  
10           the ground;  
11           4.2. Billboards: a sign advertising products not made, sold, used or served on the  
12           premises displaying the sign or that conveys an informational or ideological message;  
13           4.3. Fence Signs: a sign affixed in any way to or painted on a fence;  
14           4.4. Off Site Sign: a sign directing attention to a business commodity, service, product,  
15           or property not located, sold or conducted on the same property or site as that on which  
16           the sign is located;  
17           4.5. Pennant: a flag tapering to a point usually strung together by line or rope;  
18           4.6. Portable Sign: any sign which is constructed so as to be movable, either by skids,  
19           wheels, truck or other conveyance; any sign which does not have a permanent  
20           foundation or is otherwise permanently fastened to the ground and/or which is not wired  
21           for electricity in accordance with the sign code;  
22           4.7. Roof Sign: a sign erected upon or above a roof or parapet of a building or structure;

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

4.8. Vehicular Sign: a sign or business identification affixed to any vehicle, including but not limited to automobiles, trucks, tractors, trailers, wagons, carts, manufactured homes and similar vehicles and their accessories; and

4.9. Window Sign: a sign painted or applied to the interior or exterior of the window that covers greater than fifty (50) percent of the glass area.

Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

Section 4. This ordinance shall be in full force and effect from and after its passage and approval.

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

(SEAL)

Attest:

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

First Reading:  
Second Reading:  
Final Passage:

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



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

5

G - \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
 Site License Number  
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization  
Fargo Post 2 Baseball Club

This organization is authorized to conduct games of chance under the license granted by the North Dakota Attorney General at the following location

Name of Location  
El Zagal

Street <u>1429 3rd St N</u>	City <u>Fargo</u>	ZIP Code <u>58102</u>	County <u>Cass</u>
--------------------------------	----------------------	--------------------------	-----------------------

Beginning Date(s) Authorized <u>9/6/2023</u>	Ending Date(s) Authorized <u>6/30/2024</u>	Number of Twenty-One tables, if zero, enter "0" <u>0</u>
---	---	--

Specific location where games of chance will be conducted and played at the site (required)  
South wall

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

**RESTRICTIONS FOR CITY/COUNTY USE ONLY**

The organization **must** provide the City/County a list of game types included in their Internal Control Manual and have the manual available upon request. The manual must thoroughly explain each game type to be conducted. The City/County can only approve these games at the site.

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

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

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

If any information above is false, it is subject to administrative action on behalf of the State of North Dakota Office of Attorney General

**APPROVALS**

Attorney General	Date
Signature of City/County Official	Date <u>9/5/23</u>
PRINT Name and official position of person signing on behalf of city/county above <u>Steven Sprague/City Auditor</u>	

**INSTRUCTIONS:**

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

**RETURN ALL DOCUMENTS TO:**

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



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

*la*

Applying for (check one)

Local Permit  Restricted Event Permit\*

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

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>North Dakota Dental Foundation</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>September 14th, 2023</b>	
Organization or Group Contact Person <b>Kailynn Barrett</b>	E-mail <b>kbarrett@nddental.org</b>	Telephone Number <b>7013563132</b>	
Business Address <b>4141 28th Ave S</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58104</b>
Mailing Address (if different)	City	State	ZIP Code

**SITE INFO**

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

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31. Raffle - 10/30, 11/30, 12/31, etc.)  
**September 14th, 2023, Raffle**

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Minnesota Vikings vs San Fransisco 49ers Football Tickets	750.00
Raffle	University of North Dakota Fighting Hawks Suite Tickets	500.00
Raffle	Minnesota Vikings vs New Orleans Saints Football Tickets	750.00
Total (limit \$40,000 per year)		\$ 2,000.00

**Intended Uses of Gaming Proceeds**

**North Dakota Dental Foundation's fundraiser proceeds will go to providing kids in North Dakota who are in need of toothbrushes via**

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

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

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

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

Name <b>Kailynn Barrett</b>	Title <b>Executive Director</b>	Telephone Number <b>7013563132</b>	E-mail Address <b>kbarrett@nddental.org</b>
Signature of Organization or Group's Top Official <i>Kailynn Barrett</i>		Title <b>Executive Director</b>	Date <b>08/14/2023</b>





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

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
GAMING DIVISION  
SFN 9338 (5-2023)

*(66)*

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>Dakota Medical Foundation - Henrik's Heroes</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>9/7/23</b>	
Organization or Group Contact Person <b>Emily Jones</b>	E-mail <b>ejones@dakmed.org</b>	Telephone Number <b>7013563144</b>	
Business Address <b>4141 28th Avenue South</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58104</b>
Mailing Address (if different)	City	State	ZIP Code

**SITE INFO**

Site Name <b>Brewhalla</b>		County	
Site Physical Address <b>1702 1st Ave N</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58102</b>
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)			

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

Game Type	Description of Prize	Exact Retail Value of Prize
<del>Paddlewheels</del> (Heads or Tails)	<b>\$100 Scheels Gift Card</b>	<b>\$100</b>
Total (limit \$40,000 per year)		<b>\$ 100</b>

Intended Uses of Gaming Proceeds  
*SUPPORT OF HENRIK'S HEROES MISSION, TO SUPPORT + EMPOWER CHILDREN + FAMILIES THROUGH MEDICAL HANDSHIPS.*

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 <b>Emily Jones</b>	Telephone Number <b>7013563144</b>	E-mail Address <b>ejones@dakmed.org</b>
Signature of Organization Group's Permit Organizer <i>Emily Jones</i>	Title <b>Development Director</b>	Date <b>8/21/23</b>



# APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

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

*(Handwritten initials)*

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

### ORGANIZATION INFO

Name of Organization or Group <b>Abou Zahr Benefit</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>Sept. 11, 2023</b>	
Organization or Group Contact Person <b>Keiran Vitek</b>		E-mail <b>keiran.vitek13@gmail.com</b>	
Business Address <b>804 8th St. S.</b>		City <b>Fargo</b>	State <b>ND</b>
Mailing Address (if different) <b>same</b>		City	ZIP Code <b>58103</b>

### SITE INFO

Site Name <b>701 Eateries</b>		County	
Site Physical Address <b>701 N. University Dr</b>		City <b>Fargo</b>	State <b>ND</b>
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) <b>9-11-23</b>		50/50 raffle - 1 time event	

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

Game Type	Description of Prize	Exact Retail Value of Prize
50-50 raffle	1/2 of money taken in for raffle	
Total (limit \$40,000 per year)		\$ <b>2000.00</b>

### Intended Uses of Gaming Proceeds

**All proceeds to benefit the Abou-Zahr family**

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

Yes     No

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

Yes     No

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

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

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

Yes     No

Name <b>KEIRAN VITEK</b>	Title	Telephone Number <b>602-526-6006</b>	E-mail Address <b>KEIRAN.VITEK13@gmail.com</b>
Signature of Organization or Group's Top Official <i>(Signature)</i>		Title <b>Organizer</b>	Date <b>8/28/23</b>



**APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT**  
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
 GAMING DIVISION  
 SFN 9338 (5-2023)

*lad*

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>HOPE, Inc.</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>11/21/2023</b>	
Organization or Group Contact Person <b>Holly Heintzman - RDO Caters Taters for Charity</b>	E-mail <b>hheintzman@rdoffutt.com</b>	Telephone Number <b>701-526-9320</b>	
Business Address <b>810 4th Ave South</b>	City <b>Moorhead</b>	State <b>MN</b>	ZIP Code <b>56560</b>
Mailing Address (if different)	City	State	ZIP Code

**SITE INFO**

Site Name <b>R.D. Offutt Company (RDO Caters Taters for Charity)</b>		County <b>Cass</b>	
Site Physical Address <b>225 Broadway North</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58102</b>
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) <b>Raffle 11/21/23</b>			

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

Game Type	Description of Prize	Exact Retail Value of Prize
<b>Raffle</b>	<b>Prize List Attached</b>	<b>7,632.00</b>
Total (limit \$40,000 per year)		\$

Intended Uses of Gaming Proceeds  
**To support programs and activities of HOPE, Inc.**

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 <b>Holly Heintzman</b>	Telephone Number <b>701-526-9320</b>	E-mail Address <b>hheintzman@rdoffutt.com</b>
Signature of Organization Group's Permit Organizer 	Title <b>Program Manager - HOPE, Inc.</b>	Date <b>8/23/2023</b>



**APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT**  
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
 GAMING DIVISION  
 SFN 9338 (5-2023)

*(Handwritten initials)*

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>North Dakota CPA Society Foundation</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>9/19/2023</b>	
Organization or Group Contact Person <b>Sherre Sattler</b>	E-mail <b>ssattler@ndcpas.org</b>	Telephone Number <b>701-775-7111</b>	
Business Address <b>3100 S Columbia Rd Suite 500</b>	City <b>Grand Forks</b>	State <b>ND</b>	ZIP Code <b>58201</b>
Mailing Address (if different)	City	State	ZIP Code

**SITE INFO**

Site Name <b>Holiday Inn</b>	County <b>Cass</b>
Site Physical Address <b>3803 13th Ave S</b>	City <b>Fargo</b>
	State <b>ND</b>
	ZIP Code <b>58103</b>

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)  
**Raffle Drawing to be held Sept 19.**

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	\$500 Scheels Gift Card	500.
Raffle	Medora Vacation Package	525
Raffle	JBL Bluetooth Speaker and Beats Fit Pro Wireless Earbuds	365
Total (limit \$40,000 per year)		<b>\$ 1390.00</b>

Intended Uses of Gaming Proceeds  
**Scholarships for University students who want to become CPAs**

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 <b>Sherre Sattler</b>	Telephone Number <b>701-775-7111</b>	E-mail Address <b>ssattler@ndcpas.org</b>
Signature of Organization Group's Permit Organizer <i>Sherre Sattler</i>	Title <b>Executive Director</b>	Date <b>8/29/23</b>



# APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

Page 23

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
GAMING DIVISION  
SFN 9338 (5-2023)

*Yof*

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

### ORGANIZATION INFO

Name of Organization or Group <b>United Way of Cass-Clay</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>10/19 ; 10/27</b>	
Organization or Group Contact Person <b>Bella Lien</b>	E-mail <b>blien@unitedwaycassclay.org</b>	Telephone Number <b>701-532-4612</b>	
Business Address <b>4351 23rd Ave S</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58104</b>
Mailing Address (if different)	City	State	ZIP Code

### SITE INFO

Site Name <b>Wanze Construction</b>	County <b>Cass</b>
Site Physical Address <b>4850 32nd Ave S</b>	City <b>Fargo</b>
	State <b>ND</b>
	ZIP Code <b>58104</b>

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

**Raffle board - Oct 27<sup>th</sup> 2023 50/50 Raffle - Oct 19<sup>th</sup> 2023**

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle 50/50	1 ticket 300 tickets	\$300.00
Raffle Board	Meat Package	\$500.00
Raffle Board	Yeti Package	\$500.00
Total (limit \$40,000 per year)		\$ 1,300.00

Intended Uses of Gaming Proceeds  
**helping programs end homelessness in Cass-Clay**

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 any 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: **\$13,824.00** (This amount is part of the total prize limit for \$40,000 per fiscal year)

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

Yes     No

Printed Name of Organization Group's Permit Organizer <b>Karla Ksley</b>	Telephone Number <b>701 532 4607</b>	E-mail Address <b>kisley@unitedwaycassclay.org</b>
Signature of Organization Group's Permit Organizer <i>Karla Ksley</i>	Title <b>President &amp; CEO</b>	Date <b>8/30/2023</b>



# APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
GAMING DIVISION  
SFN 9338 (5-2023)

Page 24

*W*

✓

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

### ORGANIZATION INFO

Name of Organization or Group <b>United Way of Cass-Clay</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>9/15/23</b>	
Organization or Group Contact Person <b>Bella Lien</b>	E-mail <b>blien@unitedway</b>	Telephone Number <b>701-532-4612</b>	
Business Address <b>4351 23rd Ave S</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58104</b>
Mailing Address (if different)	City	State	ZIP Code

### SITE INFO

Site Name <b>Border States</b>	County <b>Cass</b>
Site Physical Address <b>2400 38<sup>th</sup> St S</b>	City <b>Fargo</b>
	State <b>ND</b>
	ZIP Code <b>58103</b>

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)  
**9/15/23**

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

Game Type	Description of Prize	Exact Retail Value of Prize
raffle board	1 hr photo session with Ashlie Kunkel	\$350.00
raffle board	Billy Joel ticket at US Bank	\$549.00
raffle board	9 winners get 8 hr PTO 8 hrs x \$128/day	\$1,152
Total (limit \$40,000 per year)		\$2,051.00

Intended Uses of Gaming Proceeds  
**supporting programs to end/prevent homelessness in cass/clay**

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: **\$13,824.00** (This amount is part of the total prize limit for \$40,000 per fiscal year)

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

Yes     No

Printed Name of Organization Group's Permit Organizer <b>Karla Isley</b>	Telephone Number <b>701 532 4607</b>	E-mail Address <b>kisley@unitedwaycassclay.org</b>
Signature of Organization Group's Permit Organizer <i>Karla Isley</i>	Title <b>President &amp; CEO</b>	Date <b>8/30/2023</b>





**APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT**  
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
 GAMING DIVISION  
 SFN 9338 (5-2023)

*lh*

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>Fargo Area Conservatives PAC</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>Dec 8<sup>th</sup> 2023</b>	
Organization or Group Contact Person <b>Jared Hendrix</b>		E-mail <b>libertyhendrix@gmail.com</b>	Telephone Number <b>701-712-1487</b>
Business Address <b>6624 27<sup>th</sup> St S</b>		City <b>Fargo</b>	State <b>ND</b>
Mailing Address (if different)		City	State <b>ND</b>
			ZIP Code <b>58104</b>

**SITE INFO**

Site Name <b>Avalon Event Center</b>		County	
Site Physical Address <b>2525 9<sup>th</sup> Ave S</b>		City <b>Fargo</b>	State <b>ND</b>
			ZIP Code <b>58103</b>
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) <b>Dec 8<sup>th</sup>, 2023 (raffle drawing date)</b>			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Gun raffle	rifles, handguns, shotguns <i>List Attached</i>	\$ 20,619.80
Total (limit \$40,000 per year)		\$ 20,619.80

Intended Uses of Gaming Proceeds  
**to help local candidates**

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 <b>Jared Hendrix</b>	Telephone Number <b>701-712-1487</b>	E-mail Address <b>libertyhendrix@gmail.com</b>
Signature of Organization Group's Permit Organizer <i>J. Hendrix</i>	Title <b>Board member</b>	Date <b>8/17/23</b>





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

✓  
 (bi)

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>North Dakota Long Term Care Association</b>		Dates of Activity (Does not include dates for the sales of tickets) <del>07/27/2023</del> <b>9/27/23</b>	
Organization or Group Contact Person <b>Casidie Fladeland</b>	E-mail <b>casidie@ndltca.org</b>	Telephone Number <b>701-354-9775 ext 101</b>	
Business Address <b>1900 11th St.</b>	City <b>Bismarck</b>	State <b>ND</b>	ZIP Code <b>58501</b>
Mailing Address (if different)	City	State	ZIP Code

**SITE INFO**

Site Name <b>Holiday Inn</b>		County <b>Cass County</b>	
Site Physical Address <b>3803 13th Ave S</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58103</b>
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) <del>07/27/2023</del> <b>9/27/23</b>			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	15 Gift Baskets valued at \$100.00 each	\$1,500.00
Total (limit \$40,000 per year)		\$ <b>1,500.00</b>

Intended Uses of Gaming Proceeds  
**Raising money for Cherished Hopes**

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

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

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

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

Name <b>Peggy Krikava</b>	Title <b>Education Director</b>	Telephone Number <b>701-354-9774 ext 104</b>	E-mail Address <b>peggy@ndltca.org</b>
Signature of Organization or Group's Top Official <i>Peggy Krikava</i>		Title <b>Education Director</b>	Date <b>8/31/2023</b>

①

## MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Unpaid Parking Tickets

DATE: August 28, 2023

The City of Fargo issues parking citations for a variety of reasons, including time zone violations, night parking violations and many others. The City contracts with Interstate Parking to issue many of the citations, they currently monitor downtown time zones and night parking. If a vehicle shows unpaid citations, Interstate has to call the Fargo Police Department to initiate a tow, per current ordinance.

The City had approximately 17,000 unpaid citations totaling approximately \$700,000. This total is based on a five year collection rate. After five years the unpaid citation is written off as uncollectable. The City would like to increase collection efforts and staff feels the most effective method is to allow a police department designee the authority to tow or boot for unpaid citations.

### Recommended Motion:

**Direct the City attorney to amend the Fargo Municipal Code to allow the Fargo Police Department or their designee to boot or tow for unpaid parking citations.**

**MEMORANDUM****TO: BOARD OF CITY COMMISSIONERS****FROM: MAYOR TIMOTHY J. MAHONEY****DATE: SEPTEMBER 5, 2023****SUBJECT: COMMISSION LIAISON ASSIGNMENTS**

Commissioner Strand recently brought to my attention an error in the assignment of two Commissioners to the Civil Service Commission. Historically only one Commissioner has served as a Liaison to that Board. Therefore, I am recommending that Commissioner Strand be appointed the Board Liaison to the Civil Service Board.

Your favorable consideration of this recommendation will be greatly appreciated.

**RECOMMENDED MOTION:** To appoint Commissioner Strand as the Liaison to the Civil Service Commission.

Attachment  
mm23lia

## FARGO CITY COMMISSION LIAISON ASSIGNMENTS

	<u>KOLPACK</u>	<u>PRESTON</u>	<u>MAHONEY</u>	<u>PIEPKORN</u>	<u>STRAND</u>
<b>DEPARTMENTS:</b>	Communications & Govt. Affairs Enterprise/Utilities Fire	Health Library Planning	City Commission DEI Finance/Assessors Human Resources Police Public Works	Engineering FARGODOME Inspections Strategic Planning & Research	Facilities Mgmt. Information Services Transit/Mobility
<b>COMMITTEES:</b>	Diversion Authority (alternate) Metro Area Transit Coordinating Brd. Metro COG Vector Control	Cass Clay Food Commission Community Development Diversion Authority (alternate) Diversion Authority – Land Mgmt. Comm. Metro COG Renaissance Zone Authority	Ambulance Service Oversight Committee Cass County Planning Commission Community Development Diversion Authority Diversion Authority – Finance Comm. Economic Development Incentives Comm. GFMEDC Lake Agassiz Water Authority Position Evaluation Committee Sustainability & Resiliency Committee	Diversion Authority Diversion Authority- Finance Comm. Economic Development Incentives Commission Fargo Dome Authority – Finance Comm. GFMEDC Lake Agassiz Water Authority (alternate) Liquor Control Metro COG Position Evaluation Committee Renaissance Zone Authority	Diversion Authority Diversion Authority – Public Outreach Comm. Metro Area Transit Coordinating Board Metro COG Sustainability & Resiliency Committee
<b>STAFF APPOINTED COMMITTEES:</b>	Utility Committee	Core Neighborhoods	Finance Committee Public Works Projects Evaluation Committee	Finance Committee	Traffic Technical Advisory Committee Homelessness & Addiction
<b>BOARD LIAISON:</b>	Arts & Culture Commission Fargo Youth Initiative Red River Basin Board	Board of Adjustment Board of Appeals Board of Health Historic Preservation Commission Library Board Planning Commission	Police Advisory and Oversight Board	Fargo Dome Authority Red River Basin Board Special Assessment Commission	Airport Authority Civil Service Downtown Community Partnership/InFocus House Moving Board Housing Authority Human Rights Commission Native American Commission

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

9

Project No.: FP-19-A

Type: Indemnity Agreement

Location: Southwest Metro Regional Pond

Date of Hearing: 8/28/2023

<u>Routing</u>	<u>Date</u>
City Commission	9/5/2023
PWPEC File	X
Project File	<u>Nathan Boerboom</u>

The Committee reviewed the accompanying correspondence from Assistant City Engineer, Nathan Boerboom, regarding the use of the remaining stockpiled clay from the Southwest Metro Regional Pond by the Metro Flood Diversion Authority.

The first phase of construction for the Southwest Metro Regional Pond included stockpiling of approximately 500,000 cubic yards for excavated clay for use in future City projects. Since completion of the first phase, the City has had numerous construction projects utilize this stockpiled clay. As a result, there is approximately 130,000 cubic yards of clay remaining within the stockpile that aren't currently allocated.

The United States Army Corps of Engineers (USACE) and the Metro Flood Diversion Authority (DA) has projects needing additional borrow for the construction of the southern embankment, which is part of the overall Fargo-Moorhead Diversion Project. Since the City would not be a party named as additional insured by USACE's contract, the DA has developed an Indemnity Agreement between the DA and the City indemnifying the City from any and all claims that may occur as a result of the construction activity on City property.

On a motion by Tim Mahoney, seconded by Brenda Derrig, the Committee voted to recommend approval of the Indemnity Agreement between the City of Fargo and the metro Flood Diversion Authority.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Indemnity Agreement between the City of Fargo and the metro Flood Diversion Authority.

PROJECT FINANCING INFORMATION:


Recommended source of funding for project: N/A

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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nathan Boerboom
Susan Thompson, Interim Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 \_\_\_\_\_  
 Nathan Boerboom, P.E.  
 Assistant City Engineer

## Memorandum

**To:** Members of PWPEC  
**From:** Nathan Boerboom, Assistant City Engineer  
**Date:** August 24, 2023  
**Re:** Indemnity Agreement – Southwest Metro Regional Pond  
Project #FP-19-A

---

The first phase of construction for the Southwest Metro Regional Pond included stockpiling of the approximately 500,000 cubic yards of excavated clay for use in future City projects. Since the completion of this first phase, the City has had numerous construction projects utilize this stockpiled clay. As a result, there is approximately 130,000 cubic yards of clay remaining within the stockpile that aren't currently allocated to a project.

Over the past year, I have had conversations with the United States Army Corps of Engineers (USACE) and the Metro Flood Diversion Authority (DA) regarding one of USACE's projects needing additional clay borrow for the construction of the southern embankment, which is part of the overall Fargo-Moorhead Diversion Project. As a result of these conversations, it has been determined that USACE would utilize the remaining clay that the City has stockpiled for their SE-1B construction project. Since the City would not be a party named as additional insured by USACE's contract, we had concerns on the City's liability for any potential claims that may be made while construction activity is occurring on City owned property. To address this concern, the DA has developed the attached Indemnity Agreement between the DA and the City, which has been reviewed by our City Attorney. This agreement results in the DA indemnifying the City from any and all claims that may occur as a result of the construction activity on City property.

**Recommended Motion:**

Approve the Indemnity Agreement between the City of Fargo and the Metro Flood Diversion Authority.



## INDEMNITY AGREEMENT

**THIS INDEMNITY AGREEMENT** (the “Agreement”) is entered into this 24th day of August, 2023, by and between the Metro Flood Diversion Authority, a political subdivision of the State of North Dakota (the “Authority”), and the City of Fargo, North Dakota, a political subdivision of the State of North Dakota (the “City”).

**WHEREAS**, the City, along with the City of Moorhead, Minnesota; Clay County, Minnesota; Cass County, North Dakota; and the Cass County Joint Water Resource District established and continued the Authority by entering into the Joint Powers Agreement on June 1, 2016, to facilitate the development of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”); and

**WHEREAS**, among other things, the Joint Powers Agreement identified the Authority’s powers and authorities, authorized the Authority to delegate tasks to its member entities, and provided indemnify protection for its member entities and for the other non-federal sponsors; and

**WHEREAS**, the City, the City of Moorhead, and the Authority are the non-federal sponsors of the Comprehensive Project and entered into a Project Partnership Agreement with the United States Army Corps of Engineers (“USACE”) to deliver the Comprehensive Project; and

**WHEREAS**, according to the terms of the Project Partnership Agreement, the Authority is responsible for acquiring the necessary real property interests to construct and operate the Comprehensive Project; and

**WHEREAS**, for purposes of developing and proceeding with Reach SE-1B of the Comprehensive Project, a component being constructed by USACE, USACE has identified property interests that are needed in a parcel of land, identified on Exhibit A, that is owned by the City (the “Property”); and

**WHEREAS**, the City and the Authority agree USACE will be allowed to use the Property for purposes of constructing SE-1B (“USACE Access”), and the Authority will certify to USACE that a member of the Authority has the property rights necessary to allow USACE to use the Property for purposes of constructing SE-1B; and

**WHEREAS**, the City and the Authority wish to enter into this Agreement to clarify and provide the specific indemnity protection that the Authority will provide to the City for work on the Property to complete Reach SE-1B.

**NOW THEREFORE**, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the Authority and the City agree as follows:

**Section 1.01 INTENT.** The parties understand and recognize that the interests requested in the Property by USACE are related to the Comprehensive Project and the Authority’s obligation to secure real property interests to facilitate the Comprehensive Project. The parties additionally understand and recognize that USACE’s use of the Property for the Comprehensive Project could



result in liability exposure to the City due to the City's ownership of the Property. The parties wish to clarify the indemnity protection afforded the City under the Joint Powers Agreement.

**Section 1.02** INDEMNIFICATION.

(a) Member Entities. With regard to indemnity of member entities of the Authority, the Joint Powers Agreement provides, in relevant part:

The Metro Flood Diversion Authority agrees to defend and indemnify the Member Entities and the individual Diversion Authority Board Members for any liability claims arising from the Metro Flood Diversion Authority activities or operations, decisions of the Metro Flood Diversion Authority, or arising out of or regarding the Project.

(b) Non-Federal Sponsors. With regard to indemnity of non-federal sponsors of the Comprehensive Project, the Joint Powers Agreement provides, in relevant part:

The Metro Flood Diversion Authority shall, to the fullest extent authorized by law, at all times hereafter, indemnify and hold the City of Moorhead and the City of Fargo, and each of them, harmless against any and all claims, suits, debts, damages, costs, charges and expenses, including court costs and attorney's fees, and legal fees or disbursements paid or incurred, and against all liability, losses, and damages of any nature whatsoever, to any person who makes or asserts a claim against the Non-Federal Sponsors, or any of them, for any reason related to the Project including, without limitation, any obligation owed to the USACE as a result of the relationship, contractual or otherwise, between the USACE and the Non-Federal Sponsors.

(c) The parties agree the City's grant of property interests to USACE for the USACE Access falls within the scope of the above-provided indemnification provisions of the Joint Powers Agreement, and, as a result, the Authority will indemnify the City from any and all claims, suits, debts, damages, costs, charges and expenses, including court costs and attorney's fees, and legal fees or disbursements paid or incurred, and against all liability, losses, and damages of any nature whatsoever arising out of USACE Access to the Property.

**Section 1.03** ASSIGNMENT. Neither party may transfer or assign this Agreement, or any rights or obligations under this Agreement, without the express written consent of the other party.

**Section 1.04** WAIVER OF JURY TRIAL. THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS THAT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM, OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER, OR IN ANY CONNECTION WITH THIS AGREEMENT, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS AGREEMENT. THIS PROVISION APPLIES ONLY TO

SUITS BETWEEN THE PARTIES AND DOES NOT APPLY TO THIRD PARTY CLAIMS OR SUITS.

**Section 1.05** AMENDMENTS. Any modifications or amendments to this Agreement must be in writing and signed by all parties.

