

## FARGO CITY COMMISSION AGENDA

Monday, April 3, 2023 - 5:00 p.m.

Executive Session at 4:30 p.m.

Roll Call.

**PLEASE NOTE:** The Board of City Commissioners will convene at 4:30 p.m. and retire into Executive Session for the purpose of attorney consultation regarding the pending litigation Northstar Hospitality, LLC, d/b/a SouthTown PourHouse v. City of Fargo, Case No. 09-2020-CV-02871 to discuss negotiating strategy or provide negotiating instructions to its attorney. To discuss these matters in an open meeting will have a negative fiscal effect on the bargaining and/or litigation position of the City of Fargo. An Executive Session for said matters is authorized pursuant to North Dakota Century Code §44-04-19.1 subsections 2 and 9.

Regular Meeting at 5:00 P.M.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, March 20, 2023).

### **CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Grant Agreement with ND Department of Corrections and Rehabilitation and its Division of Juvenile Services, the ND Association of Counties, Cass County, City of West Fargo and Youthworks.
- 2. Receive and file an Ordinance Repealing Section 25-1504.3 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Mandatory Meeting and an Ordinance Amending Section 25-1504.1 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Additional Requirements for Class FA-Entertainment Licenses.
- 3. 1st reading of an Ordinance Amending and Repealing and Replacing Article 18-09 of Chapter 18 of the Fargo Municipal Code Relating Excavation Code.
- 4. Amended Site Authorization for Metro Sports Foundation at Mexican Village.
- 5. Applications for Games of Chance:
  - a. Anne Carlsen Foundation for a raffle on 4/15/23.
  - b. Fargo North High School for a raffle on 4/15/23.
  - c. Hope Blooms for bingo on 4/15/23.
  - d. St. Joseph's School for a raffle on 4/22/23.
  - e. YWCA Cass Clay for a raffle on 4/24/23.

6. Amendment to Permanent Easement with North Dakota State University.
7. Access Easement (Water Main) with Southeast Cass Water Resource District (Project No. UN-23-A1).
8. Contract Amendment No. 2 with MetroCOG in the amount of \$50,000.00 for Project No. MS-21-H0.
9. 2023 Policy on Stormwater Discharge and Treatment Requirements.
10. Agreement Regarding Special Assessments (Samuel Property) with Clarence W. Samuel, as Trustee of the Clarence W. Samuel Revocable Living Trust #2.
11. Permanent Easements (Street and Utility) and Easements (Temporary Construction Easement) with Robert L. Nelson Revocable Trust and County 20 Storage & Transfer, Inc., and Agreement Regarding Deferral of Special Assessments with County 20 Storage & Transfer, Inc.
12. Memorandum of Offer to Landowner for purchase of a fee acquisition, permanent easement, temporary easement and permanent access easement from 3739I29 Partners, LLP (Project No. NR-23-A1).
13. Bid award to Sun Electric, Inc. in the amount of \$142,000.00 for Project No. NR-23-B1.
14. Amendment No. 1 in the amount of \$99,930.00 with Bolton & Menk, Inc. for Improvement District No. BN-25-A0.
15. Change Order No. 1 in the amount of \$52,250.00 for Improvement District No. BR-23-B1.
16. Easement (Temporary Construction Easement) with the Park District to the City of Fargo (Improvement District No. BR-23-J1).
17. Easement (Temporary Construction Easement) with the YMCA of Cass and Clay Counties (Improvement District No. BR-23-J1).
18. Bid award to Dirt Dynamics in the amount of \$181,034.00 for Improvement District No. AN-22-B1.
19. Bid award to Border States Paving, Inc. in the amount of \$3,773,510.60 for Improvement District No. PR-23-E1.
20. Create Improvement District No. BR-23-H.
21. Create Improvement District No. TN-23-A.
22. Create Improvement District No. PN-23-A.
23. Create Improvement District No. PN-23-C.
24. Bid award and Contract with JLG Architects in the amount of \$17,168.00 for the Fargo Public Libraries Sunshades Replacement Project (RFQ23059).

25. Bid award for Residential Curbside Brush Operations – 2023 to Carr’s Tree Service, Inc. (RFP23047).
26. Services Agreement - Lawn Maintenance Services with JT Lawn Services (RFP23056).
27. Bid award for the 2023-2025 Aerial Mosquito Control Services with Airborne Vector Control, LLC and Mosquito Spraying Agreement (RFP23049).
28. Authorization Application for Airborne Vector Control.
29. Bob Woodruff Foundation Grant for the ND Cares Veterans Program.
30. Amendment to the Notice of Grant Award from the ND Department of Health and Human Services for PHEP-EPR All Hazards Allocation (CFDA #93.069).
31. Notice of Grant Award from the ND Department of Health and Human Services for Title X Family Planning Program (CFDA #93.217).
32. Amendment to the Notice of Grant Award from the ND Department of Health and Human Services for the PHEP-EPR Statewide Response Team (CFDA #93.069).
33. Direct the City Attorney’s Office to prepare the necessary changes to the International Residential Code to include a passive radon mitigation system requirement.
34. Multi-Agency Law Enforcement Agreement with the ND Bureau of Criminal Investigation for the Internet Crimes Against Children Task Force Program.
35. Sole Source Procurement with Reile’s Transfer and Delivery Inc. for Project No. WA2255 (SSP23068).
36. Contract and bond for Project No. PR-23-A1.
37. Bills.

**REGULAR AGENDA:**

38. **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/GettingInvolved](http://FargoND.gov/GettingInvolved)).

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

39. **PUBLIC HEARING** – Erskines Addition (1117 and 1155 13th Avenue South); denial was recommended by the Planning Commission on 3/7/23:
  - a. Zoning Change to repeal and re-establish a Conditional Overlay.
40. **PUBLIC HEARING** – Adams Seventh Addition (2865, 2955, 2959, 2963, 2967, 2971, 2975, 2979, 2983, 2987, 2991, 3825, 3829, 3833, 3837, 3841, 3845, 3849, 3853, 3857 and 3861 Thunder Road South); approval was recommended by the Planning Commission on 3/7/23:
  - a. Zoning Change from GC, General Commercial with a CUP, Conditional Use Permit to LI, Limited Industrial with a C-O, Conditional Overlay.
  - b. 1st reading of rezoning Ordinance.

41. **PUBLIC HEARING** – Valley View Estates Fourth Addition (3606-4890 Decorah Way South); approval recommended by the Planning Commission on 2/7/23:
  - a. Zoning Change from SR-4, Single-Dwelling Residential and P/I, Public and Institutional to SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay.
  - b. 1st reading of rezoning Ordinance.
  - c. Plat of Valley View Estates Fourth Addition.
  
42. **PUBLIC HEARING** – Amended Plat of Oak Grove Addition (18, 24, 26, 40, 42, 44, 46, 60, 62, 64, 66, 68, 70, 92, 94, 96, 98, 100, 110, 118, and 124 North Terrace North; 723 and 724 North River Road North; 9 Lower Terrace North; 17, 23, 27, 31, 33, 37, 41, 45, 49, 53, 63, 65, 75, 79, 83, 87, 88, 93, 95, 99, 125, 129, 135, 136, 139, 140, 144 and 145 South Terrace North; 101, 150 and 170 Maple Street North; and 1 River Road North); approval recommended by the Planning Commission on 3/7/23:
  - a. Zoning Change from SR-2, Single-Dwelling Residential, SR-3, Single Dwelling Residential, MR-2, Multi-Dwelling Residential and AG, Agricultural to P/I, Public and Institutional.
  - b. 1st reading of rezoning Ordinance.
  
43. **PUBLIC HEARING** – Application for transfer of a Class “FA-Golf” Alcoholic Beverage License from Living the Dream, LLC d/b/a Legends to Kjerbeersten, LLC d/b/a 19th Hole at Rose Creek to be located at 1500 East Rose Creek Parkway.
  
44. **PUBLIC HEARING** – Application for a Class “GH” Alcoholic Beverage License for Spaghetti Western, LLC d/b/a Spaghetti Western to be located at 524 Broadway North.
  
45. Presentation on the proposed Excavation Fees and Guidelines.
  
46. Spring Flood Outlook.
  - a. Recommendation to approve the Emergency Declaration.
  
47. Legislative Update.
  
48. Set 7:30 a.m., Tuesday, April 11, 2023, as the date for the Board of Equalization to meet.
  
49. 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).



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April 3, 2023

**To: Board of City Commissioners**  
**Fr: Michael Redlinger, City Administrator**  
**Re: Approve Youthworks Memorandum of Understanding (MOU)**

**Background:** The City Commission is requested to receive the unanimous recommendation of the Finance Committee to approve a new Memorandum of Understanding (MOU) with Youthworks. At the City of Fargo's March 27, 2023 Finance Committee meeting, Robert Wilson, Cass County Administrator, and City staff provided a presentation regarding an updated MOU with Youthworks.

Youthworks has been a historical provider of "Attendant Care" services for delinquent youth in Cass County, serving minors, the law enforcement community, and the court system. Cass County has led efforts with the local political subdivisions on a proposed funding model for future services provided by Youthworks. A new cost-sharing formula has been developed to allocate the cost of services between Cass County, the City of Fargo, and the City of West Fargo. The Cass County Commission approved the proposed MOU at its March 20, 2023 meeting.

**Recommended Action:** Upon the unanimous recommendation of the Finance Committee, approve the proposed Youthworks Memorandum of Understanding with Cass County and the City of West Fargo, and approve an allocation of \$40,000 from the City of Fargo for its share of services.

Attachment: March 27, 2023 Finance Committee Report of Action  
Proposed Youthworks MOU

REPORT OF ACTION  
**FINANCE COMMITTEE**

**Project:** Youthworks Memorandum of Understanding (MOU)

**Type:** Professional Services

**Location:** N/A

**Date of Hearing:** April 3, 2023

<u>Routing</u>	<u>Date</u>
City Commission	4/3/2023
Project File	N/A

The Finance Committee received a presentation from Cass County Administrator Robert Wilson and City staff regarding a proposed memorandum of understanding (MOU) between Youthworks, Cass County, the City of Fargo, and the City of West Fargo to provide “attendant care” juvenile services for the law enforcement community and the court system. Cass County has served as the lead entity to coordinate the creation of a new, comprehensive MOU between Youthworks and the local political subdivisions that receive services from Youthworks. The Finance Committee expressed its support and willingness to see the City of Fargo participate in the revised funding model, and endorsed the MOU.

**MOTION:**

On a motion by Piepkorn, seconded by Redlinger, the Finance Committee voted unanimously to approve the proposed Youthworks MOU with Cass County, the City of Fargo, and the City of West Fargo.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Tim Mahoney, Mayor	<u>X</u>			
Dave Piepkorn, City Commissioner	<u>X</u>			
Mike Redlinger, City Administrator	<u>X</u>			
Terri Gayhart, Director of Finance	<u>X</u>			
Steve Sprague, City Auditor	<u>X</u>			

Tim Mahoney, Finance Committee Chair

## GRANT AGREEMENT

This Agreement is made by and between the North Dakota Department of Corrections and Rehabilitation and its Division of Juvenile Services (DJS) (STATE), the North Dakota Association of Counties (NDACo), city and county jurisdictions as listed in Attachment A (JURISDICTIONS) and Youthworks (GRANTEE).

WHEREAS, DJS has determined the Attendant Care services referred to in the paragraph below entitled "Scope of Services" form an appropriate basis for the expenditure of Federal grant funds (CFDA number 16.540) from the Office of Juvenile Justice and Delinquency Prevention (OJJDP); and

WHEREAS, NDACo has agreed to assist DJS in obtaining, coordinating, and administrating these services; and

WHEREAS, JURISDICTIONS propose to identify and support GRANTEE as an agency authorized to provide services for youth picked up by law enforcement that need a temporary placement option;

WHEREAS, Youthworks (GRANTEE) is an appropriate agency to provide Attendant Care services for delinquent youth as defined in the North Dakota Attendant Care Program Guidelines (Guidelines), as well as short-term shelter services for Children in Need of Services (CHINS).

NOW, THEREFORE, the parties agree as follows:

### AGREEMENT

#### I. TERM OF THE AGREEMENT

The term of this agreement shall be from January 1, 2023 – December 31, 2023.

#### II. SCOPE OF SERVICES

The GRANTEE shall:

1. Provide a placement facility that law enforcement can access twenty-four hours a day, seven days a week for youth ages 10-17 who need a non-secure short-term placement either due to delinquency (Attendant Care) or for Children in Need of Services (shelter). This includes space for youth to recreate, eat and engage with staff during wake hours, and sleeping space.
2. Provide services to delinquent youth in conformance with all provisions of the Guidelines, including the development of policies and procedures for the supervision of youth.
3. Screen youth for appropriateness, including assessing for immediate mental health needs, history of violence and/or sexual aggression, and current affect and behavior.
4. Notify the Juvenile Court of any youth placed in the facility within 24 hours of being placed.

5. Provide for an assessment of youth while at the facility, release arrangements, short-term case management support and/or counseling for youth exiting the facility to reduce the likelihood of further contact with law enforcement.
6. Submit to NDACo all reports and documentation required by the Guidelines;
7. Allow NDACo to conduct on-site programmatic monitoring of the Attendant Care services, as required pursuant to federal guidelines.

Youth may need to be medically-cleared prior to entry into the facility and/or may not be appropriate due to aggressive behaviors that are likely to occur while at the facility (threatening or aggressive behavior, or non-compliance with the staff).

In the event that more than two youth are referred for placement at the same time, GRANTEE will make every effort to take the additional youth. GRANTEE may provide services to other agencies seeking to place youth, but priority will be given to the JURISDICTIONS. GRANTEE will bill a daily rate to those agencies that are not part of this agreement and will track all money collected for purposes of subsequent contract periods.

### **III. COMPENSATION**

DJS, through NDACo, shall provide reimbursement to the GRANTEE for Attendant Care services outlined in the Guidelines. JURISDICTIONS shall provide funding to GRANTEE to cover Attendant Care expenses not eligible for reimbursement pursuant to the Guidelines as well as the costs associated with providing shelter services for CHINS, as outlined in Attachment A.

The GRANTEE agrees to account for any and all grant funds that may be in possession of the GRANTEE throughout the term of this grant and to return any unexpended funds within 30 days after final closing of the grant. JURISDICTIONS may elect to roll any unexpended funds into the subsequent contract period, as applicable.

GRANTEE will provide a credit in any subsequent contract period for the amount collected by agencies utilizing the site that are not part of the agreement.

### **IV. GRANTEE ASSURANCES**

The GRANTEE agrees to comply with North Dakota Century Code chapters 27-20.2, 27-20.3, and 27-20.4, and the grant conditions and assurances established by OJJDP for sub-grant recipients of federal funds as detailed in the Office of Justice Programs Financial Guide and associated Federal Circulars.

The GRANTEE agrees to comply (and will require any subgrantees or contractors to comply) with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (34 USC § 10228(c) & 10221(a)); the Juvenile Justice and Delinquency Prevention Act of 2002 (34 USC § 11182(b)); 28 CFR Part 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures), including Title VI of the Civil Rights Act of 1964, as amended, Section 815(c)(1) of the Justice System Improvement Act of 1979, Equal Employment Opportunity Program Guidelines, Section 504 of the Rehabilitation Act of 1973, as amended, and the Age Discrimination Act of 1975; the



Americans with Disabilities Act of 1990 (42 USC §§ 12131-34); Title IX of the Education Amendments of 1972 (20 USC §§ 1681, 1683, 1685-86); and 28 CFR Part 38 (U.S. Department of Justice Regulations – Partnerships with Faith-Based and Other Neighborhood Organizations).

To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, GRANTEE agrees to take steps to ensure the persons with Limited English Proficiency (LEP) have meaningful access to its programs. Meaningful access may entail providing language assistance, including oral and written translation, where necessary. GRANTEE is encouraged to consider the need for language services for LEP persons both in developing its budgets and in conducting its programs and activities. Additional assistance and information regarding LEP obligations can be found at <http://www.lep.gov>.

The GRANTEE agrees to designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as a liaison in all civil rights matters with the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs and the Office for Civil Rights, Office of Justice Programs.

The GRANTEE will inform the public and subgrantees of affected persons' rights to file a complaint of discrimination with the Office for Civil Rights, Office of Justice Programs for investigation. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs and the North Dakota Department of Corrections and Rehabilitation, Division of Juvenile Services (DJS).

The GRANTEE will develop an Equal Employment Opportunity Plan (EEO Plan) and submit an EEO Utilization Report to the Office for Civil Rights, Office of Justice Programs, if it is a government agency or private business that is receiving an award of \$25,000 or greater and has 50 or more employees. The GRANTEE, if not required to submit an EEO Utilization Report, will certify that it is exempt from this requirement by submitting an EEO Certification Form. The EEO Utilization Report or Certification Form, as applicable, should be submitted via the EEO Reporter Tool found at: <https://ojp.gov/about/ocr/eeop.htm>.

The GRANTEE shall not retaliate against individuals for taking action or participating in action to secure rights protected by the above referenced laws.

**V. AUTHORITY TO CONTRACT**

The GRANTEE shall not have the authority to contract on behalf of or incur obligations on behalf of NDACo, DJS, or JURISDICTIONS without written approval of NDACo, DJS, and JURISDICTIONS. If such subcontract is approved, it shall acknowledge the binding nature of this agreement, and incorporate this agreement, together with its attachments as

appropriate.

**VI. INDEPENDENT ENTITY**

The GRANTEE shall perform as an independent entity under this agreement. The GRANTEE, its employees, agents or representatives are not employees of NDACo, DJS, or JURISDICTIONS. No part of this agreement shall be construed to represent the creation of an employer/employee relationship.

**VII. AUDIT RESPONSIBILITY**

The GRANTEE agrees to keep such financial records as are required for sub-grants of OJJDP grant awards, as detailed in the Office of Justice Programs, Financial Guide and associated Federal Circulars. These records shall be made available to NDACo, DJS, and JURISDICTIONS, or their agents, upon request at any time during normal business hours. The GRANTEE agrees to include these funds in the annual audit of its organization, and further agrees to allow NDACo, DJS, or JURISDICTIONS or their agents, to conduct an audit at the expense of NDACo, DJS or JURISDICTIONS, or their agents.

**VIII. RETENTION/PRIVACY OF RECORDS**

The GRANTEE agrees to retain the financial records identified in paragraph VII above, for a period of ten years or until an audit is completed and closed, whichever occurs later. The GRANTEE further agrees to assure the privacy and confidentiality of client records in conformance with all applicable State and federal laws and regulations. The GRANTEE understands that except for the records that are confidential or that have been identified as exempt, this Agreement, and any records generated pursuant to this Agreement may be subject to disclosure under applicable state and federal law.

**IX. TERMINATION OF AGREEMENT**

If, the GRANTEE shall fail to fulfill in a timely and proper manner its obligations under this agreement, NDACo, DJS, or JURISDICTIONS shall thereupon have the right to terminate this agreement by giving written notice 30 days prior to termination to the GRANTEE of such termination. Notwithstanding a termination pursuant to this paragraph, the GRANTEE shall not be relieved of liability to NDACo, DJS or JURISDICTIONS, and NDACo, DJS, or JURISDICTIONS may withhold any payment otherwise due to the GRANTEE.

DJS, NDACo, and JURISDICTIONS may also terminate this Agreement upon delivery of written notice to the GRANTEE, or on any later date stated on the notice under any of the following conditions:

- a. If funding from federal, state, or other sources is not obtained and continued at levels sufficient for the services specified in the Agreement. The Agreement may be modified by the consent of the parties in writing to accommodate any reduction in funds;
- b. If federal or state laws or rules are modified or interpreted in a way that the funding or services are no longer allowable or appropriate or are no longer eligible for funding or payment authorized by this Agreement;
- c. If any license, permit or certificate required by rule or law, or by the terms of the

Agreement between the parties, is for any reason denied, revoked, suspended or not renewed.

**X. INTERACTING AND MODIFICATION**

This agreement constitutes the entire agreement between the GRANTEE, NDACo, DJS and JURISDICTIONS. No alteration or amendment shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

**XI. APPLICABLE LAW**

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

**XII. CAPTIONS**

The captions or headings in this agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this agreement.

**XIII. EXECUTION AND COUNTERPARTS**

This agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**XIV. NOTICES**

All notices, certificates or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at their respective places of business.

**XV. ASSIGNMENT**

This agreement shall not be assigned or transferred without the expressed written consent of the parties.

**XVI. SUCCESSORS IN INTEREST**

The provisions of the agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and permitted assigns.

**XVII. FORCE MAJEURE**

The GRANTEE shall not be held responsible for delay or default caused by fire, riot, acts of God and war and other events that are beyond the GRANTEE's reasonable control, provided notice is given to NDACo, DJS, and JURISDICTIONS of any such delay or default.

**XVIII. SEVERABILITY**

The parties agree that if any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

**XIX. INDEMNITY**

GRANTEE agrees to defend, indemnify, and hold harmless the State of North Dakota, its agencies, officers and employees (STATE), NDACo, and JURISDICTIONS from and against claims based on the vicarious liability of the STATE or its agents, NDACo or JURISDICTIONS, but not against claims based on the STATE'S, NDACo's or JURISDICTIONS' contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by GRANTEE for the STATE, NDACo or JURISDICTIONS under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the STATE is necessary. Any attorney appointed to represent the STATE must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. GRANTEE also agrees to reimburse the STATE, NDACo and JURISDICTIONS for all costs, expenses and attorneys' fees incurred if the STATE, NDACo or JURISDICTIONS prevails in an action against GRANTEE in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Contract.

**XX. INSURANCE**

If GRANTEE is a political subdivision, then GRANTEE shall have liability coverage pursuant to N.D.C.C. 32-12.1. If GRANTEE is not a political subdivision then GRANTEE shall secure and keep in force during the term of this Contract and GRANTEE shall require all subcontractors, prior to commencement of an agreement between GRANTEE and the subcontractor, to secure and keep in force during the term of this Contract, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per occurrence.
2. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
3. Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this Contract.

The insurance coverages listed above must meet the following additional requirements:

1. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the GRANTEE.
2. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A- "or better by A.M. Best Company, Inc., provided any excess

- policy follows form for coverage. Less than an "A- "rating must be approved by the STATE. The policies shall be in form and terms approved by the STATE.
3. The duty to defend, indemnify, and hold harmless the STATE, NDACo, and JURISDICTIONS under this Contract shall not be limited by the insurance required in this Contract.
  4. The State of North Dakota and its agencies, officers, and employees (STATE), NDACo and JURISDICTIONS shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The STATE, NDACo and JURISDICTIONS shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this Contract or by the contractual indemnity obligations of the GRANTEE.
  5. A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the STATE, NDACo, and JURISDICTIONS.
  6. The GRANTEE shall furnish a certificate of insurance to the undersigned State and JURISDICTIONS representative prior to commencement of this Contract. All endorsements shall be provided as soon as practicable.
  7. Failure to provide insurance as required in this Contract is a material breach of contract entitling the STATE, NDACo and JURISDICTIONS to terminate this Contract immediately.
  8. GRANTEE shall provide at least 30-day notice of any cancellation or material change to the policies or endorsements. GRANTEE shall provide on an ongoing basis, current certificates of insurance during the term of this Contract. A renewal certificate will be provided 10 days prior to coverage expiration.

**XXI. SPOILATION**

GRANTEE shall promptly notify STATE, NDACo, and JURISDICTIONS of all potential claims that arise or result from this Contract. GRANTEE shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE, NDACo, and JURISDICTIONS the opportunity to review and inspect the evidence, including the scene of an accident.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY,  
AND VOLUNTARY EXCLUSION FOR LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register (pages 19160-19211).

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name of Grantee

---

Signature of Authorized Official

Date

---

Printed Name and Title of Authorized Official

**Signatures**

In Witness Whereof the parties hereto have entered into this Agreement as evidenced by their signatures below:

**For the Department of Corrections and Rehabilitation – Division of Juvenile Services:**

\_\_\_\_\_  
Lisa Bjergaard, Director

\_\_\_\_\_  
Date

**For the North Dakota Association of Counties:**

\_\_\_\_\_  
Aaron Birst, Executive Director

\_\_\_\_\_  
Date

**For Cass County:**

\_\_\_\_\_  
Commission Chair

\_\_\_\_\_  
Date

**For City of Fargo:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

**For City of West Fargo:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

## ATTACHMENT A

<b>Jurisdictions</b>	<b>Monthly Contribution (due on the 1<sup>st</sup>/15<sup>th</sup> of each month and every month thereafter in the 2023 calendar year starting on January 1<sup>st</sup>/15<sup>th</sup> of 2023)</b>	<b>Total Contribution for the 2023 Calendar Year</b>
<b>Cass County</b>	<b>\$7,916.70*</b>	<b>\$95,000.00</b>
<b>City of Fargo</b>	<b>\$3,333.33*</b>	<b>\$40,000.00</b>
<b>City of West Fargo</b>	<b>\$2,916.70*</b>	<b>\$35,000.00</b>

\*Monthly amount was rounded to the nearest cent.