**Section 1.06** INTERPRETATION. This Agreement will be construed as if it has been prepared by all parties.

**Section 1.07** GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of North Dakota.

**Section 1.08** ELECTRONIC SIGNATURES. The Authority and the City agree that an electronic signature to this Agreement shall be valid as an original signature of the Authority or the City and shall be effective to bind the signatories of this Agreement.

**IN WITNESS WHEREOF**, the Authority and the City caused this Agreement to be executed.

*(Remainder of page intentionally left blank.)*

*Signature Page for the Metro Flood Diversion Authority*

The governing body of the Metro Flood Diversion Authority approved this Agreement on the 24th day of August, 2023.

METRO FLOOD DIVERSION  
AUTHORITY

By: *Dr. Timothy J. Mahoney*  
Dr. Timothy J. Mahoney, Chair

By: *Joel Paulsen*  
Joel Paulsen, Executive Director

ATTEST:

*Dawn Lindblom*  
Dawn Lindblom, Secretary

*Signature Page for the City of Fargo, North Dakota*

The governing body of the City of Fargo, North Dakota, approved this Agreement on the \_\_\_ day of \_\_\_\_\_, 2023.

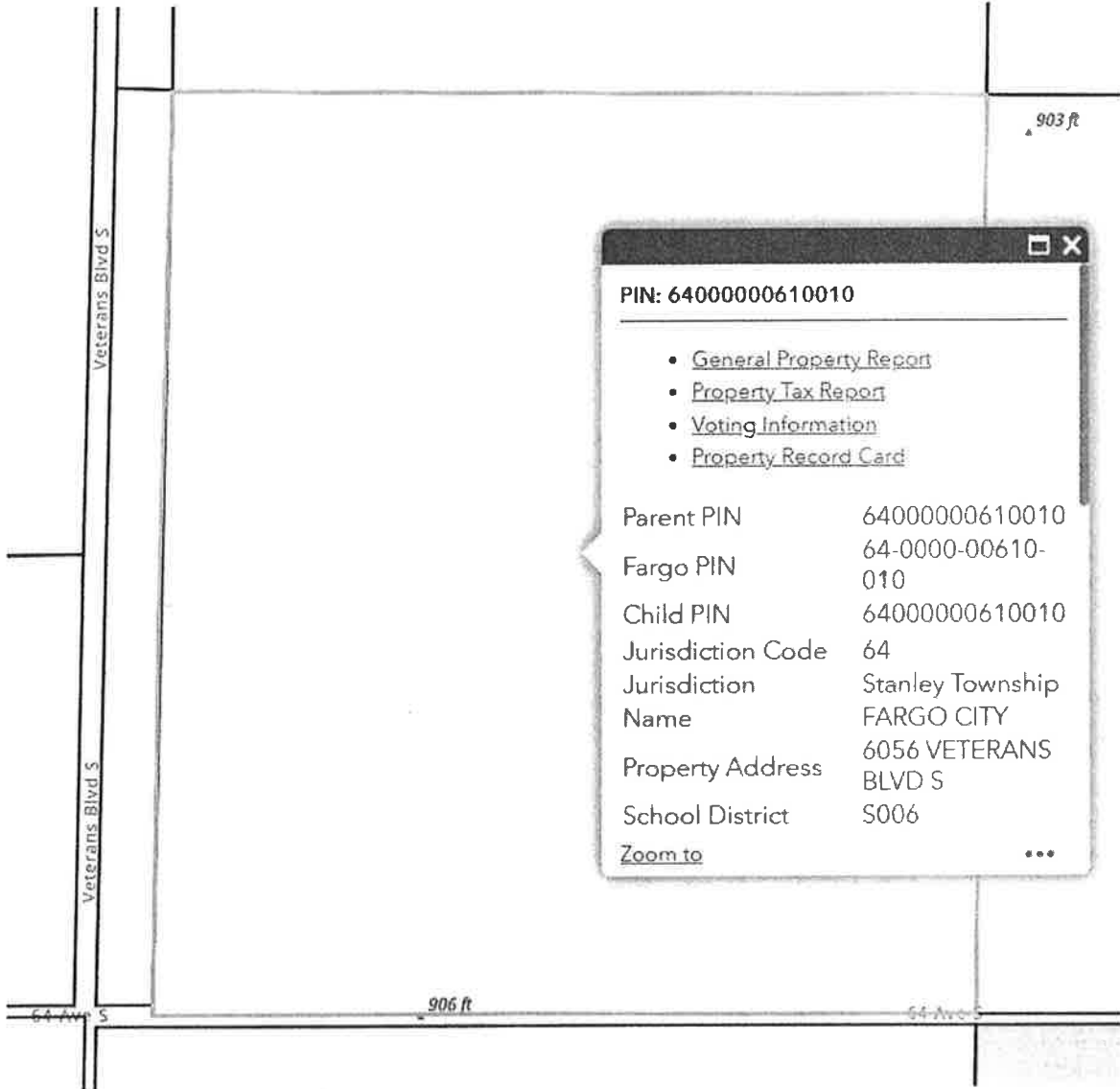
CITY OF FARGO, NORTH DAKOTA

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

ATTEST:

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

**Exhibit A**  
**PROPERTY MAP**



10

August 22, 2023

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

**Re: Resolution Ratifying Mayoral Signature – SN-23-A**

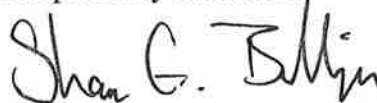
Dear Commissioners:

Enclosed and delivered to the City Commission office for review and approval is a resolution ratifying the Mayor's signature on a permanent bike trail easement and temporary construction easement. The easements were presented for signature in advance of the City Commission meeting to align with a previously scheduled closing date. The resolution is to confirm the ministerial act by the Mayor and evidence the acceptance of the easements.

RECOMMENDED MOTION: I/we hereby move to approve the resolution ratifying the Mayoral Signature on the permanent bike trail easement and a temporary construction easement from Tlofts U32 Properties, LLC.

Please return a copy of the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Kasey McNary

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION RATIFYING  
MAYORAL SIGNATURE**

**WHEREAS**, due to the exigencies of time, Mayor Dr. Timothy J. Mahoney, M.D., executed a Permanent Easement (Bike Trail) and Temporary Construction Easement contemplated as necessary for Project SN-23-A1 (“Easements”) (attached), which was approved by the board of City Commissioners. The current Owner/Grantor intends to sell the subject property, so the exigencies require recording of the Easements prior to closing. Securing the Easements is a necessity for completion of the construction of the shared use path. These easements are between the city of Fargo, a North Dakota municipal corporation, and TLOFTS U32 PROPERTIES, LLC, a Delaware limited liability company; and

**WHEREAS**, the city of Fargo now desires to ratify the above actions of Mayor Mahoney and to adopt the same as the act of the board of City Commissioners.

**NOW, THEREFORE, BE IT RESOLVED** by the board of City Commissioners that:

1. The foregoing Recitals are incorporated herein by reference.
2. The action of Mayor Dr. Timothy J. Mahoney, M.D. in executing the Easements is hereby ratified and such actions are hereby approved and adopted by the board of City Commissioners as its own.

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

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

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

ATTEST:

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

**PERMANENT EASEMENT**

(Bike Trail)

**KNOW ALL MEN BY THESE PRESENTS** that **TLOFTS U32 PROPERTIES, LLC**, a Delaware 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 them 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 constructing and maintaining a bike trail/shared use path and associated improvements, together with the customary appurtenances, said tracts being more particularly described as follows:

**Permanent Easement - Parcel A:**

A tract of land in Lot 1, Block 1 of BISON VILLAGE ADDITION to the City of Fargo in the Southwest Quarter of Section 19, Township 140 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

Commencing at the northeast corner of Lot 17 of said Block 1; thence South 03°08'47" East, on the east line of Lots 17 and 18 of said Block 1, a distance of 166.05 feet to a point on the southeasterly line of said Lot 1; thence North 26°34'28" East, on said southeasterly line, a distance of 105.83 feet to the point of beginning; thence continuing North 26°34'28" East, on said southeasterly line, a distance of 24.26 feet; thence 15.84 feet along a non-tangential curve, concave to the southwest, having a central angle of 13°26'45", a radius of 67.50 feet and a chord bearing of North 26°58'27" West; thence North 33°41'50" West, tangent to the previous curve, a distance of 36.82 feet; thence 21.88 feet on a tangential curve, concave to the northeast, having a central angle of 13°33'00", a radius of 92.50 feet and a chord bearing of North 26°55'20" West; thence North 20°08'50" West, tangent to the previous curve, a distance of 23.62 feet; thence 15.76 feet on a



tangential curve, concave to the east, having a central angle of 9°45'33", a radius of 92.50 feet and a chord bearing of North 15°16'03" West, to a point on the northerly line of said Lot 1; thence South 44°59'23" West, on said northerly line, a distance of 32.31 feet; thence North 74°25'06" East a distance of 9.39 feet; thence South 62°33'26" East a distance of 5.35 feet; thence South 20°08'50" East a distance of 21.01 feet; thence 25.42 feet on a tangential curve, concave to the northeast, having a central angle of 13°33'00", a radius of 107.50 feet and a chord bearing of South 26°55'20" East; thence South 33°41'50" East, tangent to the previous curve, a distance of 36.82 feet; thence 29.21 feet on a tangential curve, concave to the west, having a central angle of 31°52'44", a radius of 52.50 feet and a chord bearing of South 17°45'28" East to the point of beginning.

Bearings based on the plat of said BISON VILLAGE ADDITION.

Said tract contains 1,822 square feet, more or less.

AND

Permanent Easement - Parcel B:

A tract of land in Lot 1, Block 1 of BISON VILLAGE ADDITION to the City of Fargo in the Southwest Quarter of Section 19, Township 140 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

Commencing at the northeast corner of Lot 17 of said Block 1; thence South 90°00'00" West, on the northerly line of said Lot 17, a distance of 13.91 feet to a point of curvature in said northerly line; thence, continuing on said northerly line, a distance of 132.22 feet, along a non-tangential curve concave to the north, having a central angle of 35°44'53", a radius of 211.91 feet and a chord bearing of South 81°21'00" West to a point of intersection with an existing trail easement on file at the Cass County Recorder's office as document #1498772; thence North 00°00'02" East, on the easterly line of said trail easement, a distance of 3.25 feet to the point of beginning; thence North 00°00'02" East, continuing on said easterly line, a distance of 15.00 feet; thence 24.60 feet along a non-tangential curve, concave to the northwest, having a central angle of 26°51'06", a radius of 52.50 feet and a chord bearing of North 76°34'24" East; thence North 63°08'52" East, tangent to the previous curve, a distance of 34.42 feet to a point on the northerly line of said Lot 1; thence North 90°00'00" East, on said northerly line, a distance of 49.37 feet; thence South 74°25'06" West a distance of 32.18 feet; thence 10.33 feet, along a tangential curve concave to the southeast, having a central angle of 11°16'14", a radius of 52.50 feet and a chord bearing of South 68°46'59" West; thence South 63°08'52" West, tangent to the previous curve, a distance of 36.65 feet; thence 31.63 feet along a tangential curve, concave to the northwest, having central angle of 26°51'07", a radius of 67.50 feet and a chord bearing of South 76°34'25" West, to the point of beginning.

Bearings based on the plat of said Bison Village Addition

Said tract contains 1,242 square feet, more or less.

Said easement areas are pictorially represented on Exhibit A attached hereto and incorporated herein by reference.

Grantor, their successors and assigns, hereby covenant 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 tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, their successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with said bike trail/shared use path and customary appurtenances, 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 or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said bike trail/shared use path, including 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 bike trail/shared use path and customary appurtenances was begun.

IN WITNESS WHEREOF, Grantor has set their hands and caused this instrument to be executed this 28<sup>TH</sup> day of JULY, 2023.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 28<sup>th</sup> day of July, 2023.

**GRANTOR:**  
TLOFTS U32 PROPERTIES, LLC

*Howard Berger*  
By: Howard Berger  
Its: Manager

STATE OF Illinois )  
COUNTY OF COOK )

On this day of , 2023, before me, a notary public in and for said county and state, personally appeared HOWARD BERGER to me known to be the Manager of **TLOFTS U32 PROPERTIES, LLC**, and executed the within and foregoing instrument, and acknowledged the same.

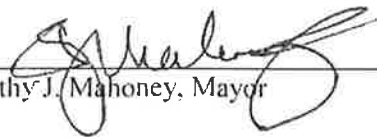
(SEAL)

*[Signature]*  
Notary Public  
My Commission Expires 05/25/2027



**GRANTEE:**

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

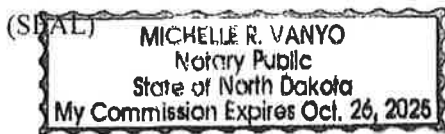
  
\_\_\_\_\_  
Timothy J. Mahoney, Mayor


**ATTEST:**

  
\_\_\_\_\_  
Steve Sprague, City Auditor

STATE OF NORTH DAKOTA )  
  )  
COUNTY OF CASS            )

On this 2 day of August, 2023, 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.



  
\_\_\_\_\_  
Notary Public  
My Commission Expires:

The legal description was prepared by:  
Brent W. Wacha (LS-5068)  
Professional Land Surveyor  
City of Fargo – Engineering Dept.  
225 4th St N  
Fargo ND 58102  
(701) 476-6796

This document prepared by:  
Kasey D. McNary (ND# 06590)  
Assistant City Attorney  
SERKLAND LAW FIRM  
10 Roberts Street N | PO Box 6017  
Fargo, ND 58102  
(701) 232-8957

# EXHIBIT A

Permanent Easement - Parcel A:

A tract of land in Lot 1, Block 1 of BISON VILLAGE ADDITION to the City of Fargo in the Southwest Quarter of Section 19, Township 140 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

Commencing at the northeast corner of Lot 17 of said Block 1; thence South 03°08'47" East, on the east line of Lots 17 and 18 of said Block 1, a distance of 166.05 feet to a point on the southeasterly line of said Lot 1; thence North 26°34'28" East, on said southeasterly line, a distance of 105.83 feet to the point of beginning; thence continuing North 26°34'28" East, on said southeasterly line, a distance of 24.26 feet; thence 15.84 feet along a non-tangential curve, concave to the southwest, having a central angle of 13°26'45", a radius of 67.50 feet and a chord bearing of North 26°58'27" West; thence North 33°41'50" West, tangent to the previous curve, a distance of 36.82 feet; thence 21.88 feet on a tangential curve, concave to the northeast, having a central angle of 13°33'00", a radius of 92.50 feet and a chord bearing of North 26°55'20" West; thence North 20°08'50" West, tangent to the previous curve, a distance of 23.62 feet; thence 15.76 feet on a tangential curve, concave to the east, having a central angle of 9°45'33", a radius of 92.50 feet and a chord bearing of North 15°16'03" West, to a point on the northerly line of said Lot 1; thence South 44°59'23" West, on said northerly line, a distance of 32.31 feet; thence North 74°25'06" East a distance of 9.39 feet; thence South 62°33'26" East a distance of 5.35 feet; thence South 20°08'50" East a distance of 21.01 feet; thence 25.42 feet on a tangential curve, concave to the northeast, having a central angle of 13°33'00", a radius of 107.50 feet and a chord bearing of South 26°55'20" East; thence South 33°41'50" East, tangent to the previous curve, a distance of 36.82 feet; thence 29.21 feet on a tangential curve, concave to the west, having a central angle of 31°52'44", a radius of 52.50 feet and a chord bearing of South 17°45'28" East to the point of beginning.

Bearings based on the plat of said BISON VILLAGE ADDITION.

Said tract contains 1,822 square feet, more or less.


Permanent Easement - Parcel B:

A tract of land in Lot 1, Block 1 of BISON VILLAGE ADDITION to the City of Fargo in the Southwest Quarter of Section 19, Township 140 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

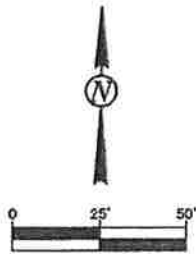
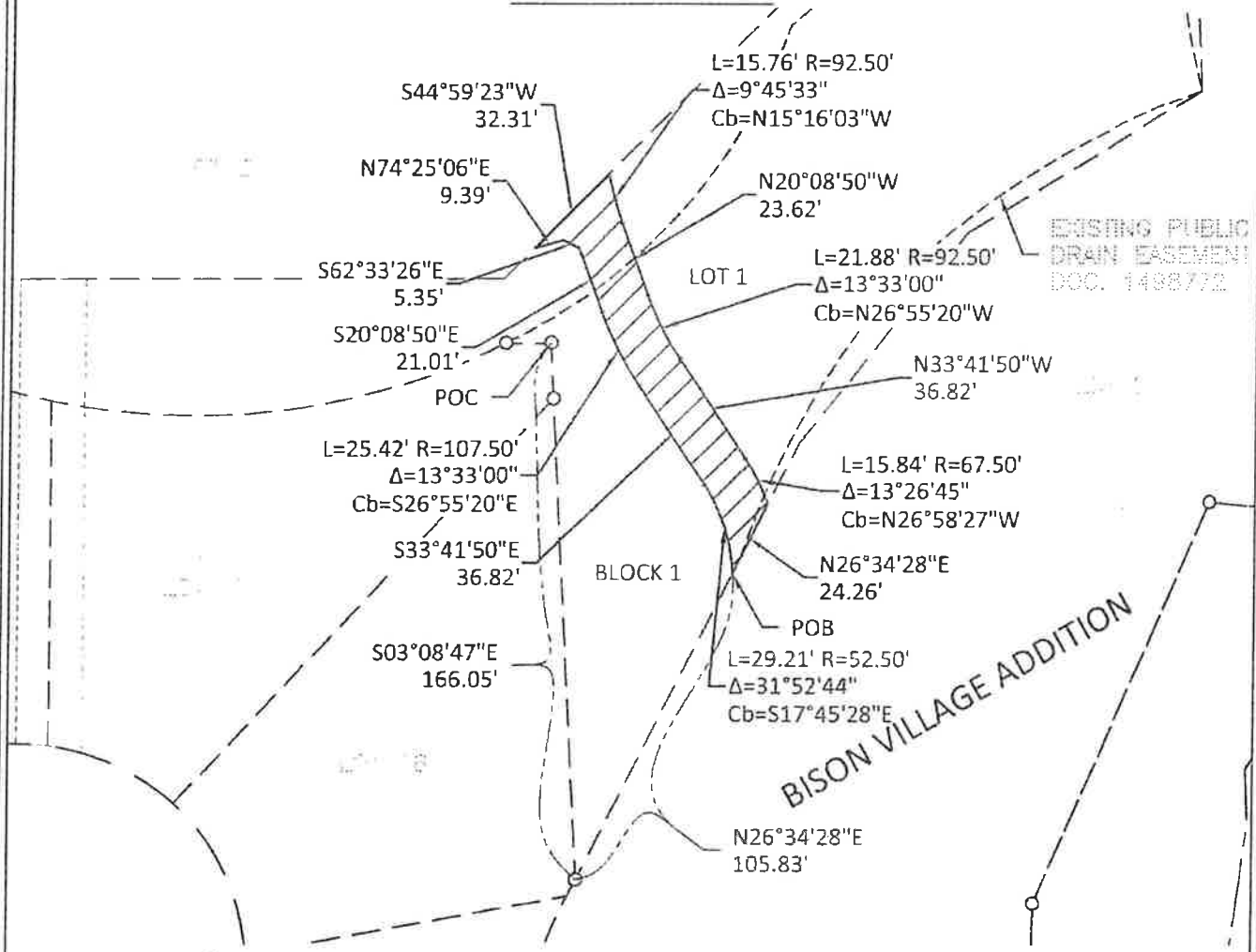
Commencing at the northeast corner of Lot 17 of said Block 1; thence South 90°00'00" West, on the northerly line of said Lot 17, a distance of 13.91 feet to a point of curvature in said northerly line; thence, continuing on said northerly line, a distance of 132.22 feet, along a non-tangential curve concave to the north, having a central angle of 35°44'53", a radius of 211.91 feet and a chord bearing of South 81°21'00" West to a point of intersection with an existing trail easement on file at the Cass County Recorder's office as document #1498772; thence North 00°00'02" East, on the easterly line of said trail easement, a distance of 3.25 feet to the point of beginning; thence North 00°00'02" East, continuing on said easterly line, a distance of 15.00 feet; thence 24.60 feet along a non-tangential curve, concave to the northwest, having a central angle of 26°51'06", a radius of 52.50 feet and a chord bearing of North 76°34'24" East; thence North 63°08'52" East, tangent to the previous curve, a distance of 34.42 feet to a point on the northerly line of said Lot 1; thence North 90°00'00" East, on said northerly line, a distance of 49.37 feet; thence South 74°25'06" West a distance of 32.18 feet; thence 10.33 feet, along a tangential curve concave to the southeast, having a central angle of 11°16'14", a radius of 52.50 feet and a chord bearing of South 68°46'59" West; thence South 63°08'52" West, tangent to the previous curve, a distance of 36.65 feet; thence 31.63 feet along a tangential curve, concave to the northwest, having central angle of 26°51'07", a radius of 67.50 feet and a chord bearing of South 76°34'25" West, to the point of beginning.

Bearings based on the plat of said Bison Village Addition

Said tract contains 1,242 square feet, more or less.

 THE CITY OF <b>Fargo</b> FAR MORE ENGINEERING DEPT	<b>PERMANENT EASEMENT - PARCELS A &amp; B</b>			
	LOT 1, BLOCK 1, BISON VILLAGE ADDITION, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA			
DRAWN BY: BWW	APPROVED BY: BWW	DATE: JUNE 16, 2023	SHEET 1 OF 3	

# EXHIBIT A



BEARINGS BASED ON THE PLAT OF BISON VILLAGE ADDITION

### LEGEND

- PERMANENT EASEMENT AREA
- MONUMENT FOUND
- MONUMENT SET
- EXISTING LOT LINE
- EXISTING RIGHT-OF-WAY
- EXISTING EASEMENT
- EXISTING DRAIN EASEMENT



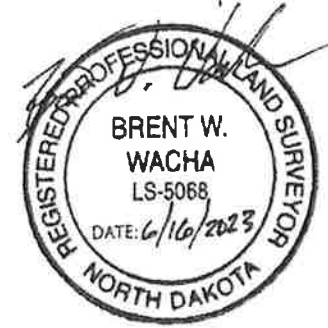
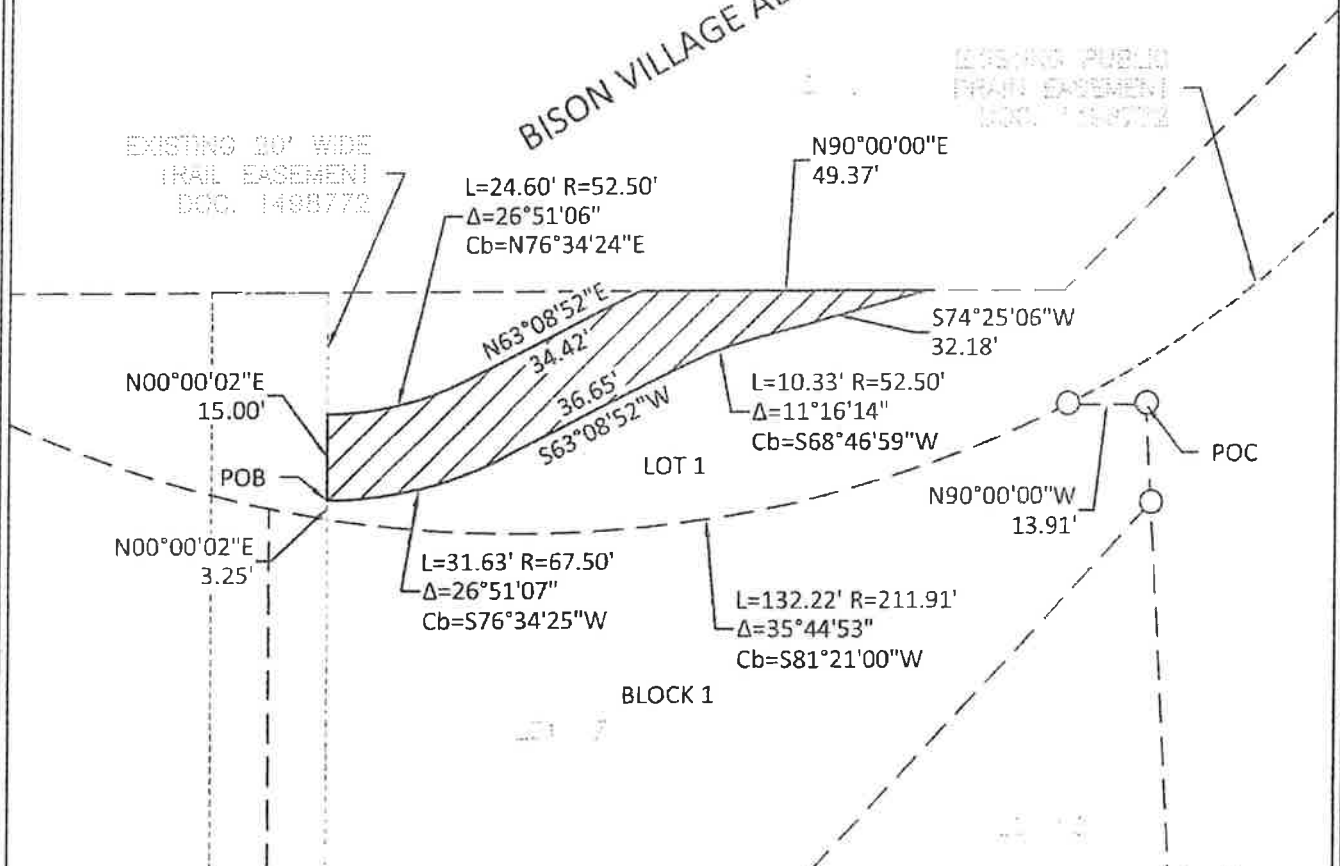
## PERMANENT EASEMENT - PARCEL A

LOT 1, BLOCK 1, BISON VILLAGE ADDITION,  
 CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DRAWN BY: BWW      APPROVED BY: BWW      DATE: JUNE 16, 2023      SHEET 2 OF 3

# EXHIBIT A

## BISON VILLAGE ADDITION



### PERMANENT EASEMENT - PARCEL B

LOT 1, BLOCK 1, BISON VILLAGE ADDITION,  
 CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



ENGINEERING DEPT

DRAWN BY: BWV

APPROVED BY: BWV

DATE: JUNE 16, 2023

SHEET 3 OF 3

**EASEMENT**

(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that **TLOFTS U32 PROPERTIES, LLC**, 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 land hereinafter described for the purpose of constructing a bike trail/shared use path, together with the customary appurtenances, said tract being described as follows:

A tract of land in Lot 1, Block 1 of BISON VILLAGE ADDITION to the City of Fargo in the Southwest Quarter of Section 19, Township 140 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

Beginning at the northeast corner of Lot 17 of said Block 1; thence South 21°59'06" East, a distance of 109.82 feet to a point on the southeasterly line of said Lot 1; thence North 26°34'28" East, on said southeasterly line, a distance of 70.95 feet; thence North 23°19'47" West, a distance of 110.90 feet, to a point on the northerly line of said Lot 1; thence South 44°59'23" West, on said northerly line, a distance of 61.58 feet to an angle point of said northerly line; thence North 90°00'00" West, continuing on said northerly line, a distance of 127.91 to a point of intersection with the easterly line of a 20 foot wide trail easement as shown on the plat of said BISON VILLAGE ADDITION on file as document 1498772 at the Cass County Recorder's office; thence South 00°00'02" West, on said easterly line of a 20 foot wide trail easement, a distance of 39.46 feet to a point on the southerly line of said Lot 1; thence easterly on the southerly line of said Lot 1, a distance of 132.22 feet along a non-tangential curve, concave to the north, having a central angle of 35°44'53", a radius of 211.91 feet and a chord bearing of North 81°21'00" East to an angle point



of said southerly line; thence North 90°00'00" East a distance of 13.91 feet to the point of beginning.

Bearings based on the plat of said BISON VILLAGE ADDITION.

Said tract contains 11,378 square feet, more or less.

Said temporary 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 agree that they will not disturb, injure, molest or in any manner interfere with said parcel to be used for construction 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 parcel so as to interfere in any manner with the said parcel during the construction phase. Grantee, at its own expense, shall leave the premises in as good condition as it was prior to the time construction activities began.

This Easement shall terminate on November 30, 2024, or upon completion of construction, whichever occurs later.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 28<sup>th</sup> day of July, 2023.

**GRANTOR:**  
TLOFTS U32 PROPERTIES, LLC

Howard Berger  
By: HOWARD BERGER  
Its: MANAGER

STATE OF Illinois )

COUNTY OF COOK )

On this day of , 2023, before me, a notary public in and for said county and state, personally appeared HOWARD BERGER to me known to be the Manager of **TLOFTS U32 PROPERTIES, LLC**, and executed the within and foregoing instrument, and acknowledged the same.

(SEAL)

[Signature]  
Notary Public  
My Commission Expires 05/25/2027



**GRANTEE:**

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

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

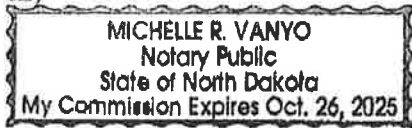
**ATTEST:**

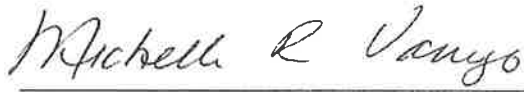
  
\_\_\_\_\_  
Steve Sprague, City Auditor

STATE OF NORTH DAKOTA )  
  )  
COUNTY OF CASS                    )

On this 2 day of August, 2023, 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:  
Brent W. Wacha (LS-5068)  
Professional Land Surveyor  
City of Fargo – Engineering Dept.  
225 4th St N  
Fargo ND 58102  
(701) 476-6796

This document prepared by:  
Kasey D. McNary (ND# 06590)  
Assistant City Attorney  
SERKLAND LAW FIRM  
10 Roberts Street N | PO Box 6017  
Fargo, ND 58102  
(701) 232-8957

# EXHIBIT A

Temporary Easement:

A tract of land in Lot 1, Block 1 of BISON VILLAGE ADDITION to the City of Fargo in the Southwest Quarter of Section 19, Township 140 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

Beginning at the northeast corner of Lot 17 of said Block 1; thence South 21°59'06" East, a distance of 109.82 feet to a point on the southeasterly line of said Lot 1; thence North 26°34'28" East, on said southeasterly line, a distance of 70.95 feet; thence North 23°19'47" West, a distance of 110.90 feet, to a point on the northerly line of said Lot 1; thence South 44°59'23" West, on said northerly line, a distance of 61.58 feet to an angle point of said northerly line; thence North 90°00'00" West, continuing on said northerly line, a distance of 127.91 to a point of intersection with the easterly line of a 20 foot wide trail easement as shown on the plat of said BISON VILLAGE ADDITION on file as document 1498772 at the Cass County Recorder's office; thence South 00°00'02" West, on said easterly line of a 20 foot wide trail easement, a distance of 39.46 feet to a point on the southerly line of said Lot 1; thence easterly on the southerly line of said Lot 1, a distance of 132.22 feet along a non-tangential curve, concave to the north, having a central angle of 35°44'53", a radius of 211.91 feet and a chord bearing of North 81°21'00" East to an angle point of said southerly line; thence North 90°00'00" East a distance of 13.91 feet to the point of beginning.

Bearings based on the plat of said BISON VILLAGE ADDITION.

Said tract contains 11,378 square feet, more or less.



ENGINEERING DEPT

## TEMPORARY EASEMENT

LOT 1, BLOCK 1, BISON VILLAGE ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

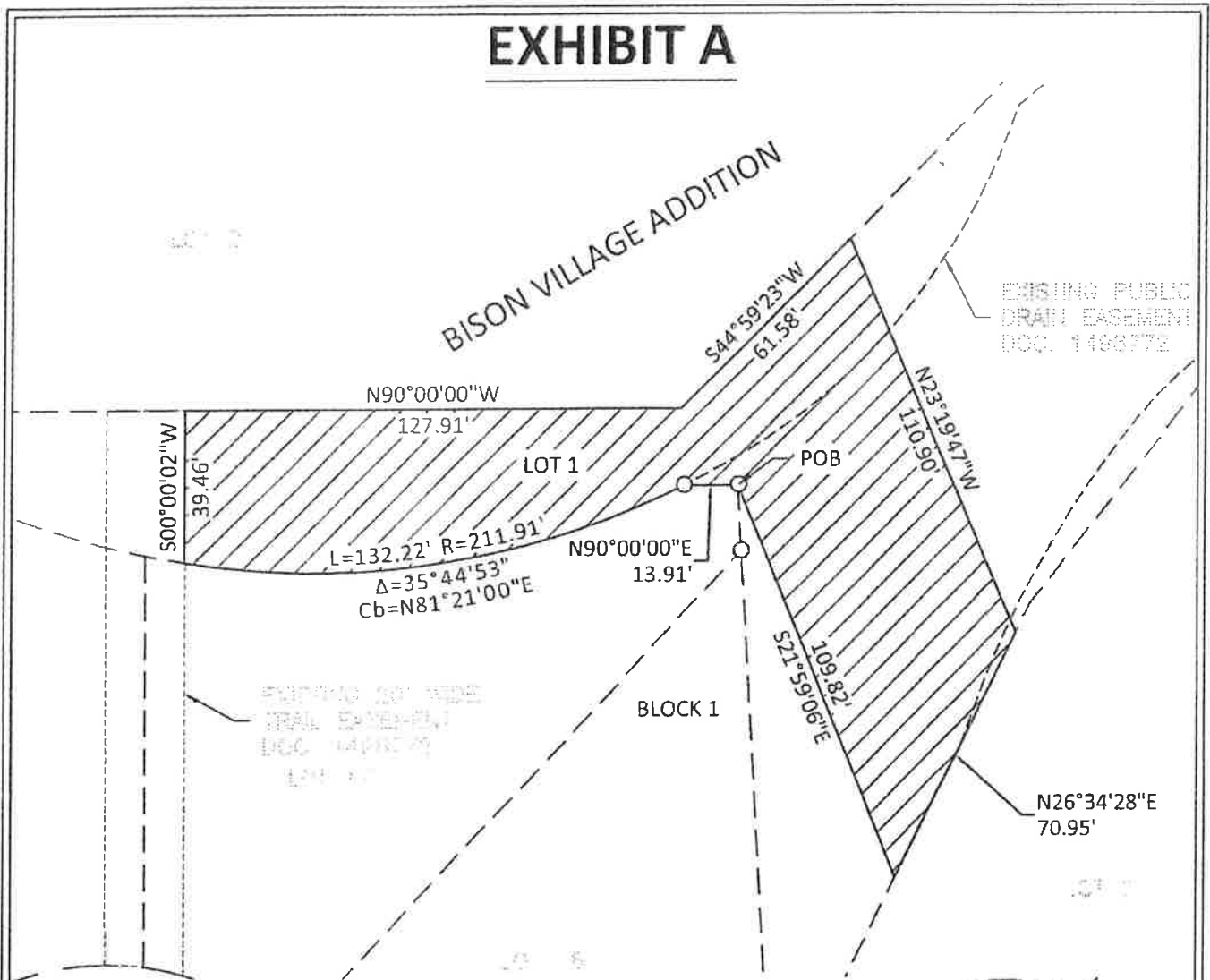
DRAWN BY: BWW

APPROVED BY: BWW

DATE: JUNE 16, 2023

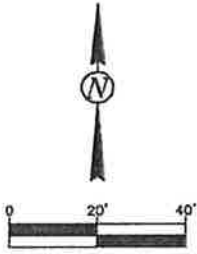
SHEET 1 OF 2

# EXHIBIT A










EXISTING 20' WIDE  
TRAIL EASEMENT  
DCC 1488772

EXISTING PUBLIC  
DRAIN EASEMENT  
DCC 1488772



BEARINGS BASED ON  
THE PLAT OF BISON VILLAGE ADDITION

### LEGEND

-  TEMPORARY EASEMENT AREA
-  MONUMENT FOUND
-  MONUMENT SET
-  EXISTING LOT LINE
-  EXISTING RIGHT-OF-WAY
-  EXISTING EASEMENT
-  EXISTING DRAIN EASEMENT



## TEMPORARY EASEMENT

LOT 1, BLOCK 1, BISON VILLAGE ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



ENGINEERING DEPT

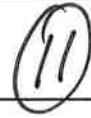
DRAWN BY: BWB

APPROVED BY: BWB

DATE: JUNE 16, 2023

SHEET 2 OF 2

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE



Improvement District No. BN-22-G1

Type: Change Order #1 & Time Extension

Location: Meadow View Phase 2

Date of Hearing: 8/28/2023

<u>Routing</u>	<u>Date</u>
City Commission	9/5/2023
PWPEC File	X
Project File	Will Bayuk

The Committee reviewed the accompanying correspondence from Project Manager, Will Bayuk, related to Change Order #1 in the amount of \$13,739.68 for additional work, along with the associated time extension to the Substantial and Final Completion Dates as follows:

<b>Original Completion Dates</b>	<b>Revised this Memo</b>
Substantial – October 6, 2023 Final – November 5, 2023	Substantial – June 15, 2024 Final – July 15, 2024

Staff is recommending approval of Change Order #1 in the amount of \$13,739.68 and the time extension to the Substantial and Final Completion Dates as described above.

On a motion by Ben Dow, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #1 and the time extensions to Dirt Dynamics.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #1 in the amount of \$13,739.68 bringing the total contract amount to \$2,444,448.72 and the time extension to the Substantial and Final Completion Dates adjusting the dates to June 15, 2024 and July 15, 2024 to Dirt Dynamics

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: CRWUD & 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>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input 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 type="checkbox"/>	<input 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, Interim Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
 Nathan Boerboom, P.E.  
 Assistant City Engineer

## Memorandum

**To:** Members of PWPEC  
**From:** Will Bayuk, Project Engineer  
**Date:** August 23, 2023  
**Re:** Improvement District No. BN-22-G1 – Change Order #1 & Time Extension

---

### Background:

Improvement District No. BN-22-G1 is for new construction of underground utilities, asphalt pavement and incidentals on 68<sup>th</sup> Avenue South from 15<sup>th</sup> Street South to Meadow View Drive South, on 67<sup>th</sup> Avenue South from 15<sup>th</sup> Street South to Meadow View Drive South, on 66<sup>th</sup> Avenue South from 15<sup>th</sup> Street South to 14<sup>th</sup> Street South, and on 14<sup>th</sup> Street South from 86<sup>th</sup> Avenue South to 66<sup>th</sup> Avenue South.

The purpose of this project is to provide infrastructure for new residential housing in Meadow View Addition and complete the connectivity of Meadow View Addition to Bison Meadows as requested by the developer.

Dirt Dynamics is the prime contractor for this project.

The Developer decided to Replat a portion of the project during the construction of the project. This forced Dirt Dynamics to halt construction. The City of Fargo and the Developer have agreed upon terms for the continuation of construction while the Replat is going through the approval process. The construction time lost due to this delay will push the paving construction to the spring of 2024. The construction activities in the spring of 2024 will carry a unit price increase due to next year's pricing. This added cost is shown on the following page.

**Bid Items Affected by Replat: Underground This Fall, Paving Next Spring**

Installation Date	Container	Item Number	Item Description	Unit	Original Bid Quantity	Remaining Quantity	Original Bid Unit Price	New Unit Price	Original Bid Total Amount	Original Bid Remaining Amount	New Total Amount		
Fall of 2023	Sanitary Sewer	12	F&I Pipe SDR 26 - 6" Dia PVC	LF	4597	1614	\$ 29.00	-	\$ 133,313.00	\$ 46,806.00	-		
		15	Connect Sewer Service	EA	91	31	\$ 480.00	-	\$ 43,680.00	\$ 14,880.00	-		
		23	F&I Pipe 1" Dia Water Service	LF	4441	1440	\$ 15.00	-	\$ 66,615.00	\$ 21,600.00	-		
		24	F&I CS & Box 1" Dia	EA	91	31	\$ 640.00	-	\$ 58,240.00	\$ 19,840.00	-		
		25	Connect Water Service	EA	91	31	\$ 400.00	-	\$ 36,400.00	\$ 12,400.00	-		
	Paving	Cass Rural Water	44	Subgrade Preparation	SY	9,432.00	2782	\$ 2.00	-	\$ 18,864.00	\$ 5,564.00	-	
			45	F&I Woven Geotextile	SY	9,432.00	2782	\$ 2.00	-	\$ 18,864.00	\$ 5,564.00	-	
			46	F&I Class 5 Agg - 8" Thick	SY	9,432.00	2782	\$ 14.00	-	\$ 132,048.00	\$ 38,948.00	-	
			47	F&I Edge Drain 4" Dia PVC	LF	4,851.00	1430	\$ 13.70	-	\$ 66,458.70	\$ 19,591.00	-	
			48	F&I Curb & Gutter Mountable (Type I)	LF	4,851.00	1430	\$ 22.50	26.00	\$ 109,147.50	\$ 32,175.00	\$ 37,180.00	
			49	F&I Sidewalk 4" Thick Reinf Conc	SY	128.00	98	\$ 90.00	97.50	\$ 11,520.00	\$ 8,820.00	\$ 9,555.00	
			50	F&I Sidewalk 6" Thick Reinf Conc	SY	7.00	7	\$ 115.00	123.50	\$ 805.00	\$ 805.00	\$ 864.50	
			54	F&I Det Warn Panels Cast Iron	SF	16.00	8	\$ 553.00	60.00	\$ 848.00	\$ 424.00	\$ 480.00	
			55	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	2,557.00	754	\$ 110.00	117.00	\$ 281,270.00	\$ 82,940.00	\$ 88,218.00	
			Spring of 2024	Paving	56	Casting to Grade - Blvd	EA	9	2	\$ 350.00	400.00	\$ 3,150.00	\$ 700.00
57	Casting to Grade - no Conc	EA			7	2	\$ 400.00	450.00	\$ 2,800.00	\$ 800.00	\$ 900.00		
58	GV Box to Grade - Blvd	EA			12	3	\$ 150.00	200.00	\$ 1,800.00	\$ 450.00	\$ 600.00		
59	Mulching Type 1 Hydro	SY			10,209.00	2939	\$ 0.53	0.58	\$ 5,410.77	\$ 1,557.67	\$ 1,704.62		
61	Seeding Type C	SY			845	298	\$ 1.05	1.10	\$ 887.25	\$ 312.90	\$ 327.80		
64	F&I Base 5" Deep Reinf Conc	EA			15	5	\$ 525.00	630.00	\$ 7,875.00	\$ 2,625.00	\$ 3,150.00		
65	F&I Conductor #6 USE Cu	LF			7200	2319	\$ 2.10	2.52	\$ 15,120.00	\$ 4,869.90	\$ 5,843.88		
66	F&I Innerduct 1.5" Dia	LF			2082	567	\$ 5.25	6.30	\$ 10,930.50	\$ 2,976.75	\$ 3,572.10		
									\$ 139,456.22	\$ 153,195.90			
<b>Extra Replat Construction Cost to be Paid by Developer</b>									\$	\$	13,739.68		



The spring of 2024 construction costs is estimated to add \$13,739.68 to the project. This amount will be covered by the Developer, and will not be special assessed to the project.

Due to the new spring construction, we recommend a time extension, changing the completion dates as follows:

- Substantial Completion Date
  - Previous – October 6, 2023
  - New - June 15, 2024
- Final Completion
  - Previous – November 5, 2023
  - New - July 15, 2024

**Recommended Motion:**

Approve Change Order #1 in the amount of \$13,739.68 and the time extension bringing the Substantial Completion Date to June 15, 2024, and the Final Completion Date to July 15, 2024.

WRB/klb

Attachment



**CHANGE ORDER REPORT**  
**NEW PAVING AND UTILITY CONSTRUCTION**  
**IMPROVEMENT DISTRICT NO. BN-22-G1**  
**MEADOW VIEW PHASE 2 - 15TH ST S & 67TH AVE S**

**Change Order No** 1      **Change Order Date** 8/21/2023  
**Contractor** Dirt Dynamics

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

**EXPLANATION OF CHANGE**      Change Order # 1

The Developer decided to replat a section of the project. This delayed the contractor, and will push the paving construction to the spring of 2024. The construction in the spring of 2024 will have a unit price increase due to next year's pricing. New Substantial Completion Date of June 15, 2024. New Final Completion of July 15, 2024.

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	13	F&I Curb & Gutter Mountable (Type I)	LF	0	0	0	1430	1430	\$26.00	\$37,180.00
	14	F&I Sidewalk 4" Thick Reinf Conc	SY	0	0	0	98	98	\$97.50	\$9,555.00
	15	F&I Sidewalk 6" Thick Reinf Conc	SY	0	0	0	7	7	\$123.50	\$864.50
	16	F&I Det Waim Panels Cast Iron	SF	0	0	0	8	8	\$60.00	\$480.00
	17	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	0	0	0	754	754	\$117.00	\$88,218.00
	18	Casting to Grade - Blvd	EA	0	0	0	2	2	\$400.00	\$800.00
	19	Casting to Grade - no Conc	EA	0	0	0	2	2	\$450.00	\$900.00
	20	GV Box to Grade - Blvd	EA	0	0	0	3	3	\$200.00	\$600.00
	21	Mulching Type 1 Hydro	SY	0	0	0	2939	2939	\$0.58	\$1,704.62
	22	Seeding Type C	SY	0	0	0	298	298	\$1.10	\$327.80
	23	F&I Base 5' Deep Reinf Conc	EA	0	0	0	5	5	\$630.00	\$3,150.00
	24	F&I Conductor #6 USE Cu	LF	0	0	0	2319	2319	\$2.52	\$5,843.88


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 (\$)
	25	F&I Innerduct 1.5" Dia	LF	0	0	0	567	567	\$6.30	\$3,572.10
								<b>Change Order 1 Sub Total</b>		<b>\$153,195.90</b>
Paving	66	F&I Curb & Gutter Mountable (Type I)	LF	4851		4851	-1430	3421	\$22.50	-\$32,175.00
	67	F&I Sidewalk 4" Thick Reinf Conc	SY	128		128	-98	30	\$90.00	-\$8,820.00
	68	F&I Sidewalk 6" Thick Reinf Conc	SY	7		7	-7	0	\$115.00	-\$805.00
	72	F&I Det Warn Panels Cast Iron	SF	16		16	-8	8	\$53.00	-\$424.00
	73	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	2557		2557	-754	1803	\$110.00	-\$82,940.00
	74	Casting to Grade - Blvd	EA	9		9	-2	7	\$350.00	-\$700.00
	75	Casting to Grade - no Conc	EA	7		7	-2	5	\$400.00	-\$800.00
	76	GV Box to Grade - Blvd	EA	12		12	-3	9	\$150.00	-\$450.00
	77	Mulching Type 1 Hydro	SY	10209		10209	-2939	7270	\$0.53	-\$1,557.67
	79	Seeding Type C	SY	845		845	-298	547	\$1.05	-\$312.90
								<b>Paving Sub Total</b>		<b>-\$128,984.57</b>
Street Lights	82	F&I Base 5' Deep Reinf Conc	EA	15		15	-5	10	\$525.00	-\$2,625.00
	83	F&I Conductor #6 USE Cu	LF	7200		7200	-2319	4881	\$2.10	-\$4,869.90
	84	F&I Innerduct 1.5" Dia	LF	2082		2082	-567	1515	\$5.25	-\$2,976.75
								<b>Street Lights Sub Total</b>		<b>-\$10,471.65</b>

**Summary**

Source Of Funding  
 Net Amount Change Order # 1 (\$)   
 Previous Change Orders (\$)   
 Original Contract Amount (\$)   
 Total Contract Amount (\$)

Special Assessments  
 \$13,739.68  
 \$0.00  
 \$2,430,709.04  
 \$2,444,448.72

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

APPROVED   
 For Contractor *estimator*  
 Title

APPROVED DATE   
 Department Head  
 Mayor  
 Attest

12

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-22-B1    Type: Negative Final Balancing Change Order #4

Location: 7th Ave N, from 1st St N – Elm St N & Oak St N from 5<sup>th</sup> Ave N to 8<sup>th</sup> Ave N    Date of Hearing: 8/28/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/5/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Will Bayuk</u>

The Committee reviewed the accompanying correspondence from Project Manager, Will Bayuk, regarding Negative Final Balancing Change Order #4 in the amount of \$-97,573.92, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Negative Final Balancing Change Order #4 in the amount of \$-97,573.92, bringing the total contract amount to \$2,270,047.43.

On a motion by Ben Dow, seconded by Brenda Derrig, the Committee voted to recommend approval of Negative Final Balancing Change Order #4 to Key Contracting.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve Negative Final Balancing Change Order #4 in the amount of \$-97,573.92, bringing the total contract amount to \$2,270,047.43 to Key Contracting.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: WW, Water, Storm, Traffic/Street Light Utility, Sales Tax & Special Assessments

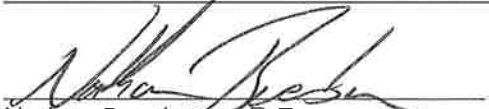
	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	<u>N/A</u>
Agreement for payment of specials required of developer	<u>N/A</u>	<u>N/A</u>
Letter of Credit required (per policy approved 5-28-13)	<u>N/A</u>	<u>N/A</u>

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"/>	
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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nathan Boerboom
Susan Thompson, Interim Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson



Nathan Boerboom, P.E.  
Assistant City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Will Bayuk, Project Engineer  
**Date:** August 23, 2023  
**Re:** Improvement District No. BR-22-B1 – Negative Final Balancing Change Order #4

---

**Background:**

Improvement District No. BR-22-B1 is for the replacement of the water main, sanitary sewer services, storm inlet leads, concrete curb & gutter, asphalt pavement, and sidewalk repairs. The project is on 7th Avenue North from ½ Block east of 2nd Street to Elm Street and on Oak Street North from the BNSF Rail Road Tracks to 8th Avenue North.

Key Contracting is the Prime Contractor on this project.

Attached is the Negative Final Balancing Change Order in the amount of -\$97,573.92. The Contractor met the requirements of the contract and it has been accepted by the City. This FBCO reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

Original Contract:	\$	2,333,313.10
Change Order #1	\$	0.00
Change Order #2	\$	34,308.25
Change Order #3	\$	0.00
Change Order #3	\$	<u>-97,573.92</u>
Total Contract:	\$	2,270,047.43

**Recommended Motion:**

Approve Negative Final Balancing Change Order #4 in the amount of -\$97,573.92 to Key Contracting for Improvement District BR-22-B1.

WRB/klb  
Attachment



**CHANGE ORDER REPORT  
PAVING AND UTILITY REHAB/RECONSTRUCTION  
IMPROVEMENT DISTRICT NO. BR-22-B1**

Final Balancing  
Change Order

**ON 7TH AVENUE NORTH FROM 1/2 BLOCK EAST OF 2ND STREET TO ELM STREET.  
ON OAK STREET NORTH FROM THE BNSF RAIL ROAD TRACKS TO 8TH AVENUE  
NORTH.**

Change Order No 4      Change Order Date 8/21/2023  
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 # 4

Improvement District No. BR-22-B1 is for the replacement of the water main, sanitary sewer services, storm inlet leads, concrete curb & gutter, asphalt pavement, and sidewalk repairs. The project is on 7th Avenue North from 1/2 Block east of 2nd Street to Elm Street and on Oak Street North from the BNSF Rail Road Tracks to 8th Avenue North.