**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

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

②

March 24, 2023

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

RE: Ordinance repeal and amendment – Mandatory Meeting for Liquor Licensees

Dear Mayor Mahoney and Commissioners,

At the request of the Commission at the February 21, 2023 meeting, I am enclosing for your consideration, amendments to Fargo Municipal Code sections 25-1504.3 and 25-1504.4, relating to Mandatory Meetings for Alcohol Licensees.

The City Auditor and Liquor Control Board recommended the elimination of the annual meeting for liquor licensees due to change in circumstances and a determination that it is no longer necessary. This ordinance repeals the “mandatory meeting” section (FMC section 25-1504.3) and deletes reference to the mandatory meeting in another section (FMC section 25-1504.4).

**Suggested Motion:** I move to receive and file the following ordinance amending Fargo Municipal Code sections 25-1504.3 and 25-1504.4 of Article 25-15 of Chapter 25, relating to Mandatory Meetings for Alcohol Licensees, 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 REPEALING SECTION 25-1504.3 OF ARTICLE 25-15  
2 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE  
3 RELATING TO MANDATORY MEETING

4 AND

5 AN ORDINANCE AMENDING SECTION 25-1504.4 OF ARTICLE 25-15  
6 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE RELATING TO  
7 ADDITIONAL REQUIREMENTS FOR CLASS FA-ENTERTAINMENT LICENSES

8 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in  
9 accordance with Chapter 40-05.1 of the North Dakota Code; and,

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

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

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

17 NOW, THEREFORE,

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

19 Section 1. Repeal.

20 Section 25-1504.3 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby  
21 repealed in its entirety.  
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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

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2       Section 2. Amendment.

3               Section 25-1504.4 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby  
4 amended to read as follows:

5       25-1504.4. - Renewal of combined food/business proceeds/liquor licenses.

6  
7       In addition to the requirements of Articles 25-1504, 25-1504.1, and 25-1504.2 ~~and 25-1504.3~~,  
8       Renewal of combined food/business proceeds/liquor licenses. - All holders of Class FA-  
9       ENTERTAINMENT licenses shall also be required to file with the City, with the request for  
10       renewal of the license, an opinion by certified public accountant indicating that he or she has  
11       audited the books and records of the licensee and that the licensee's gross revenue from the sale of  
12       food and the business income is equal to or exceeds the gross revenue from the sale of alcoholic  
13       beverages for the most recent 12 month period. At the option of the licensee, in lieu of a certified  
14       public accountant's opinion, licensee may request from the State Tax Commissioner's office and  
15       furnish to the City Auditor's office a certified copy of licensee's sales tax returns for the most recent  
16       12 month period prior to renewal.

17       Notwithstanding furnishing of such sales tax returns, the City may, in its discretion, require  
18       licensee to comply with the requirement that an opinion by a certified public accountant be  
19       furnished as aforesaid. Any costs incurred in connection with the requirements of this section shall  
20       be the sole responsibility of the licensee. The City may also, or any other time during the year, in  
21       its discretion, conduct an independent investigation of the sales ratio of food and business receipts  
22       to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business  
23       records. In the event that the results of an independent investigation by the City results in a  
24       determination that the sale of food and business income does not equal or exceed the sale of  
25       alcoholic beverages, the licensee shall be required to pay all costs of such investigation.

26       As part of the licensee's obligation that the licensee derive more gross receipts from the sale of  
27       prepared meals, the sale of food and business receipts than from the sale of alcoholic beverages,  
28       the licensee shall retain and keep appropriate business records concerning purchase of food,  
29       business income and alcoholic beverages and sales receipts for the same. Such business records  
30       shall be organized and maintained according to standard business practices and in such form as to  
31       be auditable for purposes of confirming that the licensee satisfies the sales ratio of food and

OFFICE OF THE CITY ATTORNEY  
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1 business income to alcoholic beverages. A licensee who fails to maintain the business records  
2 required by this section, or to otherwise make such records available to the City upon reasonable  
request to do so, is subject to the penalties listed in 25-1512(D)(F).

3 Section 3. Effective Date.

4 This ordinance shall be in full force and effect from and after its passage, approval, and  
5 publication.  
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7  
8 \_\_\_\_\_  
Dr. Timothy J. Mahoney, Mayor

9 Attest:

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

12 First Reading:  
13 Second Reading:  
14 Final Passage:  
Publication  
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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING AND  
REPEALING AND REPLACING ARTICLE 18-09  
OF CHAPTER 18 OF THE FARGO MUNICIPAL CODE  
RELATING EXCAVATION CODE

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

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

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

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

NOW, THEREFORE,

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

Section 1. Enactment.

Article 18-09 of Chapter 18 of the Fargo Municipal Code is hereby amended to read as follows:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

ARTICLE 18-09

EXCAVATION ORDINANCE

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Section

- 18-0900 Applicability.
- 18-0901 Definitions.
- 18-0902 Excavator’s License.
- 18-0903 Permit to Excavate.
- 18-0904 Exemptions.
- 18-0905 Denial or Revocation of Permit.
- 18-0906 Pre-Excavation Requirements.
- 18-0907 Excavation Protection.
- 18-0908 Preservation of Monument.
- 18-0909 Compliance with Guidelines and Specifications.
- 18-0910 Revocation of Excavator license.
- 18-0911 Emergency Excavation.
- 18-0912 Warranty.
- 18-0913 Inspections.
- 18-0914 Maintenance of Substructure Records.
- 18-0915 Forms.
- 18-0916 Rules, Regulations, and Penalties.
- 18-0917 Severability.

**18-0900. Applicability.**

This Excavation Code applies to any and all excavation of the City of Fargo’s public right-of-way, publicly-owned property, and all locations that must be permitted, as more specifically defined herein, and as otherwise determined by the City Engineer.

**18-0901. Definitions.**

The following words, terms and phrases shall have the meanings ascribed to them in this Article:

1. “Boulevard” means that right-of-way from the back of the curb or edge of the traveled way to the owner’s property line.
2. “City Engineer” means the City Engineer of the City of Fargo or designee.

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- 1 3. "Excavation" means any removal or disturbance of material within the traveled way of any  
2 street or alley or the removal or disturbance of any material, sod, or soil areas of any street,  
3 alley, public right-of-way, street boulevards (except boulevard gardens as allowed by  
4 Article 13-17), and public utility easements, including but not limited to grading, cutting,  
5 trenching, digging, ditching, drilling, pot holing, auguring, tunneling, jacking, boring,  
6 scraping, plowing and pile driving, and any disturbance of the surface by any means under,  
7 in, on, over, or through any locations required to be permitted within the corporate limits  
8 of the City of Fargo.
- 9 4. "Excavator" means any person, firm, or entity who performs the act of excavation by any  
10 means.
- 11 5. "Guidelines" refers to the Excavation Fees and Guidelines Supplement created by the City  
12 Engineer and approved by the Board of City Commissioners by Resolution, effective at the  
13 time of permit issuance. A copy of the Guidelines is accessible at: [ a link will be provided  
14 upon approval of a Resolution adopting the Guidelines ].
- 15 6. "Specifications" refers to the Standard Specifications for Construction in effect at the time  
16 of permit issuance. A copy of the Specifications is accessible at: [https://fargond.gov/city-  
17 government/departments/engineering/design-construction/construction-specifications](https://fargond.gov/city-government/departments/engineering/design-construction/construction-specifications).
- 18 7. "Street" means the length as dedicated for use by the public and the width as defined by  
19 the property lines on each side thereof. For purposes of this Article, all references to  
20 "Street" includes alleys.
- 21 8. "Traveled way" means the width from curb to curb on curbed streets, from edge to edge  
22 on any non-curbed streets, and from shoulder to shoulder on gravel streets.
- 23 9. "Utilities" means, for the purpose of this Article, all underground cables, conduit, and pipe  
used for the transportation or distribution of fuel, electricity, communication services,  
water, or sewage.

**18-0902. Excavator's License.**

No person, firm, or entity shall perform excavation, as defined in 18-0901(3), unless licensed as a contractor by the State of North Dakota and licensed as an excavator by the City of Fargo. An excavator's license will be issued by the City Auditor upon submission of a written application on forms obtained from the auditor and upon fulfilling the fee, bonding, and insurance requirements

OFFICE OF THE CITY ATTORNEY  
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2 as specified in the Guidelines. A license shall be effective upon issuance until March 1 of the  
3 following year.

4 **18-0903. Permit to Excavate.**

5 Except as otherwise provided in 18-0904 and 18-0911, no person may perform excavation, as  
6 defined in 18-0901(3), without first obtaining a permit from the City of Fargo Engineering  
7 Department. A permit to excavate shall be issued only to an excavator licensed by the City of  
8 Fargo, and those exempt under 18-0904(B). The issuance of a permit shall not relieve any  
9 permittee from compliance with all requirements of this Article nor relieve the permittee of any  
10 liability for damage to any existing utility. The City assumes no liability whatsoever by virtue of  
11 the issuance of a permit. Except as set forth elsewhere herein, the excavator performing the  
12 excavation must obtain the permit to excavate. Excavation must occur during the permitted time  
13 period.

14 **18-0904. Exemptions.**

15 A. All utility companies franchised with the City of Fargo and authorized to operate  
16 within the corporate limits are exempt from the license requirement of this Article.

17 B. The following shall be exempt from the permit requirements of this Article:

- 18 1. All governmental units of the City of Fargo;
- 19 2. All contractors performing under a written contract with the City of Fargo  
20 or a governmental unit of the City of Fargo; and
- 21 3. A property owner planting or maintaining a garden on the boulevard  
22 adjacent to their property in accordance with Fargo Municipal Code Article  
23 13-17.

**18-0905. Denial or Revocation of Permit.**

A. Mandatory Denial. Except in the case of an emergency, no permit will be granted:



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1. To any person, firm, or entity who has failed within the past three years to comply with, or is presently not in compliance with, the requirements of this Article.
2. To any person, firm, or entity who has outstanding debt owed to the City of Fargo that is due, owing, and unpaid.
3. To any person, firm, or entity as to whom there exist grounds for the revocation of a permit under this Article or other applicable law.

B. Permissive Denial. The City Engineer may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The City Engineer, at the City Engineer's discretion, may consider one or more of the following factors in denying a permit:

1. The degree of compliance of the applicant with this Article and other applicable ordinances and regulations.
2. The degree of disruption to surrounding communities and businesses that will result from the issuance of a permit.
3. The condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction.
4. The balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the issuance of a permit.
5. The number of incomplete permits held by the applicant.
6. Any other factors the City Engineer deems just and appropriate under the circumstances.

C. Revocation of Permit. A permittee holds a permit issued hereunder as a privilege and not as a right. The City Engineer is authorized, as provided herein, to revoke a permit, without fee refund, upon finding any of the following:

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1. The permittee violated or failed to comply with any statute, ordinance, rule, regulation, Guidelines, Specifications, or condition of the permit.
2. An evasion or attempt to evade any term of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City of Fargo or its citizens.
3. Any material misrepresentation of fact in the application for a permit.
4. The failure to maintain the required construction security, bond, or insurance.
5. The failure to complete the permitted work in a timely manner.
6. The failure to correct a condition as requested by the City Engineer.

If the City Engineer determines grounds for revocation of a permit exist, the City Engineer will make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit, and the City Engineer may place additional or revised conditions on the permit. The permittee shall then have the amount of time provided in the Guidelines or as otherwise afforded by the City Engineer to contact the City Engineer with a plan, acceptable to the City Engineer, for correction, including a date of anticipated completion. The permittee's failure to timely contact the City Engineer, failure to submit an acceptable plan, or failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. If a permit is revoked, the permittee shall also reimburse the City for its costs incurred in connection with such revocation, including restoration costs and reasonable attorney's fees.

**18-0906. Pre-Excavation Requirements.**

It shall be the responsibility of each permittee to comply with federal, state, and local laws, including North Dakota One-Call laws, and the terms of the Guidelines and Specifications.

**18-0907. Excavation Protection.**

The permittee shall be responsible for protecting the safety of the public and the integrity of the public right-of-way in the permitted area. This shall include but is not limited to installing and

OFFICE OF THE CITY ATTORNEY  
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2 maintaining traffic control measures in accordance with the “Manual on Uniform Traffic Control  
3 Devices” (MUTCD), installing and maintaining erosion and sediment control, and any other  
4 requirements stated in the permit, Guidelines, and Specifications.

4 **18-0908. Preservation of Monument.**

5 Any monuments set for the purpose of locating or preserving the property lines, survey reference  
6 points, or permanent survey benchmarks, shall not be removed or disturbed without permission in  
7 writing from the City Engineer. Replacement of monuments shall be permittee’s sole  
8 responsibility. Any failure by permittee to replace and verify the location of the monument shall  
9 be a permit violation.