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 (\$)
Sanitary Sewer	1	Remove Pipe All Sizes All Types	LF	175	175	175	-10	165	\$20.00	-\$200.00
			EA	4	4	2	6	\$2,500.00	\$5,000.00	
	7	F&I Pipe w/GB SDR 26 - 6" Dia PVC	LF	700	700	700	224.6	924.6	\$81.00	\$18,192.60
			LF	42.129999999999995	0	104	-1.87	102.13	\$95.00	-\$177.65
	9	F&I Pipe w/GB SDR 26 - 10" Dia PVC	LF	54	54	54	-6.3	47.7	\$98.00	-\$617.40

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	10	Bore Pipe SDR 26 - 6" Dia PVC	LF	70		70	-70	0	\$150.00	-\$10,500.00
	12	Connect Pipe to Exist Pipe	EA	9		9	1	10	\$1,500.00	\$1,500.00
	14	Clean Pipe All Sizes All Types	LF	1275		1275	-1275	0	\$6.00	-\$7,650.00
	15	F&I Pipe w/GB SDR 26 - 12" Dia PVC	LF	73		73	13.6	86.6	\$120.00	\$1,632.00
									<b>Sanitary Sewer Sub Total</b>	<b>\$7,179.55</b>
Water Main	19	Remove Pipe All Sizes All Types	LF	1634		1634	-912	722	\$20.00	-\$18,240.00
	21	F&I Hydrant	EA	6		6	-1	5	\$5,950.00	-\$5,950.00
	22	F&I Fittings C153 Ductile Iron	LB	2450		2450	-743	1707	\$12.00	-\$8,916.00
	23	F&I Pipe w/GB C900 DR 18 - 4" Dia PVC	LF	15		15	-10	5	\$65.00	-\$650.00
	24	F&I Pipe w/GB C900 DR 18 - 6" Dia PVC	LF	121		121	-35.5	85.5	\$48.00	-\$1,704.00
	25	F&I Pipe w/GB C900 DR 18 - 8" Dia PVC	LF	1782		1782	-65.76	1716.24	\$85.00	-\$5,589.60
	26	F&I Pipe w/GB C900 DR 18 - 10" Dia PVC	LF	192		192	-91.6	100.4	\$110.00	-\$10,076.00



Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	27	F&I Gate Valve 6" Dia	EA	11	11	-2	9	\$1,950.00	-\$3,900.00
	28	F&I Gate Valve 8" Dia	EA	6	6	1	7	\$2,550.00	\$2,550.00
	29	F&I Gate Valve 10" Dia	EA	2	2	-1	1	\$2,850.00	-\$2,850.00
	31	F&I Pipe w/GB 1" Dia Water Service	LF	1006	1006	11.3	1017.3	\$55.00	\$621.50
	33	Bore Pipe 1" Dia Water Service	LF	160	160	-160	0	\$65.00	-\$10,400.00
	34	Rem & Repl CS & Box 1" Dia	EA	36	36	-3	33	\$650.00	-\$1,950.00
	36	Connect Water Service	EA	37	37	-3	34	\$450.00	-\$1,350.00
	37	F&I 1-1/4" Trench Found Rock 4" thru 12" Dia	LF	100	100	-100	0	\$36.00	-\$3,600.00
	38	F&I Gate Valve 4" Dia	EA	2	2	-1	1	\$2,850.00	-\$2,850.00
							<b>Water Main Sub Total</b>		<b>-\$74,854.10</b>
Storm Sewer	39	Remove Pipe All Sizes All Types	LF	593	593	-50	543	\$20.00	-\$1,000.00
	40	Remove Manhole	EA	11	11	1	12	\$500.00	\$500.00
	41	Remove Inlet	EA	16	16	4	20	\$500.00	\$2,000.00

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 (\$)
	42	F&I Inlet - Single Box (SBI) Reinf Conc	EA	14	14	14	-1	13	\$2,950.00	-\$2,950.00
	44	F&I Manhole 4' Dia Reinf Conc	EA	10	10	10	1	11	\$3,250.00	\$3,250.00
	47	F&I Pipe w/GB SDR 26 - 12" Dia PVC	LF	521	521	521	-19.09	501.91	\$68.00	-\$1,298.12
	48	F&I Pipe w/GB 15" Dia Reinf Conc	LF	173	173	173	-16	157	\$52.50	-\$840.00
	49	F&I Pipe w/GB 18" Dia Reinf Conc	LF	54	54	54	2.49	56.49	\$56.60	\$140.93
	50	F&I Pipe w/GB 21" Dia Reinf Conc	LF	644	644	644	-3.87	640.13	\$65.50	-\$253.49
	53	F&I Controlled Density Fill	CY	130	130	130	-120	10	\$150.00	-\$18,000.00
								<b>Storm Sewer Sub Total</b>		<b>-\$18,450.67</b>
Paving	57	Remove Pavement All Thicknesses All Types	SY	7660	7660	7660	-42	7618	\$18.00	-\$756.00
	58	Remove Curb & Gutter	LF	4567	4567	4567	35.44	4602.44	\$10.00	\$354.40

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	59	Remove Driveway All Thicknesses All Types	SY	986	986	-10.69	975.31	\$15.00	-\$160.35
	60	Remove Sidewalk All Thicknesses All Types	SY	2072	2072	2.28	2074.28	\$15.00	\$34.20
	61	Subgrade Preparation	SY	9693	9693	70.35	9763.35	\$4.00	\$281.40
	62	F&I Woven Geotextile	SY	9693	9693	70.35	9763.35	\$2.50	\$175.88
	63	F&I Class 5 Agg - 8" Thick	SY	9693	9693	70.35	9763.35	\$12.00	\$844.20
	64	F&I Edge Drain 4" Dia PVC	LF	4732	4732	43.3	4775.3	\$13.00	\$562.90
	65	F&I Curb & Gutter Standard (Type II)	LF	4732	4732	43.3	4775.3	\$28.00	\$1,212.40
	66	F&I Asphalt Pavement FAA 43 w/ PG58H- 34	Ton	3746	3746	-111.43	3634.57	\$86.90	-\$9,683.27
	67	F&I Pavement 7" Thick Reinf Conc	SY	9	9	-9	0	\$85.00	-\$765.00
	68	F&I Sidewalk 4" Thick Reinf Conc	SY	2050	2050	-112.36	1937.64	\$52.00	-\$5,842.72

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 (\$)
	69	F&I Sidewalk 6" Thick Reinf Conc	SY	118	118	118	-7.81	110.19	\$60.00	-\$468.60
	70	F&I Det Warn Panels Cast Iron	SF	264	264	264	-24	240	\$55.00	-\$1,320.00
	71	F&I Driveway 6" Thick Reinf Conc	SY	985.9999999999999	985.9999999999999	985.9999999999999	119.11	1105.11	\$60.00	\$7,146.60
	72	F&I Casting Water Service	EA	6	6	6	-4	2	\$350.00	-\$1,400.00
	76	Casting to Grade - no Conc	EA	33	33	33	-1	32	\$350.00	-\$350.00
	78	GV Box to Grade - no Conc	EA	9	9	9	1	10	\$275.00	\$275.00
	79	GV Box to Grade - Blvd	EA	11	11	11	-2	9	\$200.00	-\$400.00
	80	Boulevard Grading	SY	8000	8000	8000	619.94	8619.94	\$8.00	\$4,959.52
	81	Seeding Type C	SY	7999.9999999999999	7999.9999999999999	7999.9999999999999	372.89	8372.89	\$2.00	\$745.78
	82	Mulching Type 1 Hydro	SY	7999.9999999999999	7999.9999999999999	7999.9999999999999	372.89	8372.89	\$1.65	\$615.27
	83	Weed Control Type B	SY	7999.9999999999999	7999.9999999999999	7999.9999999999999	336.39	8336.39	\$0.50	\$168.20
	88	F&I Bare Root Decid Tree 2" Dia	EA	16	16	16	-12	4	\$750.00	-\$9,000.00

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 (\$)
Street Lights	90	Relocate Street Light	EA	5	5		1	6	\$1,650.00	\$1,650.00
	91	Remove Street Light	EA	5	5		1	6	\$400.00	\$400.00
	93	Remove Base	EA	5	5		1	6	\$350.00	\$350.00
	94	F&I Conductor #6 USE Cu	LF	3057	3057		-33	3024	\$2.50	-\$82.50
	95	F&I Innerduct 1.5" Dia	LF	759	759		14	773	\$6.00	\$84.00
				<b>Paving Sub Total</b>						<b>-\$12,770.20</b>
Traffic Signals	106	F&I Conduit 2" Dia	LF	2385	2385		-85	2300	\$8.00	-\$680.00
	107	F&I Fiber Optic Cable	LF	3200	3200		-200	3000	\$2.00	-\$400.00
					<b>Traffic Signals Sub Total</b>					
				<b>Street Lights Sub Total</b>						<b>\$2,401.50</b>

Summary.

<b>Source Of Funding</b>	Waste Water Utility Funds, Water Utility Funds, Storm Utility Funds, Traffic/Street Light Utility Funds, Street Sales Tax Funds, Special Assessments
<b>Net Amount Change Order # 4 (\$)</b>	-\$97,573.92
<b>Previous Change Orders (\$)</b>	\$34,308.25
<b>Original Contract Amount (\$)</b>	\$2,333,313.10
<b>Total Contract Amount (\$)</b>	\$2,270,047.43

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 Martin*  
President

APPROVED DATE

Department Head

Mayor

Attest



PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. UR-23-A1

Type: Change Order #1

Location: Various Locations Citywide

Date of Hearing: 8/28/2023

<u>Routing</u>	<u>Date</u>
City Commission	9/5/2023
PWPEC File	X
Project File	Roger Kluck

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, regarding Change Order #1 in the amount of \$29,108.91 for additional work.

Staff is recommending approval of Change Order #1 in the amount of \$29,108.91, bringing the total contract amount to \$387,832.91.

On a motion by Ben Dow, seconded by Brenda Derrig, the Committee voted to recommend approval of Change Order #1 to SJ Louis Construction.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve Change Order #1 in the amount of \$29,108.91, bringing the total contract amount to \$387,832.91 to SJ Louis Construction.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Storm Utility & Special Assessments

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


COMMITTEE

- 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, Interim Finance Director

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

ATTEST:

C: Kristi Olson

  
 Nathan Boerboom, P.E.  
 Assistant City Engineer

## Memorandum

**To:** Members of PWPEC

**From:** Roger E. Kluck, PE, CFM Civil Engineer II Storm Sewer & Floodplain

**CC:** Jody Bertrand, Division Engineer;

**Date:** August 25, 2023

**Re:** Project #UR-23-A1 Utility Rehab/Reconstruction Various Sites  
Change Order #1

---

This project was bid June, 2023 and was awarded to SJ Louis Construction, Inc. The project was planned to repair storm sewer pipe by lining and repair storm sewer structures. At the pre-construction meeting, the Contractor and the Engineer did a field inspection to verify sizes prior to ordering the liner material. It was found that two locations had the wrong pipe size within the Fargo GIS. This change order covers the change in pipe size for the liner cleaning, lining material, and liner installation.

Engineering has reviewed the request for the revised pipe sizing of \$29,108.91 and believe the unit prices are reasonable. Funding for this project will come from the Storm Sewer Utility Fund and special assessments.

**Recommended Motion:**

Approve Change Order #1 in the amount of \$29,108.91 to SJ Louis Construction, Inc.

Attachment





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

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

**Change Order No** 1 **Change Order Date** 7/17/2023  
**Contractor** S J Louis Construction, Inc.

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

**EXPLANATION OF CHANGE** Change Order # 1

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	20	F&I Pipe Liner 10" Dia 6 mm CIPP	LF	0	0	0	9.1	9.1	\$625.00	\$5,687.50
	21	F&I Pipe Liner 15" Dia Gravity CIPP	LF	0	0	0	79.4	79.4	\$294.98	\$23,421.41
<b>Change Order 1 Sub Total</b>										<b>\$29,108.91</b>

**Summary.**

**Source Of Funding**

**Net Amount Change Order # 1 (\$)**

**Previous Change Orders (\$)**

**Original Contract Amount (\$)**

**Total Contract Amount (\$)**

Special assessments and storm sewer utility

\$29,108.91

\$0.00

\$358,724.00

\$387,832.91

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

APPROVED  
For Contractor  
Title

*Chuck Adams*  
*UP/GM*

*8-25-23*

APPROVED DATE

Department Head

Mayor

Attest

*Walter Boeh*

14

August 24, 2023

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

**Re: Memorandum of Offer to Landowner  
Temporary Easement – Improvement District #BR-23-G2**

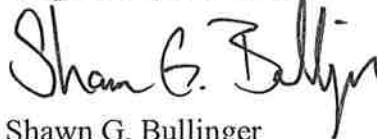
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a temporary easement in association with Improvement District #BR-23-G2. 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 purchase of a temporary easement from **Blue Moon Holdings LLC** in association with Improvement District #BR-23-G2 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement document on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Jeremy Gorden  
Nancy J. Morris

# MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project BR-23-G2	County Cass	Parcel(s) 14S
Landowner Blue Moon Holdings LLC		
Mailing Address PO Box 9531 Fargo, ND 58106		

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

See attached exhibit(s) to the easements accompanying this Memorandum of Offer.

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 4,292.00 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>4,292.00</u>
Improvements on Right of Way*	\$	_____
Damages to Remainder	\$	_____
<b>Total Offer</b>	<b>\$</b>	<b><u>4,292.00</u></b>

\*Description of Damages to Remainder are as follows:

*[Handwritten Signature]*  
 Owner Signature  
 Signature hereby constitutes acceptance of offer as presented above.  
*Blue moon Holdings LLC*

*[Handwritten Signature]*  
 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

**EASEMENT**  
**(Temporary Construction Easement)**

**KNOW ALL MEN BY THESE PRESENTS** that **BLUE MOON HOLDINGS, LLC**, a North Dakota limited liability company, whether one or more, hereinafter referred to as "Grantor", for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00), to him 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 over, upon and in land hereinafter described for the purpose of street and utility construction and activities appurtenant thereto, said land being more fully described, to-wit:

A temporary easement, over, under and across that part of Lot 2, Block 1, **HORNBACHER'S FIRST ADDITION** to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The North 25.00 feet of the East 75.00 of the West 118.00 feet of the said Lot 2.

Said parcel contains 1,875 square feet, more or less, and is subject to all existing easements of record.

Said parcel is pictorially represented in Exhibit "A" hereto and made a part hereof.

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 they will not disturb, injure, molest or in any manner interfere with said parcel to be used for the storage of dirt 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 parcel so as to interfere in any manner with the said parcel to be used for the storage of dirt and all other construction activities during the construction phase of said project, 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 storage of dirt and all other construction activities was begun.

This easement shall terminate on June 30, 2026, or end of project, whichever occurs later.

(Signatures on following pages).

IN WITNESS WHEREOF, Grantor set its hand and caused this instrument to be executed this 17 day of Aug, 2023.

GRANTOR:

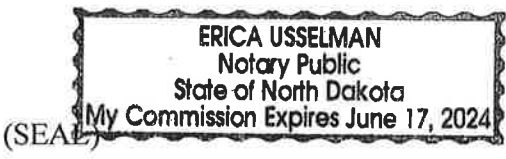
BLUE MOON HOLDINGS, LLC  
a North Dakota limited liability company

By: Paul Oppgaard

Its: President

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

On this 17<sup>th</sup> day of Aug, 2023, before me, a notary public in and for said county and state, personally appeared Paul Oppgaard, the President of BLUE MOON HOLDINGS, LLC, a North Dakota limited liability company, to me known to be the persons described in and who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same.



Erica Usseleman  
Notary Public  
Cass County, North Dakota

IN WITNESS WHEREOF, Grantee has set its hand and caused this instrument to be executed this \_\_\_\_ day of \_\_\_\_\_, 2023.

GRANTEE:

City of Fargo, a North Dakota municipal corporation

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

ATTEST

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

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

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

\_\_\_\_\_  
Notary Public  
Cass County, ND  
My Commission expires:

(SEAL)

The legal description was prepared by:

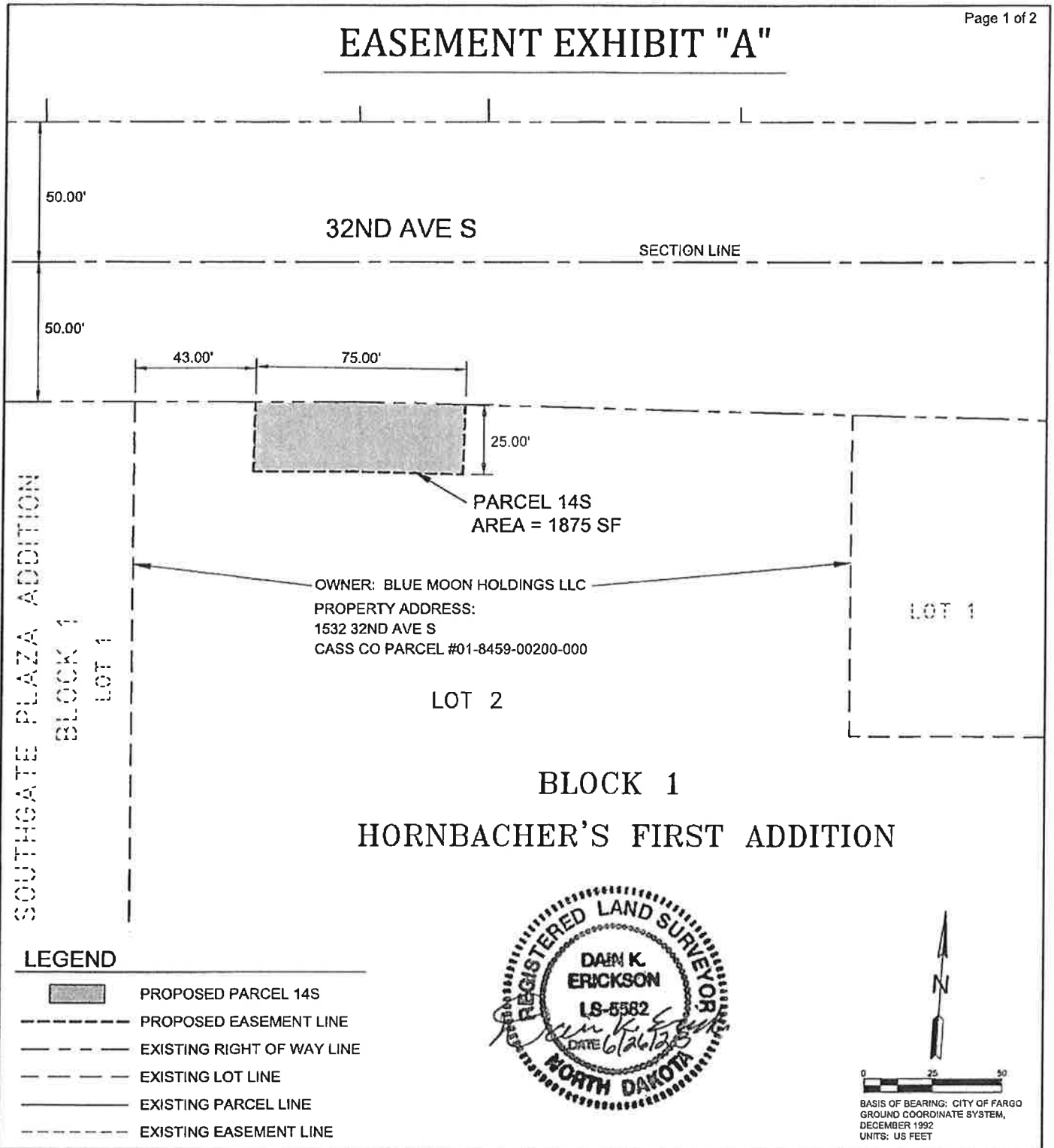
Dain K. Erickson  
Registered Land Surveyor  
LS-5582  
Apex Engineering Group  
4733 Amber Valley Parkway S.  
Fargo, ND 58104  
(701) 373-7980

This document was prepared by:

Nancy J. Morris  
City Attorney  
Serkland Law Firm  
10 Roberts Street  
Fargo, ND 58102  
(701) 232-8957  
[nmorris@serklandlaw.com](mailto:nmorris@serklandlaw.com)



# EASEMENT EXHIBIT "A"



TEMPORARY EASEMENT - PARCEL 14S  
32ND AVE S RECONSTRUCTION  
LOT 2, BLOCK 1, HORNbacher'S FIRST ADD.  
SECTION 25, T139N, R49W  
FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151  
Date: 03/15/2023  
Drawn By: Mike J  
Checked By: Dain E  
Approved By: Dain E

# EASEMENT EXHIBIT "A"

Parcel 14S  
(Temporary Easement)

A temporary easement, over, under and across that part of Lot 2, Block 1, HORNBACHER'S FIRST ADDITION to the City of Fargo, situate in the County of Cass and the State of North Dakota described as follows:

The North 25.00 feet of the East 75.00 of the West 118.00 feet of the said Lot 2.

Said parcel contains 1,875 square feet, more or less, and is subject to all existing easements of record.



### CERTIFICATION

I, Dain K. Erickson, hereby certify that I am a Licensed Land Surveyor in the State of North Dakota, that this survey was made by me or under my direction and supervision and that the survey is true and complete as shown.

Signed Dain K. Erickson  
Dain K. Erickson  
North Dakota Professional Land Surveyor  
License Number LS-5582

Date 6/26/2023



TEMPORARY EASEMENT - PARCEL 14S  
32ND AVE S RECONSTRUCTION  
LOT 2, BLOCK 1, HORNBACHER'S FIRST ADD.  
SECTION 25, T139N, R49W  
FARGO, NORTH DAKOTA

Apex Project #: 22.103.0151  
Date: 03/15/2023  
Drawn By: Mike J  
Checked By: Dain E  
Approved By: Dain E

15

August 21, 2023

Board of City Commissioners  
City of Fargo  
200 North Third Street  
Fargo, ND 58102

Re: Temporary Construction Easement  
Improvement District #BR-24-A1

Dear Commissioners:

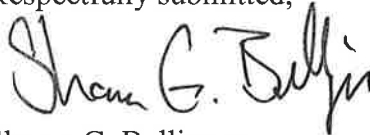
Accompanying for City Commission review and approval is a Temporary Construction Easement with **Dakota Flats LLC** in association with Improvement District #BR-24-A1.

RECOMMENDED MOTION:

Approve Temporary Construction Easement with **Dakota Flats LLC**.

Please return a copy of the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Kasey McNary

**EASEMENT**

(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that **DAKOTA FLATS, LLC**, 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 land hereinafter described for the purpose of removing a city sidewalk from private property, together with the customary appurtenances, said tract being described as follows:

**A tract of land in an unplatted part of the Northwest Quarter of Section 6, Township 139 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, more particularly described as:**

**The easterly 2.00 feet of an unplatted parcel described in document 1554604 on file at the Cass County Recorder's Office and described as:**

**A tract of land situate in the Northwest Quarter of Section Six, in Township One Hundred Thirty-nine North of Range Forty-eight West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows, to-wit: Commencing at a point on the West line of Cass Street (now Eighth Street) North, in the City of Fargo, 190 feet North of the Northeast corner of Block Two of Park Addition to the City of Fargo; thence North 10° West, 50 feet; thence West about 137 feet; thence South at right angles 50 feet; thence East at right angles about 138 feet to the place of beginning.**

**Said tract contains 100 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 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 agree that they will not disturb, injure, molest or in any manner interfere with said parcel to be used for removal and reconstruction of the sidewalk 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 parcel so as to interfere in any manner with the said parcel during the construction phase. Grantee, at its own expense, shall leave the premises in as good condition as it was prior to the time construction activities began.

This Easement shall terminate on September 30, 2024, or upon completion of construction, whichever occurs later.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 16<sup>th</sup> day of August, 2023.

GRANTOR:

DAKOTA FLATS, LLC

[Signature] DAKOTA FLATS

By:

Its:

STATE OF Minnesota )  
COUNTY OF Clay )

On this 16<sup>th</sup> day of August, 2023, before me, a notary public, in said County and State, personally appeared Dana Nelson known to me to be the Owner of the company that is described in, and that s/he executed the foregoing instrument, and acknowledged to me that s/he executed the same on behalf of said company.

[Signature]

Notary Public

My Commission Expires:

(SEAL)



**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 \_\_\_\_\_, 2023, 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:  
Justin W. Zastrow (LS-27985)  
Professional Land Surveyor  
City of Fargo – Engineering Dept.  
225 4th St N  
Fargo ND 58102  
(701) 476-6796

This document prepared by:  
Kasey D. McNary (ND# 06590)  
Assistant City Attorney  
SERKLAND LAW FIRM  
10 Roberts Street N | PO Box 6017  
Fargo, ND 58102  
(701) 232-8957



**Facilities Department**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.298.6966  
Email [Facilities@fargoND.gov](mailto:Facilities@fargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

## Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** September 5, 2023  
**Re:** Change Order for GTC Underground Parking Garage Repairs – Gast Construction (AFB20017)

---

### **Background:**

Project BP0041 was created in 2019 to address necessary repairs to the underground parking during the renovations at the Ground Transportation Center.

A recent walk through of the garage noted some additional necessary work on the south side of the structure. The work is intended to reinforce an area of the structure that is directly below where solid waste trucks access the dumpsters for trash removal. Change Order #5 will modify the contract amount and the Completion Date.

The funding for the project is available in account 241-2105-492.43-10 GTC Underground Repairs and Maintenance.

### **Recommended Action:**

Move to approve the change order for repairs to the GTC Underground Parking Garage.



**CHANGE ORDER NO. 5**

Date of Issuance: 9/6/2023  
 Effective Date: 9/6/2023

<b>PROJECT TITLE</b> <i>Underground (BP0041)</i>
<b>OWNER</b> <i>City of Fargo</i>
<b>CONTRACTOR</b> <i>Gast Construction Company, Inc.</i>
<b>ORIGINAL CONTRACT DATE</b> <i>1/31/2020</i>

**THE CONTRACT DOCUMENTS ARE MODIFIED AS FOLLOWS UPON EXECUTION OF THIS CHANGE ORDER**

<b>1. ADDITIONS OR DELETIONS TO THE CONTRACT AND ASSOCIATED COSTS</b>						
Spec. No.	Item	Description of Addition or Deletion	Unit	Quantity	Unit Price	Affect On Contract Price
	1	Concrete wall demolition & infill	LS	1	\$22,420.00	\$22,420.00
						\$0.00
						\$0.00
						\$0.00
<b>TOTAL COST FOR THESE CONTRACT ADDITIONS OR DELETIONS</b>						<b>\$22,420.00</b>

**2. JUSTIFICATION FOR ADDITIONS OR DELETIONS TO CONTRACT**  
*Contract has been amended to include repairs to a damaged concrete beam above a walkway between the parking garage and ramp. Repairs will include removal of damaged concrete and full infill of concrete opening. Refer to Gast proposal attached.*

<b>3. CHANGE TO CONTRACT AMOUNT</b>	
ORIGINAL CONTRACT AMOUNT:	\$654,660.00
NET INCREASE/DECREASE FROM PREVIOUS CHANGE ORDER(S):	-\$18,352.49
CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER:	\$636,307.51
INCREASE/DECREASE FROM THIS CHANGE ORDER:	\$22,420.00
<b>NEW CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER:</b>	<b>\$658,727.51</b>

<b>4. CHANGE TO CONTRACT TIMES</b>	
<b>Original Contract Times:</b>	
Substantial Completion (Days or Date):	10/2/2020
Ready For Final Payment (Days or Date):	10/30/2020
<b>Contract Times from previously Approved Change Orders</b>	
Substantial Completion (Days or Date):	4/30/2021
Ready For Final Payment (Days or Date):	5/7/2021
<b>Contract Times will be Increased/Decreased because of this Change Order</b>	<i>Increase</i>
<b>Contract Times including this Change Order</b>	
Substantial Completion (Days or Date):	10/24/2023
Ready For Final Payment (Days or Date):	10/31/2023

**5. REQUIRED SIGNATURES - Not valid until signed by Owner. Signature of Contractor indicates agreement herewith, including any adjustments in the Contract Amount or Contract Times**

**ACCEPTED:**

By: \_\_\_\_\_  
OWNER (Authorized Signature)  
Name: Timothy J. Mahoney  
Title: Mayor  
Date: \_\_\_\_\_

**ACCEPTED:**

By: \_\_\_\_\_  
CONTRACTOR (Authorized Signature)  
Name: James Gast  
Title: President  
Date: \_\_\_\_\_

**RECOMMENDED:**

By: Cassie McNames  
ENGINEER (Authorized Signature)  
Name: Cassie McNames  
Title: Project Manager  
Date: \_\_\_\_\_ 8/25/2023

**ACCEPTED:**

Funding Agency (if applicable)

By: \_\_\_\_\_  
FUNDING AGENCY (Authorized Signature)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



Cassie McNames  
KLJ  
300 23<sup>rd</sup> Ave E, Suite 100  
West Fargo, ND 58078

August 18, 2023

Re: GTC Underground Structural Repairs – Proposal

Cassie,

Below is the lump sum price to perform the structural repairs as requested during our meeting on August 16<sup>th</sup>, 2023. Also below is a description of what is included and excluded in this proposal.

Included:

- Concrete testing (2 pours with 4 cylinders cast at each pour)
- Demolition of existing concrete beam above the opening, taking it back roughly 12” on to the existing wall to the west of the opening.
- Electrical scope, removal of exit sign above opening.
- Open up concrete floor and excavate down to footing.
- New reinforcing as determined by KLJ.
- Form and pour wall and beam back with a self-consolidated concrete mix. Mix design to be same that we used during phase 1 of the project. Mix designs will be sent to KLJ for approval.
- Pour back concrete floor.
- Clean up.
- Parking lot striping as needed.
- Building permit.
- Builders risk insurance.

Excluded:

- Bond
- Prevailing wages

**\$22,420.00**

If you have any questions or concerns, please let me know.

Thank you,

Jared Pedersen  
Project Manager



17

**Facilities Department**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.298.6966  
Email [Facilities@fargoND.gov](mailto:Facilities@fargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

## Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** September 5, 2023  
**Re:** Contract Amendment for Master Facility Planning Services for the Police Department (RFP 23078)

---

Dear Commissioners:

On June 26, 2023, the Commission approved the bid award and contract to JLG Architects to provide Master Facility Planning Services for the Fargo Police Department. The Police Department has been working closely with the consultants to provide comprehensive background information in order to develop this plan.

As a matter of due diligence, JLG has recommended bringing in a structural engineer to analyze the current headquarters location and advise the Owner and Architects of the feasibility of future adaptation of the facility to meet current Risk Category IV Code requirements.

Police Leadership and the Director of Facilities agree that this information is critical to determining long term facility plans. Therefore, we come to the Commission with the recommendation to approve the Contract Amendment with JLG Architects.

**Recommended Action:**

Move to approve the contract amendment for the Master Facility Planning Services for the Police Department



# AIA® Document G802® – 2017

## Amendment to the Professional Services Agreement

<b>PROJECT:</b> <i>(name and address)</i> 23191 - Fargo Police Department Masters Facility Planning	<b>AGREEMENT INFORMATION:</b> Date: June 20, 2023	<b>AMENDMENT INFORMATION:</b> Amendment Number: 001  Date: August 29, 2023
<b>OWNER:</b> <i>(name and address)</i> City of Fargo 225 4th St. N. Fargo, ND 58102	<b>ARCHITECT:</b> <i>(name and address)</i> JLG Architects 214 N. Broadway Fargo, ND 58102	

The Owner and Architect amend the Agreement as follows:

Scope of services amended to include the additional services of a structural engineer to support the Fargo Police Department Master Facilities Planning Services

Heyer Engineering (structural engineer) will provide visual analysis of the existing Fargo Police Department Headquarters building located at 105 25th St N, Fargo, ND 58102. The objective of the analysis is to advise the Owner and design team on the facilities ability to be adapted in the future to meet the structural requirements for Risk Category IV facilities. Scope of work being amended is based on visual analysis only. No destructive or invasive investigation of the existing facility will be completed as part of the current amended scope of services.

The Architect's compensation and schedule shall be adjusted as follows:

Compensation Adjustment: \$6,500.00

Schedule Adjustment: None

**SIGNATURES:**

JLG Architects  
**ARCHITECT** *(Firm name)*



**SIGNATURE**

Rob Remark, AIA, Principal  
**PRINTED NAME AND TITLE**

8/30/2023  
**DATE**

City of Fargo  
**OWNER** *(Firm name)*

**SIGNATURE**

Dr. Timothy Mahoney, Mayor  
**PRINTED NAME AND TITLE**

**DATE**



18

**Facilities Department**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.298.6966  
Email [Facilities@fargoND.gov](mailto:Facilities@fargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

## Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** September 5, 2023  
**Re:** Amendment to Contract for Services with JLG (RFQ23059)

---

In April of 2023, JLG was awarded a contract for project management services for the installation of new mechanical window shades at the downtown library. The award was based on estimated costs for the scope defined and a fee based contract was agreed upon. Following the award, it was discovered that the scope included far more technical work than previously anticipated. JLG communicated to the City that the costs were going to be more than had been estimated. Facilities and JLG met to negotiate a fixed fee for the remainder of the work.

This comes to the Commission with approval from the Finance Committee. Facilities is requesting for the approval of the attached amendment for project management services with JLG Architects.

**Recommended Action:**

Move to approve the amendment to a fixed fee contract for services with JLG Architects.

REPORT OF ACTION

**FINANCE COMMITTEE**

**Location:** Facilities Management

**Agenda Item:** Downtown Library Shades Project

**Presenter:** Bekki Majerus

<u>Routing</u>	<u>Date</u>
Finance Committee	<u>8/28/2023</u>
City Commission	

Bekki Majerus followed up on an item previously presented to the Committee on July 24, 2023 for Downtown Library Shades.

The committee expressed concerns with the discrepancies from the original amount in the contract for architectural services. Bekki met with the vendor, JLG Architects and negotiated a possible reduction in the final price.

After negotiation, the vendor agreed to a final price of \$35,500.

Facilities Management requested approval of \$35,500 for architectural services to JLG Architects.

**MOTION:**

Brenda Derrig moved to approve, second by Mike Redlinger and all members present voted in favor.

COMMITTEE:	Present	Yes	No	Unanimous
				<u>X</u>
Tim Mahoney, Mayor	X	X		
Dave Piepkorn, City Commissioner	X	X		
Mike Redlinger, City Administrator	X	X		
Brenda Derrig, Assistance City Administrator	X	X		
Susan Thompson, Assistant Finance Director	X	X		
Tanner Smedshammer, Purchasing Manager	X	X		
Steve Sprague, City Auditor	X	X		

  
 \_\_\_\_\_  
 Tim Mahoney, Finance Committee Chair

# AIA® Document G802® – 2017

## Amendment to the Professional Services Agreement

<b>PROJECT:</b> <i>(name and address)</i> 23085 – Fargo Public Libraries Sunshades Replacement	<b>AGREEMENT INFORMATION:</b> Date: March 23, 2023	<b>AMENDMENT INFORMATION:</b> Amendment Number: 001  Date: August 11, 2023
<b>OWNER:</b> <i>(name and address)</i> City of Fargo 225 N. 4th St. Fargo, ND 58102	<b>ARCHITECT:</b> <i>(name and address)</i> JLG Architects 214 N. Broadway Fargo, ND 58102	

The Owner and Architect amend the Agreement as follows:


The project compensation type is being adjusted from hourly compensation to a fixed compensation.

The Architect's compensation and schedule shall be adjusted as follows:

Compensation Adjustment: Compensation adjusted to a fixed compensation value of \$35,500.00

Schedule Adjustment: None

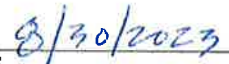
**SIGNATURES:**

JLG Architects  
**ARCHITECT** *(Firm name)*  
  
**SIGNATURE**

City of Fargo  
**OWNER** *(Firm name)*  
  
**SIGNATURE**

Rob Remark, AIA, Principal  
**PRINTED NAME AND TITLE**

Dr. Timothy Mahoney, Mayor  
**PRINTED NAME AND TITLE**

  
**DATE**

**DATE**





19

**Facilities Department**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: 701.298.6966  
Email [facilities@fargoND.gov](mailto:facilities@fargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

## Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** September 5, 2023  
**Re:** Agreement for Services with R. L. Engebretson (SSP19112)

---

In 2022, The Facilities Department worked with R. L. Engebretson to prepare a bid package to combine two projects: drainage improvements and modifications to exiting at Newman Outdoor Field. The architecture firm prepared the 2019 Capital Improvement Plan for the facility and has managed multiple projects related to that CIP since. Unfortunately, for this bid package only a single bid was submitted and it was significantly higher than budget. The decision was made to reject the bid.

After further consideration, the decision has been made to separate the two projects and only bid the exiting project in 2023. R. L. Engebretson already has the construction documents prepared and they will be able to edit the bid package with minimal work. Facilities is recommending for the Commission to approve the attached Agreement with R. L. Engebretson to prepare bid documents, provide bid administration and project management for the contracted work.

**Recommended Motion:**

Move to approve the Agreement for Services with R. L. Engebretson for the Newman Field exiting project.

# AIA® Document B101® – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Twenty-First day of August in the year Two Thousand Twenty-Three  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect’s client identified as the Owner:  
*(Name, legal status, address and other information)*

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

and the Architect:  
*(Name, legal status, address and other information)*

R.L. Engebretson Architects Fargo LLC  
901 13<sup>th</sup> Avenue East, Suite B  
West Fargo, ND 58078  
701-293-5735

for the following Project:  
*(Name, location and detailed description)*

Newman Outdoor Field – 2023-24 Exiting Improvements  
1515 15<sup>th</sup> Avenue North  
Fargo, ND 58102

The Project consists of the exiting deficiency elements identified within the 2019 Long-Term Capital Improvements Plan (CIP) for the City of Fargo’s Newman Outdoor Field. Project shall encompass preparing necessary documents for the work to be constructed; bidding assistance and administering the contracted work.

- Exiting from concourse stadia seating

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

**TABLE OF ARTICLES**

- 1 INITIAL INFORMATION**
- 2 ARCHITECT'S RESPONSIBILITIES**
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES**
- 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**
- 5 OWNER'S RESPONSIBILITIES**
- 6 COST OF THE WORK**
- 7 COPYRIGHTS AND LICENSES**
- 8 CLAIMS AND DISPUTES**
- 9 TERMINATION OR SUSPENSION**
- 10 MISCELLANEOUS PROVISIONS**
- 11 COMPENSATION**
- 12 SPECIAL TERMS AND CONDITIONS**
- 13 SCOPE OF THE AGREEMENT**

**ARTICLE 1 INITIAL INFORMATION**

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

*(Paragraphs deleted)*

§ 1.1.3 The Owner's anticipated design and construction milestone dates:

.1 Construction commencement date:

10/30/2023

.2 Substantial Completion date or dates:

5/17/2024 Substantial Completion

5/31/2024 Final Completion

*(Paragraphs deleted)*

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation.

*(Paragraphs deleted)*

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect shall provide professional services as set forth in this Agreement.

Init.

*Raw*

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than Two Million Dollars (\$ 2,000,000.00 ) for each occurrence and One Million Dollars (\$ 1,000,000.00 ) in the aggregate for bodily injury and property damage. The Commercial General Liability shall provide at a minimum the following coverages:

- .1 Operations of Consultant;
- .2 Personal Injury;
- .3 Employees as additional insured;
- .4 Contractual Liability

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation ; North Dakota Workers' Compensation Coverage.

§ 2.5.5 Employers' Liability with policy limits not less than Two Million Dollars (\$ 2,000,000.00 ) each accident, Two Million Dollars (\$ 2,000,000.00 ) each employee, and Two Million Dollars (\$ 2,000,000.00 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars (\$ 2,000,000.00 ) per claim and Two Million Dollars (\$ 2,000,000.00 ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

Init.

**ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.2 Construction Documents Phase Services**

§ 3.2.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.2.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.2.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.2.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

Init.

§ 3.2.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

*(Paragraphs deleted)*

§ 3.3.2 **Competitive Bidding**

*(Paragraph deleted)*

§ 3.3.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.3.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .3 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.3.2.3 If the Bidding Documents permit substitutions, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.4 **Construction Phase Services**

§ 3.4.1 **General**

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.4.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2 and except as provided in Section 3.4.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 **Evaluations of the Work**

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

Init.

Row 1

§ 3.4.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.4.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

**§ 3.4.3 Certificates for Payment to Contractor**

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.4.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

**§ 3.4.4 Submittals**

§ 3.4.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.4.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.4.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted

to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.4.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.4.5 Changes in the Work

*(Paragraphs deleted)*

§ 3.4.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

*(Paragraph deleted)*

§ 3.4.5.2 The Architect shall maintain records relative to changes in the Work.

*(Paragraphs deleted)*

§ 3.4.6 Project Completion

*(Paragraphs deleted)*

§ 3.4.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

*(Paragraphs deleted)*

§ 3.4.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

*(Paragraphs deleted)*

§ 3.4.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

*(Paragraph deleted)*

§ 3.4.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

*(Paragraphs deleted)*



§ 3.4.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

*(Paragraphs deleted)*

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Not Provided
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Not Provided
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	Not Provided
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Not Provided
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided

Init.

RE /

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided

*(Paragraphs deleted)*

#### **§ 4.2 Architect's Additional Services**

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

**§ 4.2.1** Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

**§ 4.2.2** To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services  
(Paragraphs deleted)  
on an hourly as needed basis.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within twelve ( 12 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

#### ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.8 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of

any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.9 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.10 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

*(Paragraphs deleted)*

**ARTICLE 6 COST OF THE WORK**

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the

*(Paragraphs deleted)*

Init.

Row 1

Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

*(Paragraph deleted)*

**ARTICLE 7 COPYRIGHTS AND LICENSES**

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

**ARTICLE 8 CLAIMS AND DISPUTES**

**§ 8.1 General**

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of

Init.  
Paw /

the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box.)

Litigation in a court of competent jurisdiction

Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

**ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

**ARTICLE 11 COMPENSATION**

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1  
*(Paragraphs deleted)*  
Fixed fee through construction documents and bidding of Six Thousand Dollars (\$6,000.00) See Exhibit A for Hourly Billing Rates.
- .2  
*(Paragraphs deleted)*  
Project time will be billed on an hourly rate during construction, which is anticipated to be approximately Eight Thousand Dollars (\$8,000.00)

§ 11.2 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

Hourly as per Architect's Hourly Rates. See attached Exhibit A

§ 11.3 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Five percent ( 5%), or as follows:  
*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*



§ 11.4 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attached Exhibit A

§ 11.5

(Paragraphs deleted)

**Compensation for Reimbursable Expenses**

(Paragraphs deleted)

§ 11.5.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 See Exhibit A for additional expenses/services.

(Paragraphs deleted)

(Table deleted)

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus five percent ( 5 %) of the expenses incurred.

§ 11.9 **Architect’s Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 **Payments to the Architect**

§ 11.10.1 **Initial Payments**

§ 11.10.1.1 An initial payment of None (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

(Paragraph deleted)

Init.

RAM

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. (Insert rate of monthly or annual interest agreed upon.)

Eighteen (18) % per annum

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows: (Include other terms and conditions applicable to this Agreement.)

See Exhibit A

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect

(Paragraphs deleted)

- .2 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ (Paragraphs deleted)

- X ] Other Exhibits incorporated into this Agreement: (Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

Exhibit A – Architect's Hourly Rates

(Paragraphs deleted)

Exhibit B – City of Fargo 2022 Addendum to AIA Document B101-2017 Standard Form of Agreement between Owner and Architect.

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Dr. Tim Mahoney Mayor (Printed name and title)

Handwritten signature of Richard A. Wiemken

ARCHITECT (Signature)

Richard A. Wiemken, AIA Principal (Printed name, title, and license number, if required)

**EXHIBIT B**

City of Fargo

2022 Addendum to

Standard Form of Agreement between Owner and Architect

AIA Document B101-2017

The following changes are hereby made:

**ARTICLE 1 – Initial Information**

1.2 Insert “reasonably” between “may” and “rely” in the first sentence thereof.

**ARTICLE 2 – ARCHITECT’S RESPONSIBILITIES**

2.5 Delete the second sentence (beginning with If any of the requirements...) in its entirety.

**ARTICLE 3 – Scope of Architect’s Basic Services.**

3.1.2 Insert the word “reasonably” in between the words “to” and “rely” in the second sentence thereof.

3.4.7 Add a new subsection 3.4.7 which shall read as follows:

“Any design errors or omissions in the Construction Documents furnished by the Architect will be promptly corrected by the Architect at no cost to the Owner. If, due to the Architect’s negligence, omission or failure to perform in accordance with the terms of this Agreement, a required item or component of the Project is omitted from the Construction Documents or if, due to such negligence, omission, or failure, the Construction Documents must be modified through a Change Order, the Architect shall be responsible for paying the cost required to add or modify such item or component to the Project, excluding the reasonable cost that would have been incurred by the Owner at the time of the original bid for such Project item or component to the extent that such item or component would have been required and included in the original Construction Documents. In no event shall the Owner pay more than once for an item or component of the Project.”

“The Architect shall review and approve or take other appropriate action upon the Contractor’s submittals such as Shop Drawings, Product Data and Samples for the purpose of checking for conformance with the Contract Documents.”

**ARTICLE 5 – Owner’s Responsibilities**

5.2 Strike the word “shall” in the last sentence and replace it with “may”.

**ARTICLE 8 – Claims and Disputes**

8.1.1 Strike the paragraph and replace with:

“The applicable statute of limitations shall commence when the Owner first knows or should have known that a cause of action exists. Causes of action between the parties to this

RAW

Agreement pertaining to acts or failures to act shall be governed by North Dakota Century Code Sec. 28-01-04 (Statute of Repose).”

8.1.2 Strike in its entirety.

8.1.3 Strike the paragraph and replace with:

“North Dakota law governs claims for consequential damages and said damages are not waived by this Contract.”

8.2.1 Strike in its entirety

8.2.2 Strike the paragraph and replace with:

“The Owner and Architect shall endeavor to resolve claims between them by mediation. But nothing prevents the parties from litigating those claims.”

8.2.3 Strike in its entirety.

**ARTICLE 11 - Compensation**

11.9 Strike in its entirety.

**ARTICLE 13 – Scope of the Agreement**

13.2.1 - Add at the end of the sentence “as amended by City of Fargo”



901 130 Avenue East, Suite B, West Fargo, ND 58078  
701 293 6735 www.rleco.com

August 16, 2023  
City of Fargo  
Attn: Bekki Majerus  
225 4th Street North  
Fargo, ND 58102

Re: Services Proposal for  
Newman Outdoor Field - 2023-24 Exiting Improvements

Ms. Majerus:

We have compiled the following scope of work and price fee proposal. Please review the following with the intent to be included in the attached draft contract:  
AIA B101-2017 agreement, Newman Outdoor Field - 2023-24 Exiting Improvements.

#### Article 1 - Basic Scope of Work

The Project consists of the exiting deficiency scope element identified within the 2019 Long-Term Capital Improvements Plan [CIP] for the City of Fargo's Newman Outdoor Field. Project shall encompass preparing necessary documents for the work to be constructed; bidding assistance and administering the contracted Work.

- Exiting from concourse stadia seating

#### Article 2 - Basic Services Provided

Architectural design services for Stadium.

Phases include Construction Documents, Bidding and Standard Construction Administration.

- Modification of Construction Documents [Specs/Drawings] as required
- Bidding Assistance as required
- Construction Administration as required

#### Article 3 - Compensation

Compensation for services described in Article 1 & 2 above will be on the following basis.

RLE proposes a fixed fee through construction documents/bidding of \$6,000. Project time will be billed on an hourly rate during construction, per attached draft schedule, which is anticipated to approximately be \$8,000.

**Article 4 - Reimbursable Expenses**

Reimbursable Expenses, as needed, shall consist of:), large format printing (in excess of 11x17) expenses, graphic design work and presentation boards. Reimbursable expenses will be presented to the Owner as cost plus 10% handling. Any outside consultants deemed necessary for the work will be additional services.

**Article 5 - Key Project Personnel**

Rich Wiemken - Principal Architect XIII  
Donovan Larson - Project Manager X  
Production & Support Staff  
Rates - See Exhibit B

**Article 6 - Schedule**

RLE shall coordinate along with Owner, a reasonable schedule to be determined and agreed by both parties. Most items are to be completed throughout the year with minimal to no event disruption anticipated. See attached preliminary schedule.

Respectfully submitted,



Donovan Larson, AIA - Project Manager

R.L. Engebretson Architects, Fargo ND



*Results. Done Right.*

901 13th Avenue East, Suite B, West Fargo ND 58078  
701 293 6749 www.rleco.com

Exhibit A

2023 RLE Billing Rates

Principal/Architect III..... \$175.00/hr.

Project Manager X..... \$165.00/hr.

Support Staff

Administrative Staff..... \$90.00/hr.

CAD Technician..... \$125.00/hr.

Reimbursable expenses subject to 10% markup:

- Client Approved Professional consultants (i.e.: Engineers, Graphic Designers, Specialty Consultants such as Environmental Engineers);
- Non-Local Mileage at \$0.58/mile; (Outside of a 20-mile radius of the Fargo /Moorhead area)
- Lodging required;
- Meals required out of town;
- Courier Services (i.e.: Fleet Street);
- Large format Printing Costs; (in excess of 11x17)
- Expediting Costs (i.e.: Airborne Express, UPS, etc.)



20

**FINANCE OFFICE**  
 225 4<sup>th</sup> Street North  
 Fargo, ND 58102  
 Phone: (701) 241-1333  
 E-Mail: [Finance@FargoND.gov](mailto:Finance@FargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: WYATT PAPENFUSS, FINANCE MANAGER**

**RE: BUDGET ADJUSTMENT & TRANSFER  
 DS2302—SPRING 2023 FLOOD EMERGENCY CLOSEOUT**

**DATE: AUGUST 31, 2023**

The attached Finance Committee Report of Action and supplementary information is for a budget adjustment and transfer related to the Spring 2023 Flooding expenses tracked under project code DS2302. Please review the detailed spending by department as attached and consider the following budget adjustment and transfer for approval.

**Budget Adjustment:**

	<u>Original Budget</u>	<u>Adjustment</u>	<u>Final Budget</u>
101-9001-555.90-40 Transfer to Capital Project Fund	\$281,000	\$186,545	\$467,545

**Transfer:**

	<u>Transfer Out</u>	<u>Transfer In</u>
101-9001-555.90-40 Transfer to Capital Project Fund	\$186,545	
411-0000-391.10-00 Transfer In / General Fund		186,545

If you have any questions, please contact me at 701-476-5968.

**Suggested Motion:**

Approve the proposed transfer of \$186,544 from Fund 101 to Fund 411, associated budget adjustment, and closeout of the Spring 2023 Flood Project DS2302.



REPORT OF ACTION

**FINANCE COMMITTEE**

**Location:** Finance

**Agenda Item:** DS2302-Spring 2023 Flood Emergency Closeout

**Presenter:** Wyatt Papenfuss

<u>Routing</u>	<u>Date</u>
Finance Committee	<u>8/28/2023</u>
City Commission	_____

Mr. Papenfuss presented a summary of the Spring 2023 Flood expenditures as the result of the City of Fargo Emergency Declaration ending May 3, 2023. The ND Department of Emergency Services completed a damage assessment of all communities in the State in order to determine what Counties would be included in the Federal Disaster Declaration. Cass County would have needed to have approximately \$820,000 in damages. Cass County did not meet that minimum cost threshold and therefor did not qualify for FEMA Cost Recovery funds.

During the City of Fargo Emergency Declaration, the City incurred a total of \$186,544.68 in expenses using project code DS2302. A summary of expenses were detailed in the agenda item.

The Finance Department requested reimbursement of the disaster expenses with a transfer from the General Fund to the Capital Projects Fund 411 and its corresponding budget adjustment in order to close out project DS2302.

<b>Budget Adjustment:</b>	<b>Original Budget</b>	<b>Adjustment</b>	<b>Final Budget</b>
101-9001-555.90-40 Transfer to Capital Project Fund	\$281,000	\$186,545	\$467,545

**MOTION:**

Brenda Derrig moved to approve, second by Dave Piepkorn and all members present voted in favor.

COMMITTEE:	Present	Yes	No	Unanimous
				X
Tim Mahoney, Mayor	X	X	_____	_____
Dave Piepkorn, City Commissioner	X	X	_____	_____
Mike Redlinger, City Administrator	X	X	_____	_____
Brenda Derrig, Assistance City Administrator	X	X	_____	_____
Susan Thompson, Assistant Finance Director	X	X	_____	_____
Tanner Smedshammer, Purchasing Manager	X	X	_____	_____
Steve Sprague, City Auditor	X	X	_____	_____

  
 \_\_\_\_\_  
 Tim Mahoney, Finance Committee Chair



**FINANCE OFFICE**  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
Phone: (701) 241-1333  
E-Mail: [Finance@FargoND.gov](mailto:Finance@FargoND.gov)  
[www.FargoND.gov](http://www.FargoND.gov)

RA2

**TO: FINANCE COMMITTEE**

**FROM: WYATT PAPENFUSS, FINANCE MANAGER**

**RE: DS2302—SPRING 2023 FLOOD EMERGENCY CLOSEOUT**

**DATE: AUGUST 14, 2023**

In order to combat the expected significant Spring 2023 flooding, on April 3, 2023, the City of Fargo approved an Emergency Declaration for a four week period, ending May 3, 2023. Upon approval of this emergency declaration, the City initiated emergency protective measures in order to protect the community. While implementing these measures, the City incurred additional, unbudgeted expenditures related to overtime, supplies, and rentals.

In May 2023, the North Dakota Department of Emergency Services completed a damage assessment of all communities in the State in order to determine what Counties would be included in the Federal Disaster Declaration. At the Federal level, the approval is based on the total damages of all jurisdictions in the County. In order to be included in the Federal request, Cass County would have needed to have approximately \$820,000 in damages. Cass County did not meet that threshold, so we were excluded from the Federal Disaster Declaration approved by the White House on July 5, 2023. Because there is no FEMA Cost Recovery process for the City to take part in, we are responsible for all expense incurred.

During an Emergency Declaration, Emergency Fund 411 is used and Finance assigns a project code to track the related expenditures and additional payroll costs. In order to accurately track these costs, departments are required to complete additional processing for both payroll and procurement. Per City of Fargo Policy 600-007, non-exempt and exempt employees are eligible for overtime for all emergency-related hours worked in excess of 40 hours per week. During this event, the City incurred a total of \$186,544 in expenses that were coded to Capital Project Fund 411—Natural Disasters. Of total expense, \$64,661 is attributed to overtime while the other \$121,883 is related to emergency protective measures. Below is a summary of the expenditure types while a detailed list by department is included in this agenda item.

**Summary of Spring 2023 Flood Expenditures  
DS2302**

Full Time - Overtime	60,617.73
Contracted Overtime	135.97
FICA 6.2%	3,049.00
Medicare 1.45%	858.75
Other Services	30,310.50
Other Repairs	1,864.74
Equipment & Vehicle Rent	41,873.77
General Supplies	17,531.24
Traffic Signs	30,224.55
Supplies Storm Sewers	<u>78.43</u>
	186,544.68

Finance is requesting approval to transfer \$186,544 from the General Fund to the Natural Disaster Fund in order to close out the project DS2302. In addition, a budget adjustment to account for the increased General Fund Transfers would be posted.

**Budget Adjustment:**

	<b>Original Budget</b>	<b>Adjustment</b>	<b>Final Budget</b>
101-9001-555.90-40 Transfer to Capital Project Fund	\$281,000	\$186,545	\$467,545

**Suggested Motion:**

Approve the proposed transfer of \$186,544 from Fund 101 to Fund 411, associated budget adjustment, and closeout of the Spring 2023 Flood Project DS2302.