8 **18-0909. Compliance with Guidelines and Specifications.**

9 A. All permittees issued a permit in accordance with this Article must comply with the  
10 Guidelines and Specifications in effect at the time of issuance of the permit. Failure to abide by  
11 the permit conditions, Guidelines, Specifications, or this Article may result in a violation and  
12 subject the permittee to penalties imposed by the City Engineer, including permit and license  
13 revocation.

13 B. Excavators who are exempt from the licensing and permit requirements under 18-  
14 0904 must comply with the Guidelines and Specifications in effect at the time of the excavation.

14 **18-0910. Revocation of Excavator License.**

15 A. The City Engineer may revoke an excavator license issued pursuant to this Article,  
16 without a fee refund, if the City Engineer makes any of the following findings:

- 17 1. The licensee obtained the license by means of fraud, deceit, or  
18 misrepresentation of a material fact.
- 19 2. The licensee is not in compliance with any applicable statute, ordinance,  
20 rule, regulation, or the Guidelines or Specifications.
- 21 3. The licensee is not performing work in compliance with any condition of  
22 the license.
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- 4. The licensee has had two (2) or more ordinance violations within a one-year period.
- 5. The licensee had a permit revoked in accordance with this Article.
- 6. The practices of the licensee threaten the health, safety, or welfare of the public, interfere with the safety and convenience of ordinary travel over the right-of-way, or otherwise negatively impact the right-of-way or its users.

B. If the City Engineer determines grounds for revocation of a license exist, the City Engineer shall provide written notice to the licensee stating the grounds for revocation. The licensee shall then have the amount of time provided in the Guidelines or as otherwise afforded by the City Engineer after receipt of the written notice to remedy the grounds for revocation to the satisfaction of the City Engineer. If the licensee fails to remedy the grounds for revocation to the satisfaction of the City Engineer, then the City Engineer may revoke the license without further notice.

C. If a license is revoked, the licensee shall reimburse the City for its reasonable costs incurred in connection with such revocation, including restoration costs and reasonable attorney's fees. A licensee who has had a license revoked, or believes any costs and fees imposed are unreasonable, may have the matter reviewed by the City Commission upon written request made to the City Engineer within ten (10) business days of the revocation or notice of fee imposition. A decision by the City Commission affirming such revocation or fee imposition will be in writing and supported by written findings establishing the basis for the decision.

**18-0911. Emergency Excavation.**

Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the City Engineer for such a permit on the first working day after such work is commenced.

**18-0912. Warranty.**

The permittee warrants that restoration work will meet the requirements of this Article, the Guidelines, and Specifications for a period of twenty-four (24) months following final acceptance

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1 of the work by the City. During this warranty period, the permittee shall, upon notification by the  
2 City Engineer, correct all restoration work to the extent necessary using the method required by  
3 the City Engineer. Such work shall be completed within five (5) calendar days of the receipt of  
4 the notice from the City Engineer, not including days when work is prohibited as unseasonable or  
5 unreasonable. If permittee fails to restore the right-of-way in the manner and condition required  
6 by the City Engineer, or fails to satisfactorily and timely complete all restoration required, the City  
7 Engineer may do such work or contract for such work to be completed. In such event, the permittee  
8 shall pay to the City the costs of restoring the right-of-way within thirty (30) days of the billing.

6 **18-0913. Inspections.**

7 When the work under any permit is completed, the permittee must provide written notice of  
8 completion to the City of Fargo Engineering Department. The permittee shall make the site  
9 available to the City of Fargo Engineering Department and all others required for inspections at  
10 all reasonable times during the execution of and completion of the work. If the City Engineer  
11 determines that any work of the permittee does not conform to the terms of the permit or other  
12 applicable standards, conditions, or codes, or does not comply with the Guidelines and  
13 Specifications, the City Engineer will issue written notice under 18-0905(C) and the permittee  
14 shall follow the procedure established in 18-0905(C) to remedy the violations. The provisions of  
15 this Article do not relieve or change any inspection requirements contained in the Fargo Municipal  
16 Code or in any rules and regulations as approved by the Board of City Commissioners including  
17 the Guidelines and Specifications. The permittee shall comply with all other inspection  
18 requirements and secure all approvals required for the project.

14 **18-0914. Maintenance of Substructure Records.**

15 Every person owning, using, controlling, or having an interest in substructures under the surface  
16 of any public place, shall provide maps, drawn to a scale of not less than one inch to 200 feet, to  
17 the City Engineer upon request. The maps must show in detail the plan location, size, and kind of  
18 installation of all substructures, except service lines designed to serve single properties.

18 **18-0915. Forms.**

19 The City Auditor is hereby authorized and directed to prepare the license forms required by this  
20 Article, and to issue the license upon payment of the required fee and compliance with the  
21 application, bonding, and insurance requirements contained within this Article, and the Guidelines  
22 and Specifications. The City Engineer is hereby authorized and directed to prepare the permit  
23 forms and the necessary related forms as required by this Article.

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**18-0916. Rules, Regulations, and Penalties.**

The City Engineer is hereby authorized and directed to promulgate rules and regulations necessary to effect the purpose and enforcement of this Article, and to issue such permits in accordance herewith. The City Engineer may impose a noncompliance penalty for unreasonable delays in right-of-way excavation, backfilling, and restoration, and noncompliance with the Guidelines and Specifications. In accordance with Fargo Municipal Code 1-0305(A)(1), a violation of this Article is a Class B misdemeanor and penalties may be imposed thereunder.

**18-0917. Severability.**

If any section, provision, or part of this Article shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Article as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 2. Effective Date.

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

(SEAL)  
Attest:

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

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

First Reading:  
Second Reading:  
Final Passage:  
Publication:



**GAMING SITE AUTHORIZATION**  
**ND OFFICE OF ATTORNEY GENERAL**  
 SFN 17996 (2-2023)

④  
*Amended*

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

Full, Legal Name of Gaming Organization  
**METRO SPORTS FOUNDATION**

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  
**MEXICAN VILLAGE**

Street <b>3155 45TH ST S</b>	City <b>FARGO</b>	ZIP Code <b>58104</b>	County <b>CASS</b>
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Beginning Date(s) Authorized <b>4/15/2023</b>	Ending Date(s) Authorized <b>6/30/2023</b>	Number of Twenty-One tables, if zero, enter "0" <b>0</b>
--	---	---

Specific location where games of chance will be conducted and played at the site (required)  
**MACHINES LOCATED IN BAR AREA AND PLAYED IN BAR AREA EXCEPT BATHROOMS**

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"/> <b>ELECTRONIC</b> 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"/> <b>ELECTRONIC</b> 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"/> <b>ELECTRONIC</b> 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 4/3/2023
PRINT Name and official position of person signing on behalf of city/county above Steven Sprague/City Auditor	

**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 (2-2023)

3/29/23

(50)

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 Anne Carlsen Foundation		Dates of Activity (Does not include dates for the sales of tickets) April 15th, 2023	
Organization or Group Contact Person Rebecca Aamodt	E-mail rebecca.aamodt@annecenter.org	Telephone Number (701) 403-9887	
Business Address 701 3rd St NE	City Jamestown	State ND	ZIP Code 58402
Mailing Address (if different) PO Box 8000	City Jamestown	State ND	ZIP Code 58402

**SITE INFO**

Site Name Delta Hotel by Marriot	County		
Site Physical Address 1635 42nd St SW	City Fargo	State ND	ZIP Code 58103
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) April 15th, 2023 - raffle during our Fargo Gala fundraiser			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	6 prizes: 1.Echo Dot and Smart Bulb, 2. Cooler bag and Happy Harrys Gift Card, 3.Gimmies Gift Card. 4. Wine. 5. Necklace, 6. Cowboy Jacks Gift Card	1. \$115, 2. \$100, 3. \$65, 4. \$100, 5. \$95, 6. \$100
<b>Total</b> (limit \$40,000 per year)		<b>\$ 575</b>

Intended Uses of Gaming Proceeds

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:  (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 Rebecca Aamodt	Title Events and Special Projects Coordinator	Telephone Number 7014039887	E-mail Address rebecca.aamodt@annecenter.org
Signature of Organization or Group's Top Official <i>Ann Carlsen</i>		Title CEO	Date Mar 28, 2023



3/29/23



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

56

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>Fargo North High School</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>4/15/2023</b>	
Organization or Group Contact Person <b>Dan Shultis</b>	E-mail <b>shultid@fargo.k12.nd.us</b>	Telephone Number <b>701-446-2407</b>	
Business Address <b>801 17th Ave North</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58102</b>
Mailing Address (if different)	City	State	ZIP Code

**SITE INFO**

Site Name <b>Fargo North High School</b>		County <b>Cass</b>	
Site Physical Address <b>801 17th Ave North</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58102</b>
Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.) <b>Once a year 4/15/2023</b>			

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

Game Type	Description of Prize	Exact Retail Value of Prize
<b>Prom</b>	<b>50/50 raffle</b>	<b>1,000.00</b>
Total (limit \$40,000 per year)		<b>\$ 1,000.00</b>

Intended Uses of Gaming Proceeds  
**Will go back into the Prom budget for next year Prom**

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

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

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

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

Name <b>Dan Shultis</b>	Title <b>Assistant Principal/Activities</b>	Telephone Number <b>701-446-2407</b>	E-mail Address <b>shultid@fargo.k12.nd.us</b>
Signature of Organization or Group's Top Official 		Title <b>Assistant Principal/Activities Coordinator</b>	Date <b>3/29/2023d</b>



**APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT**  
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
 GAMING DIVISION  
 SFN 9336 (2-2023)

50

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 Blooms</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>4-15-23</b>	
Organization or Group Contact Person <b>Kelly Krenzel</b>		E-mail <b>kelly@hopeblooms.org</b>	Telephone Number <b>701-491-8821</b>
Business Address <b>758 34th St. N., Suite O</b>		City <b>Fargo</b>	State    ZIP Code <b>ND    58102</b>
Mailing Address (if different) <b>PO Box 9705</b>		City <b>Fargo</b>	State    ZIP Code <b>ND    58106</b>

**SITE INFO**

Site Name <b>West Acres Mall</b>		County <b>Cass</b>	
Site Physical Address <b>3902 13th Ave S</b>		City <b>Fargo</b>	State    ZIP Code <b>ND    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>Bingo on Saturday, April 15, 1-3pm in West Acres Aquarulum Court</b>			

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

Game Type	Description of Prize	Exact Retail Value of Prize
Bingo	\$250 West Acres Mall Card	250.00
Bingo	\$100 West Acres Mall Card	100.00
Bingo	\$100 Crave Gift Card	100.00
Total (limit \$40,000 per year)		\$ 450.00

**Intended Uses of Gaming Proceeds**

All proceeds benefit **Hope Blooms, a local nonprofit organization.**

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: **\$1,400** (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 52980 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)  
 Yes     No

Name <b>Kelly Krenzel</b>	Title <b>Executive Director</b>	Telephone Number <b>701-491-8821</b>	E-mail Address <b>kelly@hopeblooms.org</b>
Signature of Organization or Group's Top Official 		Title <b>Executive Director</b>	Date <b>3-27-23</b>



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

3/27/23

50

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>St. Joseph's School</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>4/22/23</b>	
Organization or Group Contact Person <b>Katie Wise</b>	E-mail <b>katie.wise@stjoesmhdschool.com</b>	Telephone Number <b>218-233-0553</b>	
Business Address <b>1005 2nd Ave S</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>Avalon Events Center</b>	County
Site Physical Address <b>2525 9th 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.)  
**April 22, 2023 - one time event - 50/50 raffle**

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

Game Type	Description of Prize	Exact Retail Value of Prize
50/50 raffle	half of what is earned	1000.00
Total (limit \$40,000 per year)		\$ 1000.00

Intended Uses of Gaming Proceeds

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>Katie Wise</b>	Title <b>Development Director</b>	Telephone Number <b>218-233-0553</b>	E-mail Address <b>katie.wise@stjoesmhdschool.com</b>
Signature of Organization or Group's Top Official <i>Laura A. Gjel</i>		Title <b>Principal</b>	Date <b>3-25-23</b>



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

3/30/23

50

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>YWCA Cass Clay</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>04/24/2023</b>	
Organization or Group Contact Person <b>Erin Prochnow</b>	E-mail <b>eprochnow@ywcacassclay.org</b>	Telephone Number <b>701-232-2547</b>	
Business Address <b>4650 38th Ave S, Suite 110</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		
Site Physical Address <b>1635 42nd Street 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.)			
<b>Raffle- 4/24/23</b>			

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

Game Type	Description of Prize	Exact Retail Value of Prize
<b>See additional Sheet</b>		
Total (limit \$40,000 per year)		<b>\$ 3810</b>

Intended Uses of Gaming Proceeds  
**All proceeds benefit YWCA emergency shelter programs and operations.**

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

Yes       No

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

Yes       No

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

No       Yes - Total Retail Value: **3,139.00** (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

Name <b>Erin Prochnow</b>	Title <b>CEO</b>	Telephone Number <b>701-232-2547</b>	E-mail Address <b>eprochnow@ywcacassclay.org</b>
Signature of Organization or Group's Top Official 		Title <b>CEO</b>	Date <b>3/30/2023</b>

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

6

Type: Easement Amendment

Location: 18<sup>th</sup> St N, 12<sup>th</sup> Ave – 19<sup>th</sup> Ave

Date of Hearing: 3/27/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>4/3/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Kevin Gorder</u>

The Committee reviewed communication from Division Engineer, Kevin Gorder, regarding a Permanent Street and Utility Easement with NDSU for 18<sup>th</sup> Street North.