**City of Fargo, North Dakota**  
**DS2302 Flood Financial Status Report**  
**Date of Mayoral Declaration 4/3/2023**  
**As of: 8/14/23**

Project Number	Account Number	Division Description	Expended	Total	Object Description
DS2302	411-0525-403.11-01	Public Information	\$11,805.11	\$11,805.11	Full Time - Overtime
DS2302	411-1010-405.11-01	City Auditor	\$526.05	\$526.05	
DS2302	411-2010-409.11-01	Planning Office	\$1,308.60	\$1,308.60	
DS2302	411-2101-492.11-01	General Parking Authority	\$1.59	\$1.59	
DS2302	411-3015-422.11-01	City Engineering	\$9,362.80	\$9,362.80	
DS2302	411-3020-415.11-01	Traffic Engineering	\$1,364.78	\$1,364.78	
DS2302	411-3025-423.11-01	Streets & Sewers	\$13,658.00	\$13,658.00	
DS2302	411-3030-409.11-01	Central Garage	\$461.78	\$461.78	
DS2302	411-3035-415.11-01	Street Lights	\$225.51	\$225.51	
DS2302	411-3051-441.11-01	Water Treatment	\$341.03	\$341.03	
DS2302	411-3061-442.11-01	Wastewater Treatment	\$286.77	\$286.77	
DS2302	411-3064-443.11-01	Storm Sewer	\$2,135.68	\$2,135.68	
DS2302	411-3071-431.11-01	Solid Waste Admin.	\$828.10	\$828.10	
DS2302	411-3072-432.11-01	Residential Collection	\$751.80	\$751.80	
DS2302	411-3074-433.11-01	Landfill	\$2,304.49	\$2,304.49	
DS2302	411-3081-440.11-01	Forestry	\$292.31	\$292.31	
DS2302	411-3535-510.11-01	Sales Tax Fund Flood Proj	\$3,839.47	\$3,839.47	
DS2302	411-4010-412.11-01	Fire Department	\$10,616.10	\$10,616.10	
DS2302	411-5054-411.11-01	Office of the Chief	\$153.88	\$153.88	
DS2302	411-8001-403.11-01	City Commission	\$353.88	\$353.88	
<b>Full Time - Overtime - Total</b>			<b>\$60,617.73</b>	<b>\$60,617.73</b>	
DS2302	411-1010-405.12-01	City Auditor	\$135.97	\$135.97	Contracted Overtime
<b>Contracted Overtime - Total</b>			<b>\$135.97</b>	<b>\$135.97</b>	
DS2302	411-0525-403.21-01	Public Information	\$721.38	\$721.38	FICA 6.2%
DS2302	411-1010-405.21-01	City Auditor	\$38.84	\$38.84	
DS2302	411-2010-409.21-01	Planning Office	\$78.93	\$78.93	
DS2302	411-2101-492.21-01	General Parking Authority	\$0.08	\$0.08	
DS2302	411-3015-422.21-01	City Engineering	\$550.32	\$550.32	
DS2302	411-3020-415.21-01	Traffic Engineering	\$83.02	\$83.02	
DS2302	411-3025-423.21-01	Streets & Sewers	\$828.16	\$828.16	
DS2302	411-3030-409.21-01	Central Garage	\$27.16	\$27.16	
DS2302	411-3035-415.21-01	Street Lights	\$13.60	\$13.60	
DS2302	411-3051-441.21-01	Water Treatment	\$20.06	\$20.06	
DS2302	411-3061-442.21-01	Wastewater Treatment	\$17.72	\$17.72	
DS2302	411-3064-443.21-01	Storm Sewer	\$129.88	\$129.88	
DS2302	411-3071-431.21-01	Solid Waste Admin.	\$49.00	\$49.00	
DS2302	411-3072-432.21-01	Residential Collection	\$44.67	\$44.67	
DS2302	411-3074-433.21-01	Landfill	\$137.95	\$137.95	
DS2302	411-3081-440.21-01	Forestry	\$17.28	\$17.28	
DS2302	411-3535-510.21-01	Sales Tax Fund Flood Proj	\$233.12	\$233.12	
DS2302	411-4010-412.21-01	Fire Department	\$37.55	\$37.55	
DS2302	411-8001-403.21-01	City Commission	\$20.28	\$20.28	
<b>FICA 6.2% - Total</b>			<b>\$3,049.00</b>	<b>\$3,049.00</b>	

**City of Fargo, North Dakota**  
**DS2302 Flood Financial Status Report**  
**Date of Mayoral Declaration 4/3/2023**  
**As of: 8/14/23**

Project Number	Account Number	Division Description	Expended	Total	Object Description
DS2302	411-0525-403.21-02	Public Information	\$168.71	\$168.71	Medicare 1.45%
DS2302	411-1010-405.21-02	City Auditor	\$9.09	\$9.09	
DS2302	411-2010-409.21-02	Planning Office	\$18.46	\$18.46	
DS2302	411-2101-492.21-02	General Parking Authority	\$0.02	\$0.02	
DS2302	411-3015-422.21-02	City Engineering	\$128.71	\$128.71	
DS2302	411-3020-415.21-02	Traffic Engineering	\$19.42	\$19.42	
DS2302	411-3025-423.21-02	Streets & Sewers	\$193.71	\$193.71	
DS2302	411-3030-409.21-02	Central Garage	\$6.37	\$6.37	
DS2302	411-3035-415.21-02	Street Lights	\$3.18	\$3.18	
DS2302	411-3051-441.21-02	Water Treatment	\$4.69	\$4.69	
DS2302	411-3061-442.21-02	Wastewater Treatment	\$4.15	\$4.15	
DS2302	411-3064-443.21-02	Storm Sewer	\$30.37	\$30.37	
DS2302	411-3071-431.21-02	Solid Waste Admin.	\$11.46	\$11.46	
DS2302	411-3072-432.21-02	Residential Collection	\$10.44	\$10.44	
DS2302	411-3074-433.21-02	Landfill	\$32.27	\$32.27	
DS2302	411-3081-440.21-02	Forestry	\$4.04	\$4.04	
DS2302	411-3535-510.21-02	Sales Tax Fund Flood Proj	\$54.52	\$54.52	
DS2302	411-4010-412.21-02	Fire Department	\$152.24	\$152.24	
DS2302	411-5054-411.21-02	Office of the Chief	\$2.15	\$2.15	
DS2302	411-8001-403.21-02	City Commission	\$4.75	\$4.75	
<b>Medicare 1.45%</b>	<b>- Total</b>		<b>\$858.75</b>	<b>\$858.75</b>	
DS2302	411-3015-422.38-99	City Engineering	\$7,805.00	\$7,805.00	Other Services
DS2302	411-3025-423.38-99	Streets & Sewers	\$22,135.50	\$22,135.50	
DS2302	411-3071-431.38-99	Solid Waste Admin.	\$370.00	\$370.00	
<b>Other Services</b>	<b>- Total</b>		<b>\$30,310.50</b>	<b>\$30,310.50</b>	
DS2302	411-3071-431.43-90	Solid Waste Admin.	\$1,864.74	\$1,864.74	Other Repairs
<b>Other Repairs</b>	<b>- Total</b>		<b>\$1,864.74</b>	<b>\$1,864.74</b>	
DS2302	411-3025-423.44-20	Streets & Sewers	\$31,517.00	\$31,517.00	Equipment & Vehicle Rent
DS2302	411-3071-431.44-20	Solid Waste Admin.	\$10,356.77	\$10,356.77	
<b>Equipment &amp; Vehicle Rent</b>	<b>- Total</b>		<b>\$41,873.77</b>	<b>\$41,873.77</b>	
DS2302	411-3015-422.61-40	City Engineering	\$639.41	\$639.41	General Supplies
DS2302	411-3025-423.61-40	Streets & Sewers	\$12,966.39	\$12,966.39	
DS2302	411-3071-431.61-40	Solid Waste Admin.	(\$6,255.00)	(\$6,255.00)	
DS2302	411-3074-433.61-40	Landfill	\$10,008.00	\$10,008.00	
DS2302	411-4010-412.61-40	Fire Department	\$172.44	\$172.44	
<b>General Supplies</b>	<b>- Total</b>		<b>\$17,531.24</b>	<b>\$17,531.24</b>	
DS2302	411-3020-415.61-80	Traffic Engineering	\$30,224.55	\$30,224.55	Traffic Signs
<b>Traffic Signs</b>	<b>- Total</b>		<b>\$30,224.55</b>	<b>\$30,224.55</b>	
DS2302	411-3025-423.61-97	Streets & Sewers	\$78.43	\$78.43	Supplie Storm Sewers
<b>Supplie Storm Sewers</b>	<b>- Total</b>		<b>\$78.43</b>	<b>\$78.43</b>	
<b>Overall - Total</b>			<b>\$186,544.68</b>	<b>\$186,544.68</b>	

JULY 05, 2023

## President Joseph R. Biden, Jr. Approves North Dakota Disaster Declaration

Today, President Joseph R. Biden, Jr. declared that a major disaster exists in the State of North Dakota and ordered Federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by flooding from April 10 to May 6, 2023.

Federal funding is available to state, tribal, and eligible local governments and certain private nonprofit organizations on a cost-sharing basis for emergency work and the repair or replacement of facilities damaged by the flooding in the counties of Barnes, Burke, Dickey, Dunn, Golden Valley, Grand Forks, Hettinger, LaMoure, McHenry, Mercer, Morton, Mountrail, Nelson, Pembina, Ransom, Richland, Sargent, Steele, Towner, Walsh, and Wells.

Federal funding is also available on a cost-sharing basis for hazard mitigation measures statewide.

Mr. Kenneth G. Clark of the Federal Emergency Management Agency (FEMA) has been appointed to coordinate Federal recovery operations in the affected areas.

Additional designations may be made at a later date if requested by the state and warranted by the results of further damage assessments.

FOR FURTHER INFORMATION MEDIA SHOULD CONTACT THE FEMA NEWS DESK AT (202) 646-3272 OR FEMA-NEWS-DESK@FEMA.DHS.GOV.


###



(21)

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: DESI FLEMING**   
**DIRECTOR OF PUBLIC HEALTH**

**DATE: AUGUST 18, 2023**

**RE: CONTRACT WITH AE2S COMMUNICATIONS FOR TOBACCO  
AND NICOTINE PREVENTION MEDIA CAMPAIGN.  
FUNDS: \$80,000  
EXPIRES: 06/14/2024  
RFP: 23120**

The attached Contract with AE2S Communications is for working with Fargo Cass Public Health to strengthen and expand our tobacco and nicotine usage prevention media campaign.

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

**Suggested Motion:**

Move to approve the agreement for services with AE2S Communications.

DF/ls  
Attachment

August 18, 2023

Larry Anenson, PhD, RN  
Fargo Cass Public Health  
1240 25<sup>th</sup> Street S  
Fargo, ND 58103

**RE: 2023\_2024 Tobacco Media Campaign**

Dear Larry:

AE2S Communications is very pleased to continue working with Fargo Cass Public Health to educate the public about the dangers of tobacco and nicotine usage through the grant period ending in June 2024. We endeavor to help you build on your current campaign's success by strengthening and expanding your messaging and reach.

Our team will continue to work closely with Fargo Cass Public Health and monitor public sentiment to ensure we continue to provide anti-nicotine messaging that connects with the intended audiences in the most effective ways.

We offer the following scope of services:

**Scope of Services**

AE2S Communications (AE2S) proposes to work with Fargo Cass Public Health (CLIENT) to provide communications and engagement support services for the period of September 5, 2023 through June 14, 2024. This Agreement sets forth the terms and conditions under which the CLIENT and AE2S shall be governed regarding the Assignment.

**Scope:**

- Develop ads and educational materials for multiple media platforms.
- Create a detailed media plan.
- Place and monitor paid advertising.
- Identify strategies to maximize the budget.
- Develop earned media strategies.
- Provide analytics and matched advertising value.

**Fees**

AE2S proposes to render professional services under this Agreement on an hourly basis in accordance with the Scope and Fee attached as Exhibit A. This contract includes \$26,001 for labor and \$53,999 for media buys and expenses. This contract is not to exceed \$80,000 without written authorization from CLIENT, which includes reimbursement for all project related expenses and paid media.

As a reminder, our contract is hourly to a max which means you will be charged only for the hours worked.



If this Agreement sets forth your understanding of our agreement, including the scope of work desired, fees, terms, and conditions, please sign both this original and the enclosed copy in the space provided. Please retain the original for your files and return the copy to AE2S. Thank you for the opportunity to assist in this project and we look forward to working with you.

Sincerely,



Heather Syverson  
AE2S Communications Project Manager



Ryan Grubb  
Fargo AE2S Operations Manager

**Fargo Cass Public Health**

Accepted this 18 day of August, 2023.

By: Desi Fleming  
Desi Fleming, Director of Public Health

**City of Fargo**

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_  
Timothy J. Mahoney, Mayor, City of Fargo

This is EXHIBIT B, consisting of 2 pages, referred to in and part of the Agreement between CLIENT and AE2S for Services dated August 18, 2023.

### Standard Terms and Conditions

The Agreement is supplemented to include the following terms and conditions:

1. **TERM.** This Agreement shall commence on the Effective Date.
2. **SCOPE OF SERVICES**
  - 2.1.1 CONSULTANT will devote the required amount of time necessary to perform the Services for CLIENT as stated herein. CONSULTANT will have discretion in selecting the dates and times it performs the Services giving due regard to the requirements of the project and schedule of CLIENT.
  - 2.1.2 CLIENT will provide CONSULTANT with materials and information necessary to perform the scope of services proposed.
  - 2.1.3 The relationship between CLIENT and CONSULTANT created by this Agreement is that of independent contractor, and CONSULTANT is not and shall not be deemed to be an employee of CLIENT for any purpose.
3. **INVOICES AND PAYMENTS.** CONSULTANT will invoice CLIENT for time and reimbursable expenses monthly. Payments to CONSULTANT will be made within 30 days of CLIENT's receipt of an invoice documenting the services performed by CONSULTANT. If CLIENT fails to make any payment due AE2S for services and expenses within 30 days, the amounts due AE2S will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, AE2S may, after giving seven days written notice to CLIENT, suspend services under this Agreement until AE2S has been paid in full all amounts due for services, expenses, and other related charges.
4. **TERMINATION**
  - 4.1 If, for any reason, either party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, the first party shall thereupon have the right to terminate the Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. This Agreement may be terminated by either party ("the Terminating Party") upon a breach by the other party ("the Breaching Party") of any representation or obligation imposed hereby, provided that Terminating Party has given written notice of the breach to the Breaching Party and such breach has not been cured within ten (10) days of the date of such notice.
  - 4.2 Either party may terminate this Agreement at any time without cause by giving at least 30 days' notice in writing to the other party.
- 4.3 If the Agreement is terminated as provided herein, CONSULTANT will be paid for the time provided and expenses incurred up to the termination date.
5. **STANDARD OF CARE.** CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.
6. **EXCLUSION OR SPECIAL INCIDENTAL, INDIRECT, AND CONSEQUENTIAL DAMAGES.** To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, AE2S and AE2S's officers, directors, partners, employees, agents, and Consultants, or any of them, shall not be liable to CLIENT or anyone claiming by, through, or under CLIENT for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to a Specific Project, Task Order, or this Agreement, from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract or warranties, express or implied, of AE2S or AE2S's officers, directors, partners, employees, agents, or AE2S's Consultants, or any of them.
7. **LIMIT OF LIABILITY.** To the fullest extent permitted by law, notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of AE2S and AE2S's officers, directors, partners, employees, agents, and AE2S's Consultants, and any of them, to CLIENT and anyone claiming by, through, or under CLIENT for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of AE2S or AE2S's officers, directors, partners, employees, agents, or AE2S's Consultants, or any of them, shall not exceed total compensation received by AE2S as part of this agreement.
8. **CONFIDENTIALITY.** All of reports, information, and data, prepared or assembled by CONSULTANT under this Agreement are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of CLIENT.
9. **COPYRIGHT.** No printed or digitally designed documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of CONSULTANT.

**Labor Rates\***

Administrative 1	\$65.00
Administrative 2	\$79.00
Administrative 3	\$95.00
Communications Specialist 1	\$105.00
Communications Specialist 2	\$122.00
Communications Specialist 3	\$141.00
Communications Specialist 4	\$170.00
Communications Specialist 5	\$187.00
Construction Services 1	\$125.00
Construction Services 2	\$153.00
Construction Services 3	\$170.00
Construction Services 4	\$188.00
Construction Services 5	\$208.00
Engineering Assistant 1	\$85.00
Engineering Assistant 2	\$99.00
Engineering Assistant 3	\$125.00
Engineer 1	\$135.00
Engineer 2	\$162.00
Engineer 3	\$190.00
Engineer 4	\$220.00
Engineer 5	\$235.00
Engineering Technician 1	\$84.00
Engineering Technician 2	\$105.00
Engineering Technician 3	\$126.00
Engineering Technician 4	\$141.00
Engineering Technician 5	\$161.00
Financial Analyst 1	\$112.00
Financial Analyst 2	\$127.00
Financial Analyst 3	\$153.00
Financial Analyst 4	\$167.00
Financial Analyst 5	\$186.00
GIS Specialist 1	\$105.00
GIS Specialist 2	\$127.00
GIS Specialist 3	\$150.00
GIS Specialist 4	\$168.00
GIS Specialist 5	\$187.00
I&C Assistant	\$100.00
I&C 1	\$148.00
I&C 2	\$175.00
I&C 3	\$198.00
I&C 4	\$210.00
I&C 5	\$220.00
IT 1	\$130.00
IT 2	\$175.00
IT 3	\$215.00
Land Surveyor Assistant	\$95.00
Land Surveyor 1	\$115.00
Land Surveyor 2	\$139.00

Land Surveyor 3	\$157.00
Land Surveyor 4	\$173.00
Land Surveyor 5	\$190.00
Operations Specialist 1	\$100.00
Operations Specialist 2	\$125.00
Operations Specialist 3	\$155.00
Operations Specialist 4	\$177.00
Operations Specialist 5	\$199.00
Project Coordinator 1	\$116.00
Project Coordinator 2	\$130.00
Project Coordinator 3	\$145.00
Project Coordinator 4	\$160.00
Project Coordinator 5	\$180.00
Project Manager 1	\$205.00
Project Manager 2	\$225.00
Project Manager 3	\$240.00
Project Manager 4	\$254.00
Project Manager 5	\$272.00
Project Manager 6	\$284.00
Sr. Designer 1	\$178.00
Sr. Designer 2	\$198.00
Sr. Designer 3	\$212.00
Sr. Financial Analyst 1	\$210.00
Sr. Financial Analyst 2	\$230.00
Sr. Financial Analyst 3	\$250.00
Technical Expert 1	\$325.00
Technical Expert 2	Negotiable

**Reimbursable Expense Rates**

Transportation	\$0.75/mile
Survey Vehicle	\$0.95/mile
Laser Printouts/Photocopies	\$0.30/copy
Plotter Printouts	\$1.00/s.f.
UAS - Photo/Video Grade	\$100.00/day
UAS - Survey	\$50.00/day
Total Station - Robotic	\$35.00/hour
Mapping GPS	\$25.00/hour
Fast Static/RTK GPS	\$50.00/hour
All-Terrain Vehicle/Boat	\$100.00/day
Cellular Modem	\$75.00/month
Web Hosting	\$26.00/month
Legal Services Reimbursement	\$250.00/hour
Outside Services cost	* 1.15
Geotechnical Service cost	* 1.30
Out of Pocket Expenses cost	* 1.15
Rental Car cost	* 1.20
Project Specific Equipment	Negotiable

\*Position titles are for labor rate grade purposes only.

These rates are subject to adjustment each year on January 1.



22

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: DESI FLEMING** *DF*  
**DIRECTOR OF PUBLIC HEALTH**

**DATE: AUGUST 18, 2023**

**RE: PURCHASE OF SERVICE AGREEMENT WITH ND  
DEPARTMENT OF HEALTH AND HUMAN SERVICES TO  
PROVIDE EMERGENCY RESPONSE SERVICES.  
CONTRACT NUMBER: ER23.007 CFDA 93.069  
FUNDS: NONE  
EXPIRES: 06/30/2025**

The attached purchase of service agreement with ND Department of Health and Human Services is for the provision of Emergency Response Services.

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

**Suggested Motion:**

Move to approve the purchase of service agreement with NDHHS.

DF/lis  
Attachment



# PURCHASE OF SERVICE AGREEMENT

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES

SFN 53772 (04-2023)

Contract Number ER23.007	CFDA Name Public Health Emergency Preparedness	CFDA Number 93.069
FAIN Number NU90TP922054	Contract Type (Check One) <input checked="" type="checkbox"/> Acquisition <input type="checkbox"/> Research	Start Date 7/1/2023
Federal Award Date 6/27/2023	Federal Awarding Agency Department of Health and Human Services	

This contract is not effective, and expenditures related to this contract should not be incurred until all parties have signed this document.

Title of Project/Program Emergency Response Services	North Dakota Department of Health and Human Services (NDDHHS) Project Code 6611HLH5274-11
Contractor Name Fargo – Cass Public Health	Project Director Tim Wiedrich
Address 1240 – 25 <sup>th</sup> Street South	Address 1720 Burlington Drive, Suite A
City/State/ZIP Code Fargo, ND 58103-2367	City/State/ZIP Code Bismarck, ND 58504
Contact Name Desi Fleming	Contact Name Juli Sickler
Telephone Number 701-241-1360	Telephone Number 701-328-2293
Email Address dfleming@fargond.gov	Email Address jsickler@nd.gov

	NDDHHS Cost Share	Contractor Cost Share	Total Costs
Amount Awarded	\$0	\$0	\$0
Previous Funds Awarded	\$0	\$0	\$0
Total Funds Awarded	\$0	\$0	\$0

**Scope of Service**  
Contractor agrees to provide personnel resources as requested by the North Dakota Department of Health and Human Services (NDDHHS) Department Operations Center (DOC) as mutually agreed upon by the Contractor. Responding personnel must be currently employed with the identified agency. Contractor's personnel resources for response must be approved by the DOC prior to deployment.

**Reporting Requirements**  
Time logs must be submitted to reflect the hours worked of each responder. Mileage logs must be submitted to verify mileage payment. Final invoices must be submitted within 30 days of the Emergency Declaration ending or no later than July 15, 2025.

**Special Conditions**  
The language contained within the Centers for Disease Control and Prevention grant award is attached by reference and made part of this agreement.

This Purchase of Service Agreement is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum for Purchase of Service Agreements issued by the NDDHHS as signed by Contractor for the period of July 1, 2023 to June 30, 2025 [Finance Use Only:  Requirements Received] and (2) applicable State and Federal regulations.

Evidence of Contractor's Acceptance		Evidence of NDDHHS Acceptance	
Date 08/18/2023	Signature <i>Desi Fleming</i>	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Director of Public Health		Typed Name/Title of Authorized Representative Tim Wiedrich, Director Health Response and Licensure	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Dirk D. Wilke, J.D., M.B.A, Executive Director of Public Health	

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.

## Attachment A:

Please check the box which applies to this Memorandum of Agreement (MOA) and initial if needed. Please return Attachment A with signed MOA.

- Vulnerable Population/Transportation – Hospital
- Vulnerable Population/Transportation – LTC

**Purpose:**

Please initial beside each provision willing to participate in:

\_\_\_\_\_ Provider, upon receiving an emergency response activation notice from the North Dakota Department of Health and Human Services-Department Operations Center (NDDHHS-DOC), agrees to provide care to vulnerable citizens without a third-party payment source who are displaced or injured due to the emergency event as Provider resources allow. All services must be pre-approved by the NDDHHS-DOC to be covered by this agreement.

\_\_\_\_\_ Provider, upon receiving an emergency response activation notice from the NDDHHS-DOC, agrees to utilize Provider assets to transport displaced residents from evacuated facilities to destination facilities as resources and circumstances allow. Provider agrees to respond with transportation vehicle to a location to be determined by the NDDHHS-DOC at the time of deployment and remain under the direction of the NDDHHS-DOC or designee until completion of the authorized transportation trips/missions. Provider will provide available vehicle information as requested below:

**Vehicle Information:** Vehicle mileage will be reimbursed at \$.81/mile.

Vehicle Type	Number of Vehicles	Seats per Vehicle	Wheelchair Capacity per Vehicle	Stretcher Capacity per Vehicle
Shuttle Bus with Wheelchair Lift				
Shuttle Bus without wheelchair lift				
Van with Wheelchair Lift				
Full Size Passenger Van				
Passenger Mini Van				
Passenger Car/SUV				

Provider shall participate in the NDDHHS-DOC patient tracking system and maintain records regarding eligibility criteria on NDDHHS-DOC provided forms and agrees to seek third party reimbursement for patient/resident care provided.

**Multi-Provider or Multi-Community: For LTC Only**

Organizations that are operated or have the same management can sign one Memorandum of Agreement to cover all of the organization locations. List all the facilities managed under this signed Memorandum of Agreement.

Provider Name	Address


- Ambulance Services – Ground**
- Ambulance Services – Ambulance buses**
- Ambulance Services – Air**

**Purpose:**

The Provider upon receiving a deployment notice from the North Dakota Department of Health and Human Services-Department Operations Center (NDDHHS-DOC) and to the extent the Provider is physically able to comply agrees to respond to and remain at a staging location as directed by the NDDHHS-DOC. As needed, the Provider will be assigned from staging to patient transport at assigned locations at the direction of the NDDHHS-DOC.

The Provider shall maintain records regarding time of service in and out of staging areas, patient transports, and any other incurred expenditures relating to transport or staging. The Provider will provide invoice to NDDHHS-DOC for service time at staging and agrees to seek third party reimbursement for patient transport.

The fee schedule will follow the current ND Workforce Safety & Insurance established ambulance fee schedule at the time of deployment.

**Fee Schedule for At Ready Status:** There is no reimbursement for ambulance personnel or vehicle that is not considered "in-service". "In-service" is determined by the NDDHHS-DOC under the incident command structure.

- Medical Shelter Support – Hospital**

**Purpose:**

In the event of an emergency declaration requiring the establishment of medical shelters within 25 miles of the Provider and at the request of the NDDHHS-DOC, the Provider agrees to the following:

- The Provider agrees to utilize an Incident Command Structure for communication with the NDDHHS-DOC during an event requiring the activation of this agreement.
- The Provider agrees to provide on/off site medical direction by a medical director for 24 hours per day upon request.
- The Provider agrees to provide support services to the medical shelter as able upon request.
- The Provider agrees to provide on/off site pharmacy services to the medical shelter 24 hours per day for the specified schedule upon request.

- Medical Shelter – College/University**

**Purpose:**

The NDDHHS State Medical Shelter (SMS) is a deployable health care platform that accommodates individuals with medical conditions that require intermittent medical observation, assessment, or treatment but do not require hospitalization. It is not an emergency department, nursing home, or inpatient provider, but rather a provider that can manage exacerbations of chronic conditions. A standard SMS can house approximately 200 patients (although it is scalable in 20-cot/bed increments) and must be housed inside a structurally intact building with electricity, heating/air conditioning/ventilation, and clean water services.

In the event of an emergency declaration requiring the establishment of a state operated medical shelter, pre-hospital stabilization site, or patient/resident staging area, NDDHHS-DOC and Provider agree to the following:

**North Dakota Department of Health and Human Services-Department Operations Center (NDDHHS-DOC):**

- Will establish a mission and provide notification to the Provider prior to patient transfer to the Provider.
- Will provide necessary medical supplies for patient care at the Provider.
- Will provide coordination of shelter operations and procedures and shelter staffing assignments through state-designated personnel while the shelter is open.
- **Provider:** Agrees to provide physical space to accommodate 200 cots/beds for patients transferred to Provider location, provided that the accommodation does not prohibit the Provider from continuing its operations or unduly interferes with the Provider's operations. The number of cots/beds may vary, depending on the patients and capacity of the Provider, but shall always be subjected to the conditions that the Provider must be able to continue operations. Agrees to provide services marked below.

**From the following list, please indicate which services Provider will provide:**

- 1-2 forklifts
- 1-2 material handling equipment (pallet jacks)
- 10-person assembly and disassembly team
- Back-up generator with fuel
- Biomedical waste disposal services
- Campus security
- Contracted food preparation services for a maximum of approximately 900 meals per day
- Electricity and electric distribution services (200 Amp 120/240 VAC)
- External security services e.g. private security firm
- Heating/Ventilation/Air Conditioning (HVAC) services appropriate for building size
- Ice services for up to five pounds of ice per person per day
- Laundry washing services for 200 sets of clothing and bedding daily
- Loading dock to accommodate a 53' trailer
- Potable water with water heating (to 120°F) for up to six gallons/patient and staff/day
- Showering facilities for patients, patient caretakers and staff (up to 500/day)
- Sleeping quarters for at least 60 staff
- Standard waste removal and daily cleaning services
- Suitable area for securing and locking pharmaceuticals
- Toilet facilities/supplies for patients, patient caretakers and staff (up to 500/day)

- Department Operations Center Supplemental Medical Staffing**
- NDDHHS DOC Supplemental Staffing**

**Purpose:**



Provider, upon receiving an emergency response activation notice and/or deployment notice from the North Dakota Department of Health and Human Services-Department Operations Center (NDDHHS-DOC), agrees to participate in the following response activities:

Supplemental Medical Staffing to \_\_\_\_\_

**Please see Attachment B for the full Fee Schedule.**

**Attachment B – Fee Schedule (Please keep this copy for your records)**

**During a declared emergency the following fee schedule is applicable:**

Paramedic	\$ 42.00 per hour
EMT-B/EMT-I	\$ 30.00 per hour
Physician	\$ 135.00 per hour
Physician Assistant	\$ 51.50 per hour
Nurse Practitioner	\$ 49.50 per hour
Nurse, RN	\$ 46.00 per hour
Nurse, LPN	\$ 38.50 per hour
Certified Nurse Assistant	\$ 21.00 per hour
Other licensed medical staff requested by the North Dakota Department of Human Services-Department Operations Center (NDDHHS-DOC)	\$ 20.00 per hour
Other personnel not licensed (e.g., driver)	\$ 17.00 per hour
Ground ambulance At Ready Status	\$ 34.50 per hour
Ambulance Bus At Ready Status	\$ 67.50 per hour
Ambulance Bus response rate	\$ 140.00 per hour
Ambulance Bus mileage	\$ 9.50 per mile
Transport of separate Ambulance bus staff per vehicle mile	Current Office of Management and Budget (OMB) rate per mile

**Fee Schedule for Provision of Care:**

- Swing bed/sub-acute care, critical access hospital, acute care hospital/ PPS and nursing facilities will be reimbursed at the statewide average Medicaid skilled nursing Provider rate at \$260 per day.
- Assisted living facilities and basic care will be reimbursed at \$185 per day.

**Fee Schedule for Medical Shelter Support - Hospital**

**Reimbursement requests shall be based on the following:**

- Equipment rental and medical supplies at current patient billable rate or rate negotiated at time of request for materials that do not have an established patient billable rate.
- Medical direction for medical shelter at \$135 per hour for service/consultation provided for the medical shelter
- Pharmacy staff time for service/ consultation/prescriptions at \$54 per hour
- Other licensed medical support services specifically requested (not to include Provider Incident Command Staff) by the NDDHHS-DOC at \$20 per hour.
- Mileage at current North Dakota Office of Management and Budget rate per mile for travel in the delivery of services.


**NOTE:** Rates are intended to cover hours on duty, meals, and lodging. No additional reimbursement for expenses will be covered in this agreement.



23

**M E M O R A N D U M**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: DESI FLEMING**   
**DIRECTOR OF PUBLIC HEALTH**

**DATE: AUGUST 30, 2023**

**RE: AGREEMENT FOR SERVICES WITH THE MEDICINE SHOPPE.**  
**FUNDS: \$7,000**  
**EXPIRES: 06/12/2024**  
**RFP: 23120**

The attached Agreement for Services with the Medicine Shoppe is for working with Fargo Cass Public Health to implement tobacco, prevention, control, and cessation activities.

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

**Suggested Motion:**

Move to approve the agreement for services with The Medicine Shoppe.

DF/lls  
Attachment



**Fargo Cass  
Public Health**  
Prevent. Promote. Protect.

**PURCHASE OF SERVICE AGREEMENT WITH  
MEDICINE SHOPPE**

HEALTH PROTECTION & PROMOTION

TERM: 09/01/2023 TO 06/12/2024 · Page 1 of 2

**THIS AGREEMENT**, effective the 1<sup>st</sup> day of September 2023, by and between Fargo Cass Public Health (FCPH); and The Medicine Shoppe (Contractor).

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

- A. Term of Agreement:** The parties entered into a written agreement for the period of September 1, 2023, through June 12, 2024.
- B. Services to be provided by independent contractor:** Working in collaboration with FCPH, the independent contractor will function as the Project Manager in implementing tobacco prevention, control, and cessation activities to reduce tobacco-related disparities and social norms among specific population groups. Duties will include advance health equity by administering appropriate treatment to help clients quit, reduce tobacco-related disparities by educating clients on the harms of tobacco and the importance of effective intervention methods.
- C. Reimbursement:** The contracting consultant shall be reimbursed up to \$9,502.60. \$7,002.60 will be allocated for NRT and \$2,500 for two staff to attend TTS Training. Invoices must be submitted quarterly. The final invoice is due on June 10, 2024.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The independent contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.
- F. Progress Reports:** FCPH shall throughout the effective dates of this agreement, conduct ongoing evaluation of the Contractor's performance in carrying out their tobacco prevention, control, and cessation services. Such evaluation may include, but not be limited to, periodic visits by departmental representatives to review progress made by Contractor in accomplishing stated goal/objectives. Contractor will submit written reports and forms provided by FCPH. Progress reports shall be submitted quarterly with the final report due on June 10, 2024.

**Special Considerations:**

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of FCPH for any other purpose.
- B.** The laws of the State of North Dakota shall govern this service agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by FCPH and the City of Fargo to receive payment for services will be completed as needed.

**PURCHASE OF SERVICE AGREEMENT WITH  
MEDICINE SHOPPE**

HEALTH PROTECTION & PROMOTION  
TERM: 09/01/2023 TO 06/12/2024 · Page 2 of 2

In Witness thereof, this purchase of service agreement has been executed between the Contractor and Fargo Cass Public Health on the date executed below.

**FARGO CASS PUBLIC HEALTH**

By Desi Fleming  
Desi Fleming, Director of Public Health

Date 08/15/2023

By \_\_\_\_\_  
Timothy J. Mahoney, Mayor, City of Fargo

Date \_\_\_\_\_

**MEDICINE SHOPPE**

By Ava Ols  
Name:  
Title:

Date 8.21.2023




**Fargo Cass  
Public Health**  
Prevent. Promote. Protect.

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

24

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: DESI FLEMING**   
**DIRECTOR OF PUBLIC HEALTH**

**DATE: AUGUST 16, 2023**

**RE: AGREEMENT FOR SERVICES WITH SOUTHEAST HUMAN  
SERVICE CENTER.  
FUNDS: \$16,635  
EXPIRES: 06/12/2024  
RFP: 23120**

The attached Agreement for Services with Southeast Human Service Center is for working with Fargo Cass Public Health to implement tobacco, prevention, control, and cessation activities.

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

**Suggested Motion:**

Move to approve the agreement for services with Southeast Human Service Center.

DF/ls  
Attachment



**THIS AGREEMENT**, effective the 1st day of September 2023, by and between Fargo Cass Public Health (FCPH); and Southeast Human Service Center (Contractor).

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

- A. Term of Agreement:** The parties entered into a written agreement for the period of September 1, 2023, through June 12, 2024.
- B. Services to be provided by Contractor:** Working in collaboration with FCPH, the Contractor will function as the Project Manager in implementing tobacco prevention, control, and cessation activities to reduce tobacco-related disparities and social norms among specific population groups. Duties will include making inroads on tobacco cessation treatment with staff that work with youth, provide education materials and interventions, continue to expand tobacco treatment with the adult population, provide nicotine replacement therapy to tobacco users, coordinate tobacco cessation activities, and have staff go through tobacco treatment specialist training.
- C. Reimbursement:** Contractor shall be reimbursed up to \$16,635. This includes \$10,585 for nicotine replacement therapy, \$2,000 for contingency management, \$3,750 for tobacco treatment specialist training, and \$300 for YMCA passes. Invoices must be submitted quarterly. The final invoice is due on June 10, 2024.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** Contractor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.
- F. Progress Reports:** FCPH shall throughout the effective dates of this Agreement, conduct ongoing evaluation of the Contractor's performance in carrying out their tobacco prevention, control, and cessation services. Such evaluation may include, but not be limited to, periodic visits by departmental representatives to review progress made by Contractor in accomplishing stated goal/objectives. The contractor will submit written reports and forms provided by FCPH. Progress reports shall be submitted by the first Monday of each month, and quarterly with the final report due on June 10, 2024.

**Special Considerations:**

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of FCPH for any other purpose.
- B.** The laws of the State of North Dakota shall govern this Agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by FCPH and the City of Fargo to receive payment for services will be completed as needed.

**PURCHASE OF SERVICE AGREEMENT WITH**

**SOUTHEAST HUMAN SERVICE CENTER**

HEALTH PROTECTION & PROMOTION

TERM: 08/08/2023 TO 09/18/2023 - Page 2 of 2

**In Witness** thereof, this Purchase of Service Agreement has been executed between the Contractor and FCPH on the date executed below.

**FARGO CASS PUBLIC HEALTH**

By *Desi Fleming*  
Desi Fleming, Director of Public Health

Date 08/29/2023

By \_\_\_\_\_  
Timothy J. Mahoney, Mayor, City of Fargo

Date \_\_\_\_\_

**SOUTHEAST HUMAN SERVICE CENTER**

By *Alanna Zeller*  
Name: Alanna Zeller  
Title: Interim Regional Director

Date 08/29/2023






25

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: DESI FLEMING**   
**DIRECTOR OF PUBLIC HEALTH**

**DATE: AUGUST 29, 2023**

**RE: NOTICE OF SUBAWARD FROM ND DEPARTMENT OF ENVIRONMENTAL QUALITY (NDDEQ).  
NO: G23.015 ALN: N/A  
FUNDS: \$15,000  
EXPIRES: 06/30/2025**

The attached Notice of Subaward from the NDDEQ is for the Abandoned Auto Program. This program will help Fargo Cass Public Health collect and dispose of autos, mobile homes, trailers, scrap metal, and scrap tires in Cass, Ransom, Richland, Sargent, Steele, and Traill Counties.

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

**Suggested Motion:**

Move to approve the notice of subaward from NDDEQ.

DF/lls  
Attachment

**NOTICE OF SUBAWARD**

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDDEQ) - UEI: ZP9KYB67ZB46 (08-2023)

<b>Subaward Number</b> G23.015	<b>Assistance Listing Name</b> N/A	<b>Assistance Listing Number</b> N/A	
<b>FAIN Number</b> N/A	<b>Subaward Type (Check One)</b> <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	<b>Subaward Start Date</b> 8/1/2023	<b>Subaward End Date</b> 6/30/2025
<b>Federal Award Date</b> N/A	<b>Federal Awarding Agency</b> N/A		

The Parties to this subaward are the NDDEQ (Grantor) and the Subrecipient. This subaward is not effective and expenditures related to this subaward should not be incurred until both Parties have signed this subaward. If attachments are referenced, they must be returned with the signed subaward. If attachments were not provided, contact the Program Director identified below.

<b>Title of Project/Program</b> Abandoned Auto Program	<b>NDDEQ Project Code</b> 5551 EQ1282-51
<b>Subrecipient Name</b> Fargo Cass Public Health	<b>Program Director</b> Diana Trussell, Solid Waste Program
<b>Address</b> 1240 25 <sup>th</sup> St. S.	<b>Address</b> 4201 Normandy Street
<b>City/State/ZIP Code</b> Fargo, ND 58103	<b>City/State/ZIP Code</b> Bismarck, ND 58503-1324
<b>Contact Name</b> Aaron Johnson/Melissa Perala	<b>Contact Name</b> Diana Trussell
<b>Telephone Number</b> 701-241-1364/701-241-1392	<b>Telephone Number</b> 701-328-5164
<b>Email Address</b> ajohnson@fargond.gov or mperala@fargond.gov	<b>Email Address</b> dtrussell@nd.gov

	<b>NDDEQ Cost Share</b>	<b>Subrecipient Cost Share</b>	<b>Total Costs</b>
<b>Amount Awarded</b>	\$15,000	\$0	\$15,000
<b>Previous Funds Awarded</b>	\$0	\$0	\$0
<b>Total Funds Awarded</b>	\$15,000	\$0	\$15,000
<b>Indirect Rate (Check One)</b>	<input type="checkbox"/> Subrecipient waived indirect costs	<input checked="" type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of _____ %

**Scope of Service**  
Subrecipient will collect and dispose of autos, mobile homes, trailers, scrap metal, and scrap tires as per North Dakota Century Code 23.1-15 in Cass County, Ransom County, Richland County, Sargent County, Steele County, and Traill County, North Dakota.

**Reporting Requirements**  
Final expenditure report for the period ending June 30th must be received by July 15<sup>th</sup> of each year during the subaward period. Reimbursement will be processed upon Department approval of expenditures and completion of work.

**Special Conditions**  
None

**This subaward is subject to the following terms and conditions and applicable State and Federal Regulations.**

1. **SUBRECIPIENT'S UNDERSTANDING OF TERM OF FUNDING**  
Subrecipient understands that this subaward is a one-time subaward and acknowledges that it has received no assurances that this subaward may be extended beyond its expiration date.
2. **TERMINATION**
  - a. **Termination by Mutual Agreement**  
This subaward may be terminated by mutual consent of both Parties executed in writing.

Grantor is entering into this subaward for the purpose of carrying out the public policy of the State of North Dakota, as determined by its Governor, Legislative Assembly and Courts. If this subaward ceases to further the public policy of the State of North Dakota, Grantor, in its sole discretion, by written notice to Subrecipient, may terminate this subaward in whole or in part.

c. Termination for Lack of Funding or Authority

Grantor by written notice to Subrecipient may terminate the whole or any part of this subaward under any of the following conditions:

1. If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for purchase of the services in the indicated quantities or term.
2. If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this subaward or are no longer eligible for the funding proposed for payments authorized by this subaward.
3. If any license, permit, or certificate required by law or rule, or by the terms of this subaward, is for any reason denied, revoked, suspended, or not renewed.

Termination of this subaward under this subsection is without prejudice to any obligations or liabilities of either Party already accrued prior to termination.

d. Termination for Cause

Grantor may terminate this subaward effective upon delivery of written notice to Subrecipient, or any later date stated in the notice:

1. If Subrecipient fails to provide services required by this subaward within the time specified or any extension agreed to in writing by Grantor; or
2. If Subrecipient fails to perform any of the other provisions of this subaward, or so fails to pursue the work as to endanger performance of this subaward in accordance with its terms.

The rights and remedies of Grantor provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this subaward.

3. FORCE MAJEURE

Neither Party shall be held responsible for delay or default caused by fire, riot, terrorism, pandemic (excluding COVID-19), acts of God, or war if the event was not foreseeable through the exercise of reasonable diligence by the affected Party, the event is beyond the Party's reasonable control, and the affected Party gives notice to the other Party promptly upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default. If Subrecipient is the affected Party and does not resume performance within fifteen (15) days or another period agreed between the Parties, then Grantor may seek all available remedies, up to and including termination of this subaward pursuant to its Termination Section, and Grantor shall be entitled to a pro-rata refund of any amounts paid for which the full value has not been realized, including amounts paid toward software subscriptions, maintenance, or licenses.

4. INDEPENDENT ENTITY

Subrecipient is an independent entity under this subaward and is not a Grantor employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. Subrecipient retains sole and absolute discretion in the manner and means of carrying out Subrecipient's activities and responsibilities under this subaward, except to the extent specified in this subaward.

5. ASSIGNMENTS AND SUBCONTRACTS

Subrecipient may not assign or otherwise transfer or delegate any right or duty without Grantor's express written consent.

Subrecipient may enter into subcontracts provided that any subcontract acknowledges the binding nature of this subaward and incorporates this subaward, including any attachments. Subrecipient is solely responsible for the

performance of any subcontractor with whom Subrecipient contracts. Subrecipient does not have authority to contract for or incur obligations on behalf of Grantor.

6. SPOILIATION-PRESERVATION OF EVIDENCE

Subrecipient shall promptly notify Grantor of all potential claims that arise or result from this subaward. Subrecipient shall also take all reasonable steps to preserve all physical evidence and information under its control 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 such evidence, including the scene of the accident.

7. INTEGRATION, MODIFICATION, AND SEVERABILITY

This subaward constitutes the entire agreement between the Subrecipient and Grantor. There are no understandings, agreements, or representations, oral or written, not specified within this subaward. No alteration, amendment, or modification of this subaward is effective unless it is reduced to writing and signed by the Parties.

If any term of this subaward is declared to be illegal or unenforceable by a court having competent jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if this subaward did not contain that term.

8. RETENTION OF RECORDS

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final expenditure report. Subrecipient must provide Grantor, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Subrecipient that are pertinent to the services provided under this subaward.

9. CONTINGENT LIABILITY

During the term of this subaward, and for three years after this subaward expires or is terminated, Subrecipient agrees to reimburse Grantor for any claims submitted by Grantor for federal financial participation in the cost of this subaward to the extent those claims are disallowed by any federal agency for failure on the part of Subrecipient to comply with this subaward or any federal or state statutory or regulatory provisions which govern the source of funding. Grantor agrees to give Subrecipient prompt written notice of any disallowed claims subject to reimbursement by Subrecipient. Any amount disallowed as described is a debt owing to Grantor. Action may be brought by Grantor as allowed by law.

10. LIMITATIONS ON APPROPRIATIONS AND SPENDING AUTHORITY

Continuation of this subaward beyond June 30 of any odd numbered year is contingent on continued legislative appropriation of funds for the purposes of this subaward. If those appropriations are not forthcoming, Grantor will notify Subrecipient as soon as possible and the subaward will terminate on June 30 of that year. Grantor will neither be penalized nor incur any liability because of termination of the subaward.

11. EVALUATION

Grantor shall, throughout the effective dates on the subaward, conduct an ongoing evaluation of Subrecipient's performance in carrying out the Scope of Service in the subaward. Compliance with subaward requirements and assurances will also be monitored. Such evaluation may include periodic site visits by Grantor representatives to review progress made by Subrecipient in accomplishing stated goals and objectives.

**SUBRECIPIENT ASSURANCES**

12. ASSURANCES

Subrecipient understands in connection with furnishing supplies or performing work under this subaward, 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 subaward including the following:

- a. Fair Labor Standards Act, Equal Pay Act of 1963
- b. Titles VI and VII of the Civil Rights Act of 1964
- c. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency
- d. Age Discrimination Employment Act of 1967
- e. Age Discrimination Act of 1975

- f. Drug-free Workplace Act of 1988
- g. Americans with Disabilities Act of 1990
- h. Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving
- i. Section 504 of the Rehabilitation Act of 1973
- j. Executive Order 13043, Increasing Seat Belt Use in the United States
- k. Hatch Act (5 U.S.C. 1501-1508 and 7324-7328)
- l. Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104(g))
- m. Build America, Buy America of the Infrastructure Investment and Jobs Act (P.L. 117-58, §§70911-70917)
- n. Equal Employment Opportunity Executive Order 11246
- o. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)

13. APPLICABLE COSTS

Unless otherwise authorized by federal law, the charges to be made by Subrecipient do not include costs financed by federal monies other than those generated by this subaward.

14. DEBARMENT/SUSPENSION

By signing this subaward, Subrecipient certifies that neither Subrecipient, 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.

15. RESTRICTIONS FOR LOBBYING

Subrecipient assures that:

- a. No federal funds from this agreement will be paid by for on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract; the making of any federal subaward, the making of any federal loan, the entering of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any Federal contract, subaward, loan, or cooperative agreement. If any subaward 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, subaward, loan or cooperative agreement, Subrecipient agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- b. Subrecipient shall require that the language of the Subrecipient Assurances in this subaward be included in the award documents for all subawards at all tiers (including subcontracts, Subawards, and contracts under subawards, loans, and cooperative agreements) and that all subrecipients shall comply with these assurances.
- c. Public Law No. 104-208, Section 503 expressly prohibits the use of appropriated funds for indirect or "grass roots" lobbying efforts that are designed to support or defeat legislation pending before state legislatures. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress or any state legislative body itself.

Governmental entities are prohibited by law from lobbying. Activities designed to influence action in regard to a particular piece of pending state or federal legislation are considered lobbying. That includes lobbying for or against pending legislation, as well as indirect or "grass roots" lobbying efforts that are directed at inducing the public to contact their elected representatives to urge support of, or opposition to, pending legislation.

The North Dakota attorney general has determined that governmental entities may provide the public with neutral factual information but may not, without express legislative authority, expend public funds for the purpose of influencing the result of an election issue, including initiated measures.

No part of any funding may be used to pay the salary or expenses of any subaward or contract recipient, or agent acting for such recipient, related to any activity designed to influence election issues or pending legislation.

16. COMPREHENSIVE PROCUREMENT GUIDELINE FOR PRODUCTS CONTAINING RECOVERED MATERIALS

Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6962, and Executive Order 12873 requires preference be given in

17. **EQUIPMENT**

Subject to the obligations and conditions set forth in 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart D, §200.313, title to equipment acquired under a subaward will vest upon acquisition in the Subrecipient.

18. **FEDERAL AUDIT REQUIREMENTS**

Subrecipient agrees to keep financial records necessary to fully disclose the complete financial status of the subaward. Subrecipient must submit documentation supporting request for reimbursement for review by Grantor or its agents, upon request. Subrecipient agrees to meet all audit requirements as specified in 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Additionally, Subrecipient agrees to spend all federal assistance received from Grantor in accordance with applicable laws and regulations such as but not limited to 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is made a part of this subaward by reference.

19. **NOTICE**

All notice or other communication required under this subaward must be given by registered or certified mail and are complete on the date postmarked when addressed to the Parties at the following addresses. Notice provided under this provision does not meet the notice requirements for monetary claims against the Grantor found at North Dakota Century Code § 32-12.2-04.

SUBRECIPIENT	GRANTOR
<i>Fargo Cass Public Health – Desi Fleming</i>	L. David Glatt, P.E.
<i>Director of Public Health</i>	Director
<i>1240 25<sup>th</sup> St S</i>	4201 Normandy Street
<i>Fargo, ND 58103</i>	Bismarck, ND 58503-1324

20. **CERTIFICATION**

By signing this subaward, Subrecipient certifies the following:

- a. The organization/agency has agreed upon the conditions of the subaward applicable to funding received through all subawards issued by the Grantor and will ensure all program managers are aware of and will comply with the requirements.
- b. If the organization/agency expends \$750,000 or more in total Federal dollars from all sources during the fiscal year, the audit requirements specified in 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards will be met and a copy of the Single Audit upon its completion will be submitted to the State.
- c. The person(s) responsible for authorizing, expending or accounting for subaward funding will be provided access to the circulars and subaward requirements as specified in Section 24.

Unique Entity ID (SAM)	Federal Taxpayer Identification Number (FEIN) SSN
<i>K2QJQZVH5PM6</i>	<i>456002069</i>

21. **EFFECTIVENESS OF CONTRACT**

This subaward is not effective until fully executed by both Parties.

SUBRECIPIENT	STATE OF NORTH DAKOTA
<i>Fargo Cass Public Health</i>	Acting through its Department of Environmental Quality
BY: <i>Desi Fleming</i>	BY:
<i>Desi Fleming</i>	L. David Glatt, P.E.
<i>Director of Public Health</i>	Director
DATE: <i>08/29/2023</i>	DATE:
BY:	
<i>Timothy J. Mahoney, Mayor, City of Fargo</i>	
DATE:	



**PUBLIC  
WORKS**

**FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMAINS & HYDRANTS**  
402 23rd Street North  
Fargo, ND 58102  
Phone: 701.241.1453 | Fax: 701.241.8100  
FargoND.gov

August 29, 2023

26

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

RE: Request to utilize Minnesota State Contract D-156(5), Contract #202458 for the purchase of Ice Slicer from EnviroTech Services (PBC23152)

Commissioners:

Throughout the world, many different variations of ice melt products have been developed and used to fight icy road surfaces. Previously, Public Works has compared a variety of different ice control products in hopes of finding a material that effectively melts and provides traction once the temperature drops below 15°. In the past, the city has used two granular products for ice control, salt that provides melting capacity to approximately 10° and a sand/salt (80/20) mixture for traction purpose when the temperatures drop below 10°. Through a side-by-side comparison of different products staff has been able to identify a product called Ice Slicer that is very effective in providing traction and melting at temperatures between 15° and -5°. Ice Slicer is an all-natural organic product that is mined exclusively by Redmond Minerals and distributed by Envirotech Services. Ice Slicer has greater melting capacity, is less corrosive, and is environmentally safer than salt.

On June 27, the Finance Committee reviewed and approved Public Works request to utilize Minnesota State Contract D-156(5), Contract #202458 for the purchase of Ice Slicer from EnviroTech Services through October 31, 2026 at a cost of \$209.43 per ton (Enclosed ROA).

RECOMMENDED MOTION: Using the piggyback purchase procurement (PBC23152) as provided for in the City of Fargo Purchasing Policy, I/we request a suggested motion to authorize Public Works to utilize Minnesota State Contract D-156(5), Contract #202458 for the purchase of Ice Slicer from EnviroTech Services through October 31, 2026 at a cost of \$209.43 per ton

Respectfully submitted,

Ben Dow  
Public Works Director

REPORT OF ACTION

**FINANCE COMMITTEE**

**Location:** Public Works

**Agenda Item:** MN State Contract - EnviroTech Services

**Presenter:** Ben Dow

<u>Routing</u>	<u>Date</u>
Finance Committee	<u>8/28/2023</u>
City Commission	_____

Ben Dow and his team have compared a variety of different ice control products that can effectively melt and provide traction once the temperature drops below 15 degrees. Through comparisons, they have been able to identify a product called Ice Slicer that has shown to be most effective. EnviroTech Services is the national and only distributor of this product.

Public Works requested utilizing the Minnesota State Contract D-156(5), Contract #202458 for EnviroTech Services through October 31, 2026 at a cost of \$209.43 per ton.

**MOTION:**

Steve Sprague moved to approve, second by Susan Thompson and all members present voted in favor.

COMMITTEE:	Present	Yes	No	Unanimous <u>    X    </u>
Tim Mahoney, Mayor	X	X		
Dave Piepkorn, City Commissioner	X	X		
Mike Redlinger, City Administrator	X	X		
Brenda Derrig, Assistance City Administrator	X	X		
Susan Thompson, Assistant Finance Director	X	X		
Tanner Smedshammer, Purchasing Manager	X	X		
Steve Sprague, City Auditor	X	X		

  
 \_\_\_\_\_  
 Tim Mahoney, Finance Committee Chair





## PIGGYBACK PURCHASE REQUEST FORM (PBC)

<b>Requested by:</b>	Ben Dow	<b>Department:</b>	Street Department
<b>Date of Request:</b>	8/3/2023	<b>Phone Number:</b>	701-241-1463
<b>E-mail:</b>	bdow@FargoND.gov		
<b>Dept Head Signature:</b>	<i>Benjamin Dow</i>	<b>Estimated Amount of Purchase:</b>	\$425,000.00

### Piggyback Purchase from a State or Cooperative Contract Requirement:

A contract less than \$50,000 may be awarded without competition when the purchasing manager determines in writing, that a State or Cooperative purchasing contract exists and allows municipalities to purchase from a list of approved vendors for the required supply, service, or material. Any purchase contract award greater than \$50,000 must also be approved by the Board of City Commissioners prior to a vendor award using this method. No quotes

### Product or Service description of the features or capabilities unique to the vendor or brand being requested:

Throughout the world many different variations of ice melt products have been developed and used to fight icy road surfaces. Previously, Public Works has compared a variety of different ice control products in hopes of finding a material that effectively melts and provides traction once the temperature drops below 15°. In the past, the city has used two granular products for ice control, salt that provides melting capacity to approximately 10° and a sand/salt (80/20) mixture for traction purpose when the temperatures drop below 10°. Through side-by-side comparison of different products staff has been able to identify a product called Ice Slicer that is very effective at providing traction and melting at temperatures between 15° and -5°. Ice Slicer is an all-natural organic product that is found in Utah and mined exclusively by Redmond Minerals. Ice Slicer has greater melting capacity, is less corrosive, and is environmentally safer than salt.