The City of Fargo received a Permanent Street and Utility Easement from NDSU in May of 1997 to construct 18<sup>th</sup> Street North between 12<sup>th</sup> Avenue and 19<sup>th</sup> Avenue. This easement gave the City complete rights to the street right of way. NDSU is currently constructing a large agricultural building on the west side of this easement and needs to cross the easement with steam lines. Engineering has worked with NDSU in amending the easement to allow the installation of the steam lines to service their new building.

Staff is recommending approval of the Easement Amendment with NDSU.

On a motion by Tim Mahoney, seconded by Ben Dow, the Committee voted to recommend approval of the Easement Amendment with NDSU.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Easement Amendment with NDSU.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

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


<u>Yes</u>	<u>No</u>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>

COMMITTEE

- Tim Mahoney, Mayor
- Nicole Crutchfield, Director of Planning
- Steve Dirksen, Fire Chief
- Michael Redlinger, City Administrator
- Ben Dow, Director of Operations
- Steve Sprague, City Auditor
- Brenda Derrig, City Engineer
- Terri Gayhart, Finance Director

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 Brenda E. Derrig, P.E.  
 City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Kevin Gorder, Division Engineer  
**Date:** March 23, 2023  
**Re:** NDSU 18<sup>th</sup> Street North Easement Amendment

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The City of Fargo received a Permanent Street and Utility Easement from NDSU in May of 1997 to construct 18<sup>th</sup> Street North between 12<sup>th</sup> Avenue and 19<sup>th</sup> Avenue. This easement gave the City complete rights to the street right of way.

NDSU is currently constructing a large agricultural building on the west side of this easement and needs to cross the easement with steam lines. Engineering has worked with NDSU in amending the easement to allow the installation of the steam lines to service their new building. The easement covers items like NDSU needing to register with ND One Call and locating these utilities along with working with the City as needed if modifications to the street are required in the future.

Not included in the easement but for informational purposes, NDSU along with their contractor will need to close 18<sup>th</sup> Street to install the steam lines. The exact length of the closure is not determined yet but could be 3-6 weeks depending on how the work is phased.

**Recommended Motion:**

Recommend approval of the Easement Amendment with NDSU.

Attachment

**AMENDMENT TO PERMANENT EASEMENT**

**(Amends Document # 972741)**

**WHEREAS**, by a Permanent Easement (Street and Utility) dated May 14, 1997, recorded on January 17, 2001 in Cass County as Document No. 972741, North Dakota State University (hereinafter "NDSU" or "Grantor") granted to the City of Fargo (hereinafter "City" or "Grantee") a permanent easement for the purpose of laying, constructing, operating, maintaining and repairing a street and all other public utilities, together with the customary appurtenances including location of any and all utilities.

**WHEREAS**, said tracts being described as follows, situated within the City of Fargo, County of Cass and State of North Dakota:

Tract 1:

A tract of land located in Section Thirty-six (36), Township One Hundred Forty (140) North, Range Forty-nine (49) West of the Fifth Principal Meridian, Cass County, North Dakota, described as a strip of land 120 feet wide lying 60 feet on either side of the following described centerline:

Commencing at the north quarter corner of said Section Thirty-six (36); thence west along the north line of said Section Thirty-six (36) at an assumed bearing of South 87°42'49" West a distance of 45.50 feet; thence South 02°08'12" East a distance of 60 feet to a point on the southerly right-of-way line of 19th Avenue North, said point being the true point of beginning; thence continuing South 02°08'12" East a distance of 2518.74 feet; thence South 02°55'05" East a distance of 1408.02 feet; thence South 02°08'24" East a distance of 694.67 feet; thence southerly along the centerline of a circular curve, concave to the west, having a radius of 580.00 feet, a central angle 11°27'23" and an arc length of 115.97 feet; thence South 09°18'59" West a distance of 211.76 feet; thence southerly along the centerline of a curve, concave to the east, having a radius of 580.00 feet, a central angle of 11°14'27", and an arc length of 113.79 feet; thence South 01°55'28" East a distance of 119.36 feet to a point on the northerly right-of-way of 12th Avenue North, said point being North 61°23'15" West a distance of 63.81 feet from the south quarter corner of said Section Thirty-six (36). Said tract contains 14.29 acres, more or less.

Tract 2:

Commencing at the north quarter corner of said Section Thirty-six (36); thence west along the north line of said Section Thirty-six (36) at an assumed bearing of South 87°42'49" West a distance of 45.50 feet; thence South 02°08'12" East a distance of 1329.37 feet; thence North 87°25'08" East a distance of 60.00 feet to a point of the east right-of-way line of 18th Street North, said point being the true point of beginning; thence continuing North 87°25'08" East a distance of 1174.09 feet; thence easterly along the centerline of a circular curve, concave to the south, having a radius of 580.00 feet, a central angle of 04°40'55" and an arc length of 47.39 feet; thence South 87°53'57" East a distance of 264.68 feet; EXCEPT all that portion described as follows: continuing from said lat point: thence South 02°06'04" West a distance of 60.00 feet; thence North 87°53'56" West a distance of 23.87 feet to the true point of beginning; thence continuing North 87°53'56" West a distance of 240.82 feet; thence westerly along an 11°01'06" curve to the left a distance of 42.49 feet; thence westerly along a circular curve, concave to the south, having a radius of 520.00 feet, a central angle of 04°40'55" and an arc length of 42.49 feet; thence South 87°25'09" West a distance of 465.50 feet; thence North 02°28'01" West a distance of 14.25 feet; thence North 87°16'59" East a distance of 748.00 feet; thence South 02°28'01" East a distance of 37.42 feet to the point of beginning. Said exception contains 0.32 acres, more or less. Said tract contains 3.77 acres, more or less.

(Hereinafter "Easement Area").



**WHEREAS**, NDSU intends to construct and install one or more steam lines within the Easement Area.

**WHEREAS**, the parties have agreed to amend the Permanent Easement to allowing NDSU to construct, install, and maintain the steam lines, as more particularly set forth herein.

**NOW, THEREFORE**, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid, the receipt of which is hereby acknowledged, the parties agree to amend the Permanent Easement (Document No. 972741) as follows:

1. As provided herein, so long as approved by City in advance of such installation, NDSU shall be permitted to construct steam lines within or underlying the Easement Area, more specifically described and as depicted on **Exhibit A** attached hereto

2. NDSU shall protect all City utilities and other infrastructure and related appurtenances at all times during construction, installation, repairs, and during any maintenance activities associated with the steam lines. NDSU agrees to register with North Dakota One Call and complete locates as required by an owner of the steam lines. NDSU further agrees to comply with all North Dakota One Call requirements during construction, installation, repairs, and during any maintenance activities associated with the steam lines.

3. NDSU shall not use the Easement Area for parking or storage of any items or construction materials.

4. NDSU shall be responsible for the cost of any and all repairs to, and removal and relocation of, the City's Infrastructure for which the Permanent Easement was given, which may be damaged as a result of construction, installation, repairs, and maintenance of the steam lines permitted herein.

5. City shall not be responsible for any damage or repairs to the steam lines located within or underlying the Easement Area.

6. NDSU shall provide the City with at least 60 days of notice before any scheduled or necessary work within the Easement Area, except in the event of an emergency. NDSU shall submit the proposed work items to the City for approval prior to starting work. NDSU must return the Easement Area to its preexisting condition, including establishment of grass. City shall have no responsibility for any delay costs or expenses due to a change in the construction, installation, operation, repairs, or maintenance methods of the permitted steam lines.


7. NDSU shall be responsible for locates and must register with ND One Call and be responsible for all ND One Call requirements as the owner of the steam lines, and City shall have no responsibility therefor.

8. All other terms and conditions in the Permanent Easement (Document No. 972741) not expressly amended or modified by the above hereby remain in full force and effect.

**NORTH DAKOTA STATE  
UNIVERSITY OF AGRICULTURE  
AND APPLIED SCIENCE**

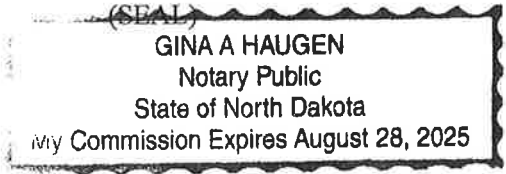
  
By: David J. Cook, President


**ATTEST:**

  
Bruce A. Bollinger, Vice President for  
Finance & Administration

STATE OF NORTH DAKOTA     )  
   )  
COUNTY OF CASS                     )

On this 21 day of March, 2023, before me, a notary public in and for said county and state, personally appeared David J. Cook and Bruce A. Bollinger to me known to be the President and Vice President for Finance and Administration, respectively, of NORTH DAKOTA STATE UNIVERSITY OF AGRICULTURE AND APPLIED SCIENCE, and that they executed the within and foregoing instrument, and acknowledged to me that they executed the same.



  
Notary Public  
My Commission Expires:

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

City of Fargo,  
North Dakota Municipal Corporation

Dated: \_\_\_\_\_

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

ATTEST

\_\_\_\_\_  
Steve 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.

(SEAL)

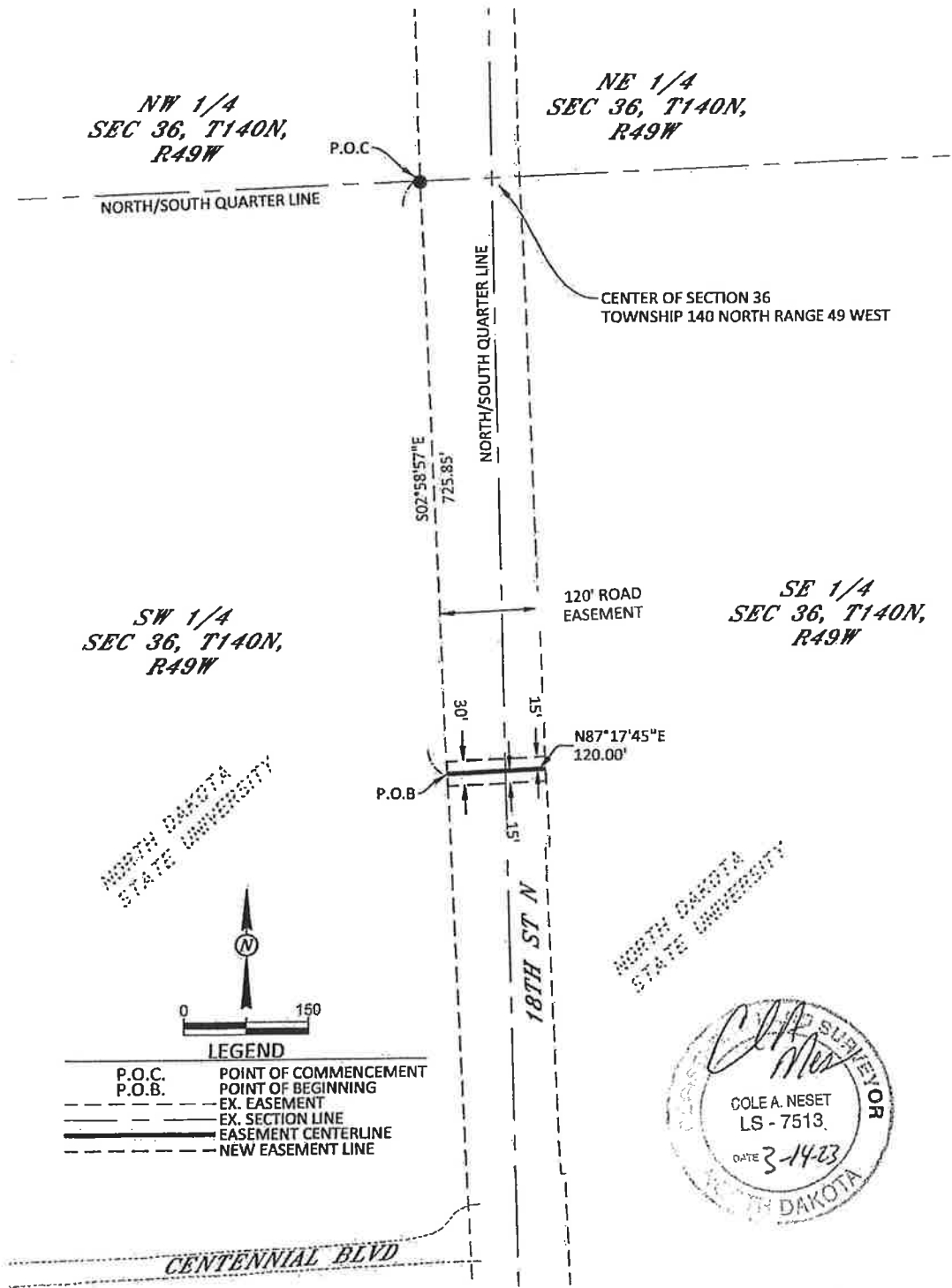
\_\_\_\_\_  
Notary Public  
Cass County, ND  
My Commission expires:

The legal description for the steam lines  
was prepared by:  
Lowry Engineering  
5306 51<sup>st</sup> Ave S, Suite A  
Fargo, ND 58104  
(701) 235-0199

This document was prepared by:  
Kasey McNary  
Assistant City Attorney  
Serkland Law Firm.  
10 Roberts Street  
Fargo, ND 58102  
(701) 232-8957  
kmcnary@serklandlaw.com

# Appendix A

**EASEMENT EXHIBIT**  
 IN PART OF THE SOUTH HALF OF SEC 36, T140N, R49W  
 CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



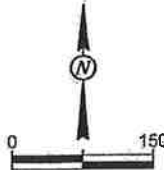
SW 1/4  
 SEC 36, T140N,  
 R49W

NE 1/4  
 SEC 36, T140N,  
 R49W

SE 1/4  
 SEC 36, T140N,  
 R49W

NORTH DAKOTA  
 STATE UNIVERSITY

NORTH DAKOTA  
 STATE UNIVERSITY



**LEGEND**

P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
- - - - -	EX. EASEMENT
- - - - -	EX. SECTION LINE
— — — — —	EASEMENT CENTERLINE
- - - - -	NEW EASEMENT LINE



CENTENNIAL BLVD

**SURVEY INFORMATION**

BASIS OF BEARING: FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992



PAGE 1 OF 4  
 DRAWN BY: EJB  
 CHECKED BY: CAN  
 DATE: 02/07/23

**EASEMENT EXHIBIT**  
IN PART OF THE SOUTH HALF OF SEC 36, T140N, R49W  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

**DESCRIPTION**

A 30.00 FOOT WIDE EASEMENT FOR UTILITY PURPOSES OVER, UNDER, AND ACROSS PART OF THE SOUTH HALF OF SECTION 36, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY NORTH DAKOTA. THE CENTERLINE OF SAID EASEMENT DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 36 AND THE WEST LINE OF THE EASEMENT FOR 18TH ST N; THENCE ALONG SAID EASEMENT S02°58'57"E A DISTANCE OF 725.85 FEET TO THE POINT OF BEGINNING; THENCE N87°17'45"E A DISTANCE OF 120.00 FEET THERE TERMINATING

SAID TRACT OF LAND CONTAINS ±3600 SQUARE FEET MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

**SURVEYORS CERTIFICATE**

I COLE A. NESET HEREBY CERTIFY THAT THIS SURVEY, PLAN, AND/OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

*Cole A. Neset*  
COLE A. NESET  
REGISTERED LAND SURVEYOR  
LS-7513

3-14-23  
DATE:



STATE OF NORTH DAKOTA )  
  )SS  
COUNTY OF CASS                  )

ON THIS 14<sup>th</sup> DAY OF March, 2023, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLE A. NESET, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED SAME AS THEIR FREE ACT AND DEED.

*Alicia Thompson*  
NOTARY PUBLIC, COUNTY: CASS STATE: NORTH DAKOTA

**ALICIA THOMPSON**  
Notary Public  
State of North Dakota  
My Commission Expires 10/13/2025



PAGE 2 OF 4  
DRAWN BY: EJB  
CHECKED BY: CAN  
DATE: 02/07/23

**EASEMENT EXHIBIT**

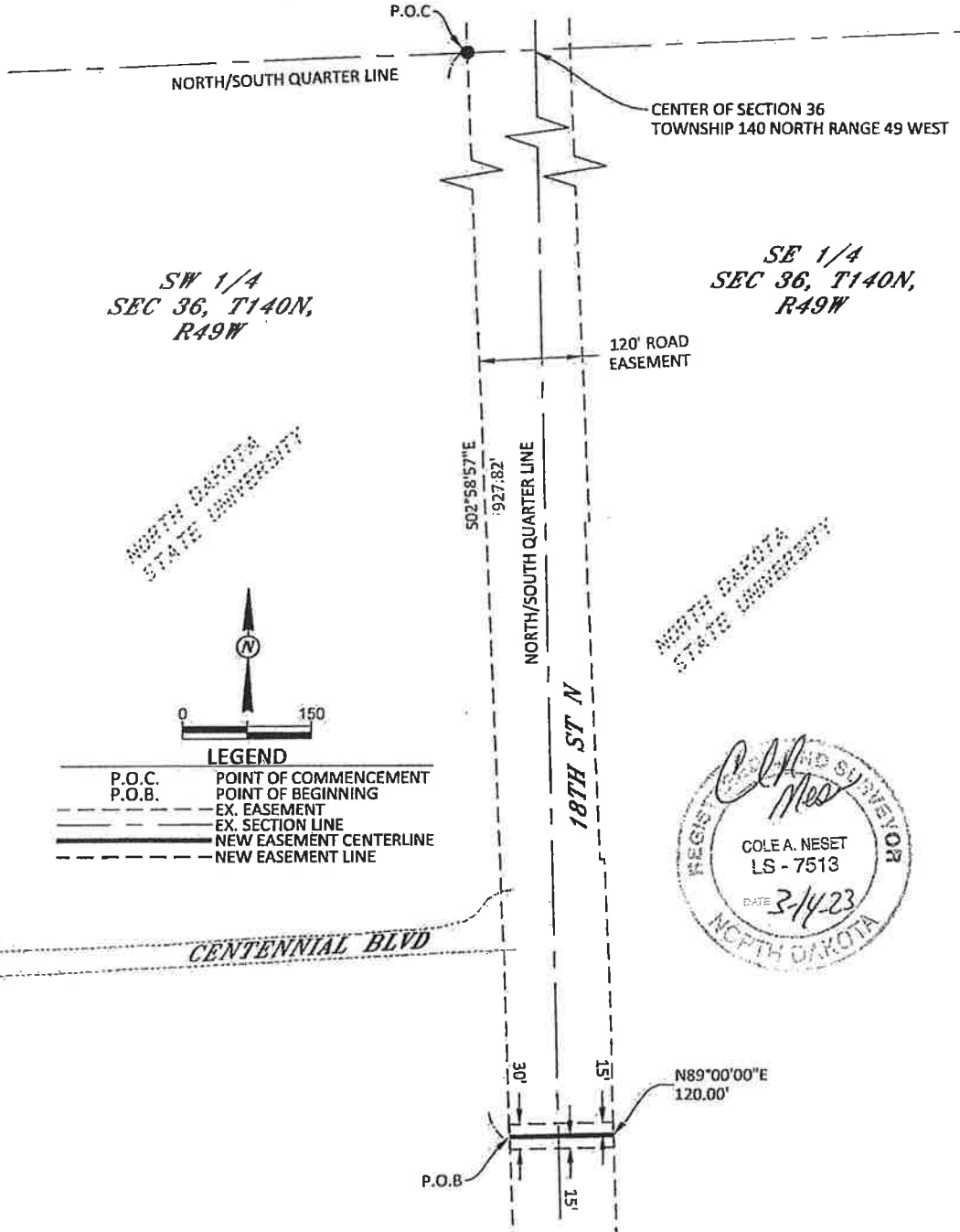
IN PART OF THE SOUTH HALF OF SEC 36, T140W, R49W  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

*NW 1/4  
SEC 36, T140N,  
R49W*

*NE 1/4  
SEC 36, T140N,  
R49W*

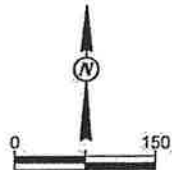
*SW 1/4  
SEC 36, T140N,  
R49W*

*SE 1/4  
SEC 36, T140N,  
R49W*



NORTH DAKOTA  
STATE UNIVERSITY

NORTH DAKOTA  
STATE UNIVERSITY



**LEGEND**

—●—	P.O.C.	POINT OF COMMENCEMENT
—●—	P.O.B.	POINT OF BEGINNING
- - - - -	EX. EASEMENT	
- - - - -	EX. SECTION LINE	
— — — — —	NEW EASEMENT CENTERLINE	
- - - - -	NEW EASEMENT LINE	



PAGE 3 OF 4  
DRAWN BY: EJB  
CHECKED BY: CAN  
DATE: 02/09/23

**SURVEY INFORMATION**  
BASIS OF BEARING: FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992

EASEMENT EXHIBIT  
IN PART OF THE SOUTH HALF OF SEC 36, T140W, R49W  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DESCRIPTION

A 30.00 FOOT WIDE EASEMENT FOR UTILITY PURPOSES OVER, UNDER, AND ACROSS PART OF THE SOUTH HALF OF SECTION 36, TOWNSHIP 140 NORTH, RANGE 49 WEST OF THE 5TH PRINCIPAL MERIDIAN, CITY OF FARGO, CASS COUNTY, NORTH DAKOTA. THE CENTERLINE OF SAID EASEMENT DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 36 AND THE WEST LINE OF THE EASEMENT FOR 18TH ST N; THENCE ALONG SAID EASEMENT S02°58'57"E A DISTANCE OF 927.82 FEET TO THE POINT OF BEGINNING; THENCE N89°00'00"E A DISTANCE OF 120.00 FEET THERE TERMINATING.

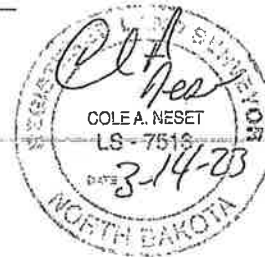
SAID TRACT OF LAND CONTAINS ±3600 SQUARE FEET MORE OR LESS AND IS SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

SURVEYORS CERTIFICATE

I COLE A. NESET HEREBY CERTIFY THAT THIS SURVEY, PLAN, AND/OR REPORT WAS PREPARED UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

Cole A. Neset  
COLE A. NESET  
REGISTERED LAND SURVEYOR  
LS-7513

3-14-23  
DATE:



STATE OF NORTH DAKOTA )  
                                  )SS  
COUNTY OF CASS       )

ON THIS 14<sup>th</sup> DAY OF March, 2023, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED COLE A. NESET, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED SAME AS THEIR FREE ACT AND DEED.

Alicia Thompson  
NOTARY PUBLIC, COUNTY: CASS STATE: NORTH DAKOTA

ALICIA THOMPSON  
Notary Public  
State of North Dakota  
My Commission Expires 10/13/2025



PAGE 4 OF 4  
DRAWN BY: EJB  
CHECKED BY: CAN  
DATE: 02/09/23



PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

7

Project No.: UN-23-A1

Type: Water Easement

Location: I-29 & 39<sup>th</sup> Ave N (Drain 40)

Date of Hearing: 3/27/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>4/3/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Nathan Boerboom</u>

The Committee reviewed the accompanying correspondence from Division Engineer, Nathan Boerboom, regarding a Water Easement between the City and Southeast Cass Water Resource District (SECWRD).

Engineering and Water Utility have been developing a water main project to provide improvements to our existing water distribution system by constructioning an additional crossing of Interstate 29. In addition to the crossing of Interstate 29, this project will also provide an additional bulk water connection point for Cass Rural Water Users District (CRW) to connect to. Similar to Fargo, CRW has determined this connection point as being necessary for their system in order to make certain they are providing their customers with sufficient water as well as creating additional redundancy in their system.

The bulk water connection point for CRW is proposed to cross SECWRD Legal Drain 40 at approximately 39<sup>th</sup> Avenue North. To facilitate this connection point, we have requested an easement from SECWRD to cross Drain 40 with a 12-inch water main. This has been approved by SECWRD and now we are seeking approval from the City.

On a motion by Ben Dow, seconded by Bruce Grubb, the Committee voted to recommend approval of the Water Easement with Southeast Cass Water Resource District.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Water Easement with Southeast Cass Water Resource District.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A


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

Yes	No
<u>        </u>	<u>        </u>
<u>N/A</u>	<u>        </u>
<u>        </u>	<u>        </u>
<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"/>	
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Terri Gayhart, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 Brenda E. Derrig, P.E.  
 City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Nathan Boerboom, Division Engineer  
**Date:** March 21, 2023  
**Re:** Southeast Cass Water Resource District – Water Easement  
Project #UN-23-A1

---

Engineering and Water Utility has been developing a water main project to provide improvements to our existing water distribution system by constructing an additional crossing of Interstate 29. By completing this additional crossing, our water distribution system will benefit by increasing the available flows within the system as well as increase the redundancy of our system. In addition to the crossing of Interstate 29, this project will also provide an additional bulk water connection point for the Cass Rural Water Users District (CRW) to connect to. Similar to Fargo, CRW has determined this connection point as being necessary for their system in order to make certain they are providing their customers with sufficient water as well as creating additional redundancy in their system.

The bulk water connection point for CRW is proposed to cross Southeast Water Resource District's (SE Cass) Legal Drain 40 at approximately 39<sup>th</sup> Avenue North. To facilitate this connection point, we have requested an easement from SE Cass to cross Drain 40 with a 12-inch water main. This request has been recently approved by SE Cass. The next steps for this easement is for the City to approve the easement document (attached) with SE Cass for this project. This project is scheduled to be bid this spring to allow for construction later this summer.

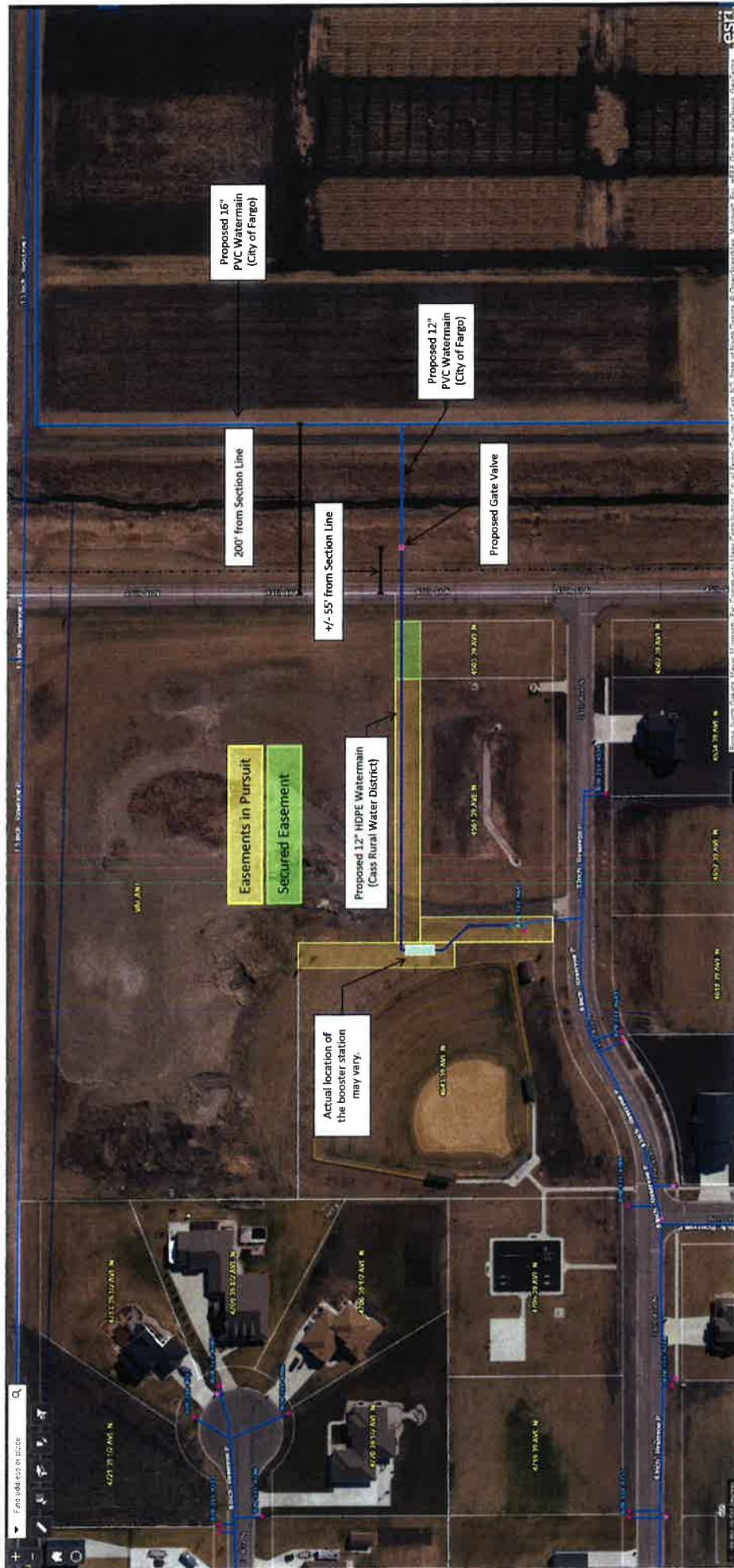
**Recommended Motion:**

Approve the Water Easement between the City and Southeast Cass Water Resource District.

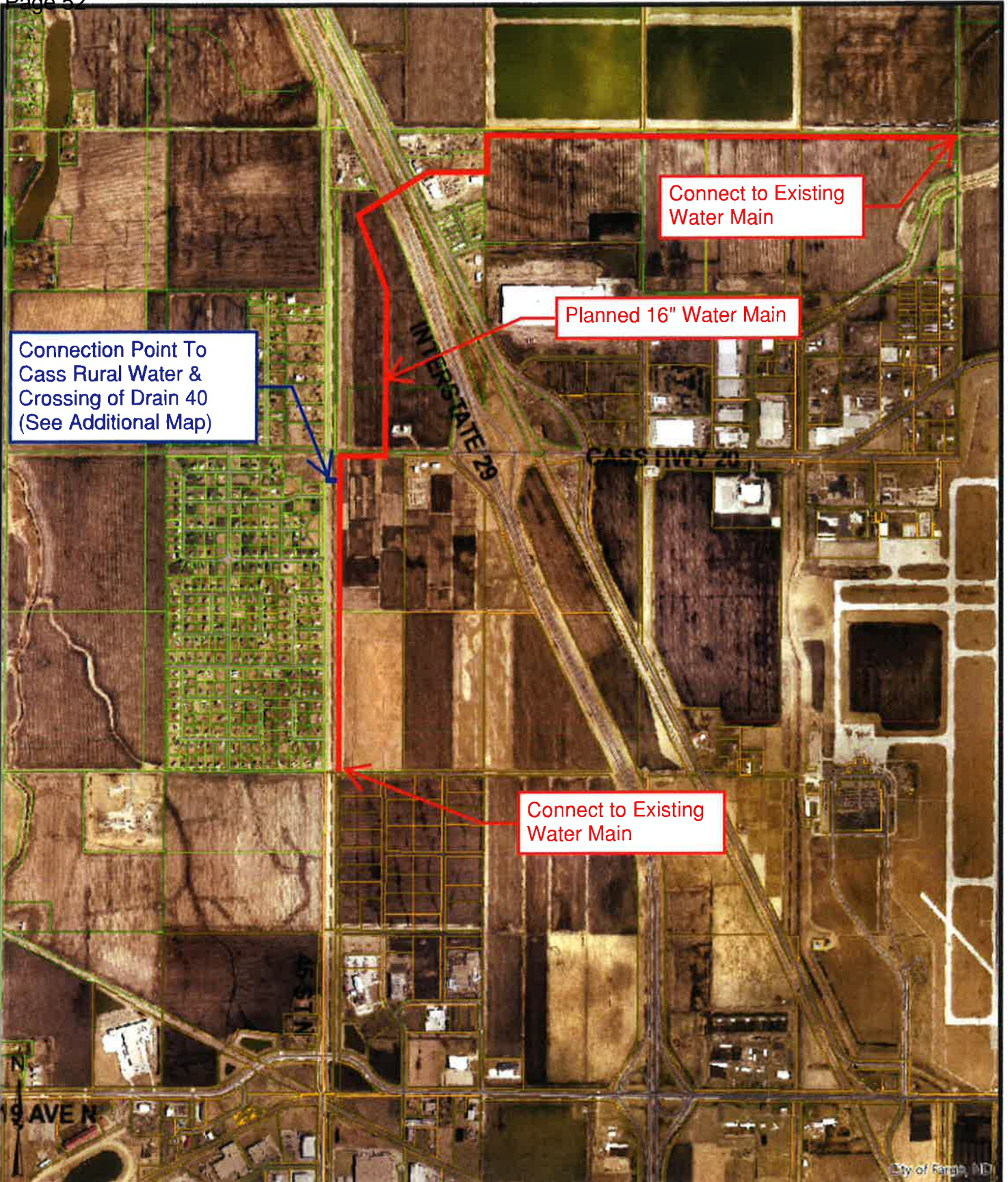
Attachments

# Southeast Cass Water Resource District Drain 40 Watermain Crossing

Prepared on February 17, 2023



*Dimensions and pipeline alignments are shown for illustration purposes only.*



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

# Fargo NW Regional WM Looping

1:36,112

2/22/2023 1:56 PM

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



**ACCESS EASEMENT**  
(Water Main)

THIS EASEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by the Southeast Cass Water Resource District, a North Dakota political subdivision, with a post office address of 1201 Main Avenue West, West Fargo, North Dakota 58078-1301 (the “District”); and the City of Fargo, a North Dakota municipal corporation, with a post office address of 225 - 4th Street North, Fargo, North Dakota 58102 (the “City”).

**RECITALS**

A. The District owns, operates, and maintains Cass County Drain No. 40 (“Drain 40”), a legal assessment drain; portions of Drain 40 are located within the City’s municipal boundaries.

B. The City wishes to install, construct, operate, and maintain a water main and related infrastructure (the “Water Infrastructure”), upon, over, under, across, and through portions of the District’s Drain 40 right of way.

C. The District has agreed to convey an easement to the City for purposes of the installation, construction, operation, and maintenance of the Water Infrastructure, subject to the terms and conditions contained in this Easement.

In consideration of the mutual covenants contained in this Easement, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

**AGREEMENT**

1. **The Easement Property.** The District grants and conveys to the City a non-exclusive, permanent easement, including the easement rights described in this Easement, upon, over, under, across, and through the following real property in Cass County, North Dakota:

See survey and legal description attached as **Exhibit A.**

The property described above is the “Easement Property.” The District does not warrant fee simple ownership of the Easement Property and only conveys those rights to the City permitted under North Dakota law that are consistent with the District’s rights in the Easement Property.

*Southeast Cass Water Resource District  
City of Fargo  
Easement - Drain 40  
Water Main*

2. **Easement Rights.** Under this Easement, the District grants to the City and the City's officers, employees, agents, representatives, consultants, and contractors a permanent and perpetual easement upon, over, under, across, and through the Easement Property for the following purposes: installing, constructing, inspecting, maintaining, reconstructing, altering, repairing, replacing, operating, improving, modifying, and removing the Water Infrastructure; excavating, piling, storing, depositing, spoiling, spreading, and removing excavated dirt, soil, clay, silt, or other materials; moving, storing, and removing equipment, materials, and supplies; removing trees, underbrush, obstructions, and any other vegetation, structures, or obstacles from the Easement Property; and the right to perform any other work necessary and incident to the installation, construction, inspection, maintenance, reconstruction, alteration, repair, replacement, operation, improvement, modification, and removal of the Water Infrastructure, together with all necessary and reasonable rights of ingress and egress to and from the Easement Property. The City is solely responsible for the installation, construction, inspection, maintenance, reconstruction, alteration, repair, replacement, operation, improvement, modification, and removal of the Water Infrastructure at the City's sole cost.

3. **Drainage Priority and Use.** The parties understand and agree that Drain 40 is a public facility that provides drainage benefits and other important public benefits to Cass County and its residents, including the City and residents of the City, and further agree the District's use of Drain 40, including the Easement Property, as a drainage facility takes priority over any other use of the Easement Property, including the City's use of the Easement Property for the Water Infrastructure.

4. **No Unreasonable Interference.** The District will not unreasonably interfere with the City's easement rights under this Easement. However, the District's priority use of Drain 40 for drainage, flood protection, or other emergency purposes may require and include temporary disruptions or interference with the Water Infrastructure or the City's interest in the Easement Property. The District will use reasonable care to avoid any damages to the Water Infrastructure and associated appurtenances; however, the District will not be liable or responsible for any damages resulting from any construction, cleaning, inspection, reconstruction, modification, operation, maintenance, repair, or improvement of Drain 40 by the District, its officers, agents, representatives, employees, consultants, or contractors. In the event any reconstruction, modification, or improvement of Drain 40 requires any modifications to the Water Infrastructure or associated appurtenances, the City will modify or relocate the Water Infrastructure at the City's expense and, if necessary, the parties will amend this Easement for purposes of redefining the "Easement Property."

5. **Improvements and Repairs to the Easement Property.** Any improvements or repairs to the Easement Property are subject to the following:

a. Prior to the City's construction, reconstruction, or other improvements of the Water Infrastructure, the City must provide plans and specifications to the District, and the District must first give prior written consent to the design of any construction or improvements; the District will not unreasonably withhold consent.

*Southeast Cass Water Resource District  
City of Fargo  
Easement - Drain 40  
Water Main*

b. The City will operate and maintain the Water Infrastructure and related appurtenances at the City's sole cost.

c. The City will obtain the District's written consent prior to commencing any structural repairs, modifications, or improvements to the Water Infrastructure on or adjacent to the Easement Property that require excavation; the District will not unreasonably withhold consent.

d. The City will design and construct any and all improvements and required maintenance on the Water Infrastructure in a manner that ensures adequate drainage of the Easement Property, with a finished grade that drains the Easement Property, and that does not result in ponding in or on Drain 40.

e. With the exception of the Water Infrastructure and related appurtenances, the City will not construct any improvements in, upon, under, over, or across any portion of the Easement Property; the City will not place any fixtures, equipment, or other personal property on any portion of the Easement Property; the City will not construct or install, or allow construction or installation of, any utility facilities, lines, structures, or associated appurtenances on, over, in, under, through, or across the Easement Property; the City will not encumber any portion of the Easement Property; and the City will not otherwise alter any portion of the Easement Property without prior consent from the District; the District will not unreasonably withhold consent.

f. The City will repair the Easement Property and will repair or replace any of the District's structures, facilities, right of way, or any other property owned by the District damaged as a result of the City's construction, operation, inspection, maintenance, alteration, repair, replacement, reconstruction, and removal of the Water Infrastructure or otherwise damaged as a result of the City's use, access, ingress, and egress granted under this Easement; the City will otherwise repair and return the Easement Property as nearly as practicable to its original condition following any disturbance or damages, at the City's sole cost.

g. The City will promptly cease any activity and remove any structure or obstruction that interferes with Drain 40 or the District's use of the Easement Property, at the City's sole cost.

6. **Term.** The rights granted under this Easement are permanent and will only terminate if necessary to protect the integrity of Drain 40; as necessary to comply with any laws, rules, regulations, requirements, or directives of any applicable federal or state agency with regulatory jurisdiction over Drain 40; or in the event of any default by the City not remedied within a reasonable time. In the event of any termination, the District will record an Affidavit of Termination with the Cass County Recorder's Office, and the City will remove any improvements from Drain 40, at the City's sole cost.

*Southeast Cass Water Resource District  
City of Fargo  
Easement - Drain 40  
Water Main*

7. **Liability.** The City will be solely responsible for all claims, actions, administrative proceedings, judgments, damages, penalties, fines, costs, liabilities, interests, or losses, including costs, expenses, and attorneys' fees, arising out of or as a result of the construction, inspection, maintenance, operation, alteration, repair, replacement, reconstruction, removal, or use of the Water Infrastructure by the City or the City's officers, consultants, contractors, agents, representatives, employees, or other invitees; any entry upon, use of, or access, ingress, and egress upon, over, or across the Easement Property by the City or the City's officers, consultants, contractors, agents, representatives, employees, or other invitees; or any act, error, or omission of the City or the City's officers, consultants, contractors, agents, representatives, employees, or other invitees, including any failure to perform under this Easement.

8. **Assumption of Risk.** The City explicitly accepts any and all risk regarding any entry upon the Easement Property. The District will not be liable or responsible for any damages or injuries to the City or any of the City's officers, employees, agents, representatives, consultants, or contractors resulting from or in any way arising out of the Water Infrastructure or any of those parties' entry upon or use of the Easement Property.

9. **Compliance with Laws.** The City, at its own cost, is solely responsible for promptly complying with all present and future laws, ordinances, rules, and regulations, and obtaining all necessary licenses, permits, registrations, and/or approvals, from all applicable federal, state, county, and municipal governments and any other applicable governmental entities or political subdivisions, and their appropriate departments, commissions, boards, and officers, regarding the Water Infrastructure or the City's other permissible use, access, ingress, and egress rights upon, over, or across any of the Easement Property.

10. **Forbearance.** The failure or delay of either party to insist on the timely performance of any of the terms of this Easement, or the waiver of any particular breach of any of the terms of this Easement, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred.

11. **Governing Law.** This Easement will be construed and enforced in accordance with North Dakota law.

12. **Interpretation.** This Easement will be construed as if prepared by both parties.

13. **Severability.** If any court of competent jurisdiction finds any provision or part of this Easement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Easement, and all remaining terms and provisions of this Easement will remain binding and enforceable; the parties will reconvene negotiations to arrive, in good faith, at an agreement as to matters remaining undetermined as a result of any finding by a court of competent jurisdiction that any provision or part of this Easement is invalid, illegal, or unenforceable.



*Southeast Cass Water Resource District  
City of Fargo  
Easement - Drain 40  
Water Main*

14. **Entire Agreement.** This Easement, together with any amendments, constitutes the entire agreement between the parties regarding the matters described in this Easement, and this Easement supersedes all other previous oral or written agreements between the parties.

15. **Assignment.** Neither party may transfer or assign this Easement, or any rights or obligations under this Easement, without the express written consent of the other party.

16. **Binding Effect.** The covenants, terms, conditions, provisions, and undertakings in this Easement, or in any amendment, will be binding upon the parties' heirs, successors, and permitted assigns.

17. **Modifications.** Any modifications or amendments of this Easement must be in writing and signed by the District and the City and must be recorded in the Cass County Recorder's Office.

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

[Signatures appear on the following pages.]

**Southeast Cass Water Resource District  
City of Fargo  
Easement - Drain 40  
Water Main**

**SOUTHEAST CASS WATER  
RESOURCE DISTRICT**

By: *Keith Weston*  
Keith Weston, Chairman

ATTEST:

*Carol Harbeke Lewis*  
Carol Harbeke Lewis  
Secretary-Treasurer

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

On this 14<sup>th</sup> day of March, 2023, before me, a Notary Public in and for said County and State, personally appeared Keith Weston and Carol Harbeke Lewis, to me known to be the Chair and Secretary-Treasurer, respectively, of the Southeast Cass Water Resource District, and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of the Southeast Cass Water Resource District.

MELISSA HINKEMEYER  
Notary Public  
State of North Dakota  
My Commission Expires July 3, 2024

*Melissa Hinkemeyer*  
Notary Public, Cass County, ND

(SEAL)

*Southeast Cass Water Resource District*  
*City of Fargo*  
*Easement - Drain 40*  
*Water Main*

**CITY OF FARGO**

By: \_\_\_\_\_  
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, and who executed the foregoing instrument, and acknowledged to me that they executed the same on behalf of the City of Fargo.

\_\_\_\_\_  
Notary Public, Cass County, ND

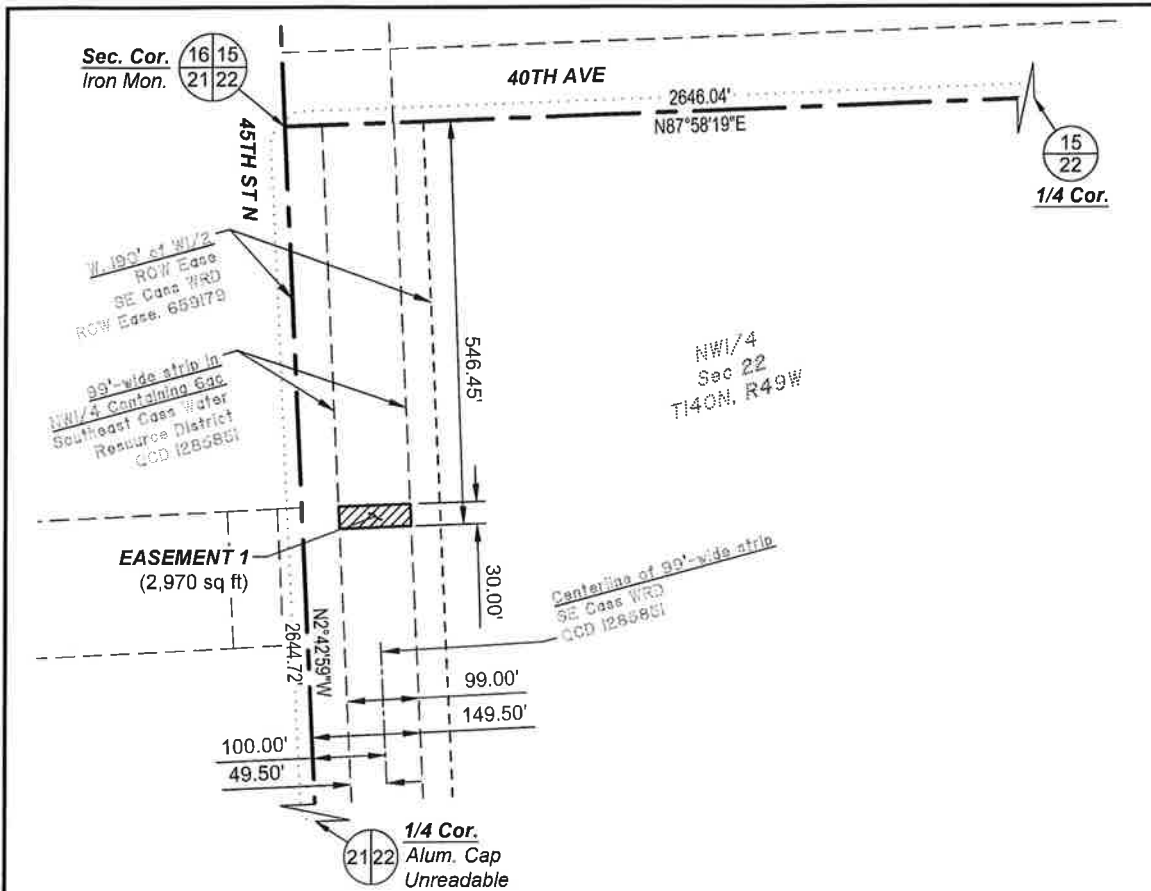
(SEAL)

The legal descriptions contained in this document were drafted by:

*Southeast Cass Water Resource District  
City of Fargo  
Easement - Drain 40  
Water Main*

**EXHIBIT A**

Legal Description and Survey of the Easement Property



**PERMANENT EASEMENT 1 - LEGAL DESCRIPTION**

That part of the Northwest Quarter of Section 22, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The South 30.00 feet of the North 546.45 feet of the East 99.00 feet of the West 149.50 feet of the NW1/4.

Said tract contains 2,970 square feet, more or less.

**CERTIFICATE OF SURVEYOR**

I hereby certify that this survey was prepared by me or under my direct supervision and that I am duly Licensed Land Surveyor under the laws of the State of North Dakota. All measurements are true and correct, and all monuments are of the nature and occupy the positions shown hereon, to the best of my knowledge and belief.

*Nicholas R. Stattelmann*

3/13/23

Nicholas R Stattelmann  
ND Reg. No. 8218

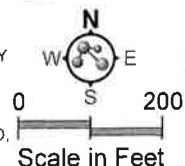


**LEGEND**

- SECTION LINE
- - - - 1/4 LINE
- - - - EXIST. PARCEL LINE
- - - - EXIST. EASEMENT LINE
- NEW EASEMENT LINE
- NEW TCE LINE

- NEW PERMANENT EASEMENT
- NEW TEMP. CONST. EASE. (TCE)

BASIS OF BEARINGS: CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992. DISTANCES ARE GROUND, US SURVEY FEET.



PROJECT NO: P00803-2022-002	<b>CERTIFICATE OF SURVEY</b>	SURVEY DATE: 6/15/22
DRAWING TYPE: COS	OWNER: Southeast Cass Water Resource District	PREPARED BY: TH
	PARENT PARCEL ABBREVIATED LEGAL DESCRIPTION: 99'-wide strip in the NW1/4 Section 22, T140N, R49W, Cass County, North Dakota	CHECKED BY: NS
	Advanced Engineering and Environmental Services, LLC www.ae2s.com	APPROVED BY: NS

8

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. MS-21-H0

Type: Contract Amendment #2

Date