EnviroTech Services is the national distributor and sole provider of Ice Slicer outside of Utah. Staff is requesting authorization to purchase Ice Slicer from EnviroTech Services at a cost of \$209.43 per ton.

Also enclosed is a letter from the Manufacture of Ice Slicer (Redmond Minerals) that states Envirotech Services is the national distributor of Ice Slicer and there are no other distributors. +

### Provide source of existing contract (State/Release or Contract number)

Minnesota State Contract D-156(5) Contract #202458 through October 31, 2026

<b>Vendor Name:</b> Envirotech Services			
<b>Address:</b> PO Box 5512			
<b>City:</b> Denver	<b>State:</b> CO	<b>Zip Code:</b> 80217	
<b>Contact Person:</b> John Johansen		<b>Title:</b> Midwest Regional Account Manager	
<b>Telephone:</b> 218-830-0987		<b>Email:</b> jjohansen@envirotechservices.com	
<b>Purchasing Manager Approval:</b>			
<b>Piggyback (PBC) Number:</b>		PBC-202458	



July 18, 2023

To Whom It May Concern:

Redmond Minerals, Inc. is the manufacturer of Ice Slicer RS® granular ice melt. Envirotech Services, Inc is the national distributor for Ice Slicer and will be the sole provider of Ice Slicer RS outside of Utah through 2023-2024 winter season.

Please feel free to contact us with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Anderson', is written over the word 'Sincerely,'.

Doug Anderson  
Redmond Minerals, Inc.

Box 219 • 6005 North 100 West • Redmond, Utah 84652

# Admin Minnesota

Office of State Procurement

Room 112 Administration Bldg., 50 Sherburne Ave., St. Paul, MN 55155; Phone: 651.296.2600, Fax: 651.297.3996  
Persons with a hearing or speech disability can contact us through the Minnesota Relay Service by dialing 711 or 1.800.627.3529.

## CONTRACT RELEASE: D-156(5)

DATE: DECEMBER 7, 2022

PRODUCT/SERVICE: DEICERS: ALTERNATIVE CHEMICAL DEICERS

CONTRACT PERIOD: NOVEMBER 1, 2021, THROUGH OCTOBER 31, 2023

EXTENSION OPTIONS: UP TO 36 MONTHS

ACQUISITION MANAGEMENT SPECIALIST /BUYER (AMS): ROBB MIMBACH

PHONE: 651.201.2432    E-MAIL: [robb.mimbach@state.mn.us](mailto:robb.mimbach@state.mn.us)    WEB SITE: [www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us)

---

<u>CONTRACT VENDOR</u>	<u>CONTRACT NO.</u>	<u>TERMS</u>	<u>DELIVERY ARO</u>
CRYOTECH DEICING TECH 6103 ORTHOWAY FORT MADISON, IA 52627	202457	NET 30	3 DAYS METRO 5 DAYS OTHER

VENDOR NO: 0000202854

JEANNE SEAGER  
OFFICE: 800.346.7237 | EMAIL: [ORDERS@CRYOTECH.COM](mailto:ORDERS@CRYOTECH.COM)

---

<u>CONTRACT VENDOR</u>	<u>CONTRACT NO.</u>	<u>TERMS</u>	<u>DELIVERY ARO</u>
ENVIROTECH SERVICES, INC. PO BOX 5512 DENVER, CO 80217	202458	NET 30	3 DAYS METRO 5 DAYS OTHER

VENDOR NO: 0000225197

DARREN DOLS / REBECCA CEGLA  
OFFICE: 952.894.0012 | EMAIL: [MIDWESTORDERS@ENVIROTECHSERVICES.COM](mailto:MIDWESTORDERS@ENVIROTECHSERVICES.COM)

Contract Release: D-156(5)

<u>CONTRACT VENDOR</u>	<u>CONTRACT NO.</u>	<u>TERMS</u>	<u>DELIVERY ARO</u>
<b>K TECH SPECIALTY COATINGS, INC.</b> PO BOX 428 ASHLEY, IN 46705	<b>202459</b>	<b>NET 30</b>	<b>1 TO 2 DAYS METRO 1 TO 4 DAYS OTHER</b>

**VENDOR NO:** 0000985053

KYLE KANNENBERG (SALES)  
**OFFICE:** 260.615.5751 | **EMAIL:** [KKANNENBERG@KTECHCOATINGS.COM](mailto:KKANNENBERG@KTECHCOATINGS.COM)

<u>CONTRACT VENDOR</u>	<u>CONTRACT NO.</u>	<u>TERMS</u>	<u>DELIVERY ARO</u>
<b>PELICAN CHEMICALS, INC.</b> 2901 W. BROADWAY, STE 200 MISSOULA, MT 59808	<b>202460</b>	<b>1% IN 30</b>	<b>3 DAYS METRO 5 DAYS OTHER</b>

**VENDOR NO:** 0001095247

SARA BIDDLE  
**OFFICE:** 888.526.1952 EXT. 3003 | **EMAIL:** [SARA.BIDDLE@PELICANCHEMICALS.COM](mailto:SARA.BIDDLE@PELICANCHEMICALS.COM)

<u>CONTRACT VENDOR</u>	<u>CONTRACT NO.</u>	<u>TERMS</u>	<u>DELIVERY ARO</u>
<b>SALT SOURCE, LLC</b> 21790 HAMBURG AVE LAKEVILLE, MN 55044	<b>202461</b>	<b>NET 30</b>	<b>0 TO 3 DAYS METRO 0 TO 3 DAYS OTHER</b>

**VENDOR NO:** 0000979108

JAKE BIESANZ  
**OFFICE:** 952.516.7465 | **EMAIL:** [JAKE@USSALT.COM](mailto:JAKE@USSALT.COM)

<u>CONTRACT VENDOR</u>	<u>CONTRACT NO.</u>	<u>TERMS</u>	<u>DELIVERY ARO</u>
<b>SMITH FERTILIZER &amp; GRAIN CO., INC.</b> 1650 QUEBEC ST. KNOXVILLE, IA 50138	<b>202462</b>	<b>NET 30</b>	<b>3 DAYS METRO 5 DAYS OTHER</b>

**VENDOR NO:** 0000877417

STEPHEN LEEDS  
**OFFICE:** 641.828.8508  
**EMAIL:** [STEVEL@SFGIOWA.COM](mailto:STEVEL@SFGIOWA.COM)

<u>CONTRACT VENDOR</u>	<u>CONTRACT NO.</u>	<u>TERMS</u>	<u>DELIVERY ARO</u>
<b>SNI SOLUTIONS, INC.</b> 205 N. STEWERT ST. GENESE0, IL 61254	<b>202463</b>	<b>NET 30</b>	<b>3 DAYS METRO 3 DAYS OTHER</b>

**VENDOR NO:** 0000303186

ANNE HAPPEL  
**OFFICE:** 888.840.5564 | **EMAIL:** [MIKE@SNISOLUTIONS.COM](mailto:MIKE@SNISOLUTIONS.COM)

Contract Release: D-156(5)

**CONTRACT USERS.** This Contract is available to the following entities as indicated by the checked boxes below

- State agencies
- Cooperative Purchasing Venture (CPV) members
- Limited to the following entities only \_\_\_\_\_

**STATE AGENCY CONTRACT USE.** This Contract must be used by State agencies unless a specific exception is granted in writing by the AMS listed above.

**STATE AGENCY ORDERING INSTRUCTIONS.** Orders are to be placed directly with the Contractor. State agencies should use a Contract release order (CRO) or a blanket purchase order (BPC). The person ordering should include his or her name and phone number. Orders may be submitted via email.

**CONTRACT FEEDBACK.** If these commodities or service can be better structured to help you with your business needs, let us know. We solicit your comments and suggestions to improve all of our contracts so that they may better serve your business needs. If you have a need for which no contract currently exists, or you would like to be able to use an existing state contract that is not available to your entity, whether a state agency or CPV, please contact us. If you have specific comments or suggestions about an individual contract you can submit those via the [Contract Feedback Form](#).

**SPECIAL TERMS AND CONDITIONS**

**SCOPE.** The purpose of the contract is to provide Deicers: Alternative Chemical Deicers, on an as needed basis.

[CLICK HERE TO VIEW EXHIBIT C: SPECIFICATIONS, DUTIES, AND SCOPE OF WORK](#)

[CLICK HERE TO VIEW EXHIBIT C – ATTACHMENT 1 - 2021-2022 MN/DOT WINTER CHEMICALS APPROVED PRODUCT LIST 9/21/2021](#)

[CLICK HERE TO VIEW EXHIBIT D: PRICE AND PAYMENT SCHEDULE](#)

**PRICES.** Prices are firm through the initial period of the contract. After that period, prices may increase once a year. Price increases are not effective until they are approved by the AMS. **NOTE:** At no time should the ordering entity pay more than the Contract price. Agencies must contact the AMS immediately and fill out a [Vendor Performance Report](#) if there is a discrepancy between the price on the invoice and the Contract price.

**MINIMUM ORDER.** See the price schedules.

<u>SWIFT LINE #</u>	<u>PRODUCT OR SERVICE</u>	<u>UNIT OF MEASURE</u>	<u>UNSPSC CODE</u>
1.	Alternative Chemical Deicers	GA = Gallon; PF = Pallet; TG = Gross Ton	46161506
2.	Classroom Training	HR = Hour	86130000

Contract Release: D-156(5)

**VERIFYING THE CONTRACT PRICES.**

**The following information explains the method(s) for calculating and/or confirming the contract prices.**

The Contract(s) was executed with FIXED PRICING. The pricing offered must match or be lower than that detailed herein.

The Contract(s) includes HOURLY RATES. Confirm that the correct rate has been utilized by the Contract Vendor and that the number of hours are properly calculated/subtotaled. Review the number of hours quoted against the scope of your project.

**Only accept contract vendor quotes that provide itemized contract pricing (lump sum price quotes must be rejected and reworked by the Contract Vendor to show itemized State contract pricing).**

**Prior to accepting an order and/or issuing payment on an invoice, inspect the goods and/or deliverables to ensure they match both the terms and pricing of the contract.**

Contact the AMS/Buyer detailed herein to report any pricing discrepancies or for assistance in confirming/calculating contract pricing.

**REVISIONS.**

- 12/07/2022 Fixed Envirotech Services Inc price schedule that had a decimal point issue.
- 11/01/2022 All contracts extended through October 31, 2023, at the same terms and conditions. Pelican Chemicals Inc., Salt Source LLC, and SNI Solutions Inc. continued at the same prices. The rest of the contractors extended at increased pricing.

**PRICE SCHEDULES**

**CRYOTECH DEICING TECH PRICE SCHEDULE**

**ENVIROTECH SERVICES, INC.**

**K TECH SPECIALTY COATINGS, INC.**

**SMITH FERTILIZER & GRAIN CO., INC.**

**PELICAN PRICE SCHEDULE**

**SNI PRICE SCHEDULE**

**SALT SOURCE PRICE SCHEDULE**

27

September 5, 2023

Honorable Board of City Commissioners  
City Hall  
225 4<sup>th</sup> St N  
Fargo, ND 58102

Commissioners:

Five RFP's were received August 11, 2023, for our 2024 spring tree order. Park District Forester Sam DeMarais, and I, reviewed these.

<u>Company</u>	<u>Proposed Tree Cost</u>
Bailey Nurseries, Inc.	\$ 65,106.23 + shipping
Chestnut Ridge Nursery, Inc.	\$ 134,835.00 + shipping
Schichtel's Nursery, Inc.	\$ 136,335.00 (included shipping)
Hoffman McNamara	\$ 117,075.00 + shipping
Swedberg Nursery	\$ 76,080.00 (included shipping)

Funding is currently proposed in the 2024 forestry division tree budget.

Most companies are able to provide volume discounts. To maximize this possibility, this is a combined order between the City of Fargo and the Fargo Park District. The park district will cover approximately \$16,000.00 of the total cost.

**Recommended motion:**

**Based on overall prices, quality, past experience, availability, and to secure the order as soon as possible, move to award the 2024 request for proposals (RFP23151) tree order to Bailey Nurseries, Inc.**

Your approval of this request is appreciated. Thank you.

Sincerely,



Scott Liudahl  
City Forester

Cc: Ben Dow  
Jill Pagel

Commission2024 Tree Order.doc



28

September 5, 2023

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

Dear Commissioners:

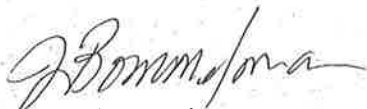
The State of North Dakota Department of Transportation (NDDOT) has granted an extension of time for contract 38220653A. This extension only impacts performance time with no impact to funding. The ability to purchase buses has been challenging for the last 18-24 months, with the delivery of buses being a minimum of 12-18 months after placing an order. Parts availability has been impacted for bus production along with delays within manufacturing plants in recovery. A few months ago, we were able to enter into the manufacturing schedule for several replacement vehicles, but we need an extension of time on the grants to finalize production and delivery.

The amendment is attached, however, this was provided in electronic signature format, which was provided to the City Commission for signature to meet the end of month deadline.

The requested motion is to approve the attached contract amendment.

Thank you.

Sincerely,



Julie Bommelman  
Transit Director  
City of Fargo

\Attachment



NDDOT Contract No. 38220653A

**North Dakota Department of Transportation**  
**AMENDMENT TO CONTRACT NO. 38220653**  
**Project No.**

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and City of Fargo, hereinafter known as the Contractor, whose address is 650 23<sup>rd</sup> Street N, Fargo, ND 58102.

WHEREAS, the parties entered into a contract on June 6, 2022; and

WHEREAS, no additional funding is awarded to this contract; and

WHEREAS, additional time is required to complete the contract; and

NOW THEREFORE, the Contractor and NDDOT agree that the contract entered into on June 6, 2022, shall have a new completion date of December 31, 2024.



All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

Kember Anderson

NAME (TYPE OR PRINT)

*Kember Anderson*  
SIGNATURE

To be signed by **Owner, Partner, Corp. Pres., Vice Pres., or other authorized Corp. Officer.** (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

CONTRACTOR:

City of Fargo

COMPANY NAME

Timothy J. Mahoney

OFFICER'S NAME (TYPE OR PRINT)

*Timothy J. Mahoney*  
SIGNATURE

Mayor of Fargo

TITLE

08/25/23

DATE

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED as to substance by:

Paul Benning

DIVISION DIRECTOR (TYPE OR PRINT)

*Paul Benning*  
SIGNATURE

08/29/23

DATE

SS

SH

CLA 52494 (Div. 06)  
L.D. Approved 5-19-00; 5-03

ATTORNEY GENERAL  
APPROVED as to Execution

*Clint Morgenstern*

08/30/23

Special Asst Attorney General



**PERIOD OF PERFORMANCE / CONTRACT EXTENSION REQUEST**

North Dakota Department of Transportation, Local Government  
SFN 61785 (2-2022)

**Instructions:**

Requests for period of performance /contract end date extensions must be submitted at least 90-days prior to the current end date. Requests cannot be combined for multiple contracts. **Incomplete forms will not be processed.**

Submittal Date 8/17/2023	
Funding Program 5339	Contract Number 38220653
Current Contract End Date 08/30/2023	Proposed End Date 12/31/2024
Remaining Federal/State Contract Amount \$2,027,250	Proposed Increase in Federal/State Funding 0

Subrecipient (Agency Name) City of Fargo	
Contact Person Julie Bommelman	Telephone Number 701-476-6737
Email Address jbommelman@fargond.gov	
Project Description Purchase replacement buses	
1. Reason for Delay (Provide a detailed description.) Procurement was with a consortium and significantly delayed for several reasons, including personnel changes at lead agency and difficulty on vendors' part getting chassis and parts. However, buses were ordered.	
2. What is the status of the contract project(s)? (Summarize project milestones to date and percent of budget remaining.) Buses have been ordered and delivery is set for March/April 2024.	
3. Plan for Completion (List the steps to be taken if approval is granted that will ensure completion by the new end date.) With buses on order and a potential delivery date of next Spring, right now it is a matter of awaiting their arrival.	
4. Indicate the number of Period of Performance/Contract extensions previously granted for this project: <input checked="" type="checkbox"/> 0 <input type="checkbox"/> 1 <input type="checkbox"/> 2 or more, provide explanation: _____	

Authorized Official or Agency Designee Julie Bommelman	Completion Date 8/17/2023
I certify the project scope of work will be completed on or before the newly requested end date and claim requests will be submitted for reimbursement of eligible expenses in accordance with the <b>allowable time-frame</b> of the newly approved Period of Performance/Contract end date. All provisions of the Contract Agreement remain in effect and the sub-recipient will continue to adhere to the contractual terms and conditions to execute the project in the manner identified in the Contract Agreement. I further certify neither the project scope of work nor the approved budget, are under consideration to be changed in this request. Only the project's end date is requested to change.	
Signature of Authorized Official or Agency Designee <i>Julie Bommelman</i>	Date 8.17.2023

*This Section is for NDDOT/Local Government Division Staff use only*

**Recommendation:**

Approved       Not Approved

Signature <i>[Signature]</i>	Date 8/22/2023
Comments: Approved to extend for time due to ordering & delivery delays.	

Please send completed/signed extension request to [bhanson@nd.gov](mailto:bhanson@nd.gov) or  
 NDDOT/Local Government Division  
 608 E Boulevard Avenue, Bismarck, ND 58505-0700

**MEMO TO:** Chad M. Orn  
Deputy Director for Planning

**FROM:** Stacey Hanson  
Assistant Engineer for Local Government  
Becky Hanson  
Transit Program Manager

**DATE:** 8/22/2023

**SUBJECT:** Section 5339, Bus and Bus Facilities Formula Program  
City of Fargo MAT

This is a contract amendment to provide funding for transit vehicles under the regulations of Section 5339, Bus and Bus Facilities Formula Program.

This is a contract amendment to provide additional time for the purchase of ADA vehicles due to ordering and delivery delays. No additional funding is added to this contract.

The original contract has \$2,027,250 remaining. The contract will have a new completion date of December 31, 2024.

38/bh 328-2542

**Certificate Of Completion**

Envelope Id: D618CCDD77B74613AFAA3258C3B8269B  
Subject: Contract #38220653A: Please DocuSign: Contract Amendment  
Contract Number: 38220653A  
PCN:  
Source Envelope:  
Document Pages: 5  
Certificate Pages: 4  
AutoNav: Enabled  
EnvelopeId Stamping: Enabled  
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:  
Sara Susie  
608 E Boulevard Ave  
Bismarck, ND 58505  
ssusie@nd.gov  
IP Address: 165.234.92.5

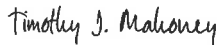
**Record Tracking**

Status: Original  
8/23/2023 10:31:06 AM  
Security Appliance Status: Connected  
Storage Appliance Status: Connected  
Holder: Sara Susie  
ssusie@nd.gov  
Pool: StateLocal  
Pool: Carahsoft OBO North Dakota Department of Transportation CLOUD  
Location: DocuSign  
Location: DocuSign

**Signer Events**

Timothy J. Mahoney  
tmahoney@fargond.gov  
Mayor of Fargo  
City of Fargo  
Security Level: Email, Account Authentication (None)

**Signature**



Signature Adoption: Pre-selected Style  
Using IP Address: 165.234.250.1

**Timestamp**

Sent: 8/25/2023 10:19:15 AM  
Viewed: 8/25/2023 1:40:01 PM  
Signed: 8/25/2023 1:40:10 PM

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Kember Anderson  
kanderson@fargond.gov  
Mayor  
City of Fargo  
Security Level: Email, Account Authentication (None)



Signature Adoption: Pre-selected Style  
Using IP Address: 165.234.250.1

Sent: 8/25/2023 1:40:18 PM  
Viewed: 8/25/2023 1:41:05 PM  
Signed: 8/25/2023 1:41:14 PM

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Stacey Hanson  
smhanson@nd.gov  
Assistant Local Government Engineer  
Carahsoft OBO North Dakota Department of Transportation CLOUD  
Security Level: Email, Account Authentication (None), Authentication



Signature Adoption: Pre-selected Style  
Using IP Address: 96.2.71.153

Sent: 8/25/2023 1:41:20 PM  
Viewed: 8/27/2023 5:01:43 PM  
Signed: 8/27/2023 5:02:30 PM

**Authentication Details**

SMS Auth:  
Transaction: 403b3994-4cc9-401e-bbb9-45a6cb1df553  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/27/2023 5:01:35 PM  
Phone: +1 701-527-8879

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Signer Events**

Paul Benning  
pbenning@nd.gov  
Local Government Director  
Security Level: Email, Account Authentication  
(None), Authentication

**Signature**

*Paul Benning*

Signature Adoption: Pre-selected Style  
Using IP Address: 165.234.253.12

**Timestamp**

Sent: 8/27/2023 5:02:36 PM  
Resent: 8/29/2023 11:17:13 AM  
Viewed: 8/29/2023 2:05:26 PM  
Signed: 8/29/2023 3:39:56 PM

**Authentication Details**

SMS Auth:  
Transaction: 1d40bd22-f4b1-4747-b645-b571fe6c714f  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/28/2023 7:31:40 AM  
Phone: +1 701-214-2502

SMS Auth:  
Transaction: 32454cce-78df-47c6-bed3-f8120fc30f42  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/28/2023 10:58:04 AM  
Phone: +1 701-214-2502

SMS Auth:  
Transaction: c3d06332-e467-4111-9979-c9fa1232d47  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/29/2023 2:05:12 PM  
Phone: +1 701-214-2502

SMS Auth:  
Transaction: 74e2b225-7b60-4920-8387-0fde8035f2de  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/29/2023 3:35:14 PM  
Phone: +1 701-214-2502

SMS Auth:  
Transaction: b17eb4c7-7194-434e-ab2d-7f321723ba0f  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/29/2023 3:39:27 PM  
Phone: +1 701-214-2502

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Shannon Sauer  
ssauer@nd.gov  
Security Level: Email, Account Authentication  
(None), Authentication

SS

Signature Adoption: Pre-selected Style  
Using IP Address: 165.234.253.12

Sent: 8/29/2023 3:45:17 PM  
Viewed: 8/30/2023 12:38:46 PM  
Signed: 8/30/2023 12:38:52 PM

**Authentication Details**

SMS Auth:  
Transaction: 66971c5c-0c18-4589-8317-ed86acc37e2c  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/30/2023 12:38:39 PM  
Phone: +1 701-426-9825

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Signer Events**

Clint Morgenstern  
cdmorgenstern@nd.gov  
Clint Morgenstern - SAAG  
Security Level: Email, Account Authentication (None), Authentication

**Signature**

*Clint Morgenstern*

**Timestamp**

Sent: 8/30/2023 12:39:00 PM  
Viewed: 8/30/2023 2:00:12 PM  
Signed: 8/30/2023 2:00:27 PM

Signature Adoption: Pre-selected Style  
Using IP Address: 165.234.92.2

**Authentication Details**

SMS Auth:  
Transaction: 51998612-2a51-4e71-bbeb-5f4d4455b880  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 8/30/2023 1:57:49 PM  
Phone: +1 701-213-0588

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Chad Orn  
corn@nd.gov  
Deputy Director for Planning  
Carahsoft OBO North Dakota Department of Transportation CLOUD  
Security Level: Email, Account Authentication (None), Authentication

Sent: 8/30/2023 2:00:37 PM

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Laureen M. Martin  
lmartin@nd.gov  
Security Level: Email, Account Authentication (None), Authentication

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**In Person Signer Events**

**Editor Delivery Events**

Sara Susie  
ssusie@nd.gov  
Richland County Chairperson  
Carahsoft OBO North Dakota Department of Transportation CLOUD  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Signature**

**Status**



Using IP Address: 165.234.253.12

**Timestamp**

**Timestamp**

Sent: 8/23/2023 10:31:16 AM  
Viewed: 8/23/2023 10:31:57 AM  
Completed: 8/23/2023 10:33:57 AM

**Agent Delivery Events**

Julie Bommelman  
jboommelman@cityoffargo.com  
Security Level: Email, Account Authentication (None)

**Status**



Using IP Address: 165.234.250.1

**Timestamp**

Sent: 8/23/2023 10:39:43 AM  
Viewed: 8/23/2023 11:06:47 AM  
Completed: 8/25/2023 10:19:15 AM

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Intermediary Delivery Events**

**Status**

**Timestamp**

**Certified Delivery Events**

**Status**

**Timestamp**



**Certified Delivery Events**

Becky Hanson  
bhanson@nd.gov  
Carahsoft OBO North Dakota Department of  
Transportation CLOUD  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Sara Susie  
ssusie@nd.gov  
Richland County Chairperson  
Carahsoft OBO North Dakota Department of  
Transportation CLOUD  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Carbon Copy Events**

DOT Legal Admin  
dotlegaladmin@nd.gov  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

DOT Legal Admin  
dotlegaladmin@nd.gov  
Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Witness Events**

**Notary Events**

**Envelope Summary Events**

Envelope Sent  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated  
Envelope Updated

**Payment Events**

**Status**

**VIEWED**

Using IP Address: 165.234.252.245

**VIEWED**

Using IP Address: 165.234.252.245

**Status**

**COPIED**

**COPIED**

**Signature**

**Signature**

**Status**

Hashed/Encrypted  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked  
Security Checked

**Status**

**Timestamp**

Sent: 8/23/2023 10:33:58 AM  
Viewed: 8/23/2023 10:39:42 AM

Sent: 8/29/2023 3:40:01 PM  
Viewed: 8/29/2023 3:45:16 PM

**Timestamp**

Sent: 8/30/2023 12:38:58 PM  
Viewed: 8/30/2023 12:47:41 PM

Sent: 8/30/2023 2:00:34 PM

**Timestamp**

**Timestamp**

**Timestamps**

8/23/2023 10:31:16 AM  
8/23/2023 10:33:57 AM  
8/23/2023 10:33:57 AM  
8/23/2023 10:33:57 AM  
8/23/2023 10:33:57 AM  
8/23/2023 10:33:57 AM  
8/23/2023 10:33:58 AM  
8/23/2023 10:33:58 AM  
8/23/2023 10:33:58 AM  
8/23/2023 10:33:58 AM  
8/25/2023 10:19:15 AM  
8/25/2023 10:19:15 AM  
8/25/2023 10:19:15 AM  
8/25/2023 10:19:15 AM  
8/28/2023 11:24:17 AM

**Timestamps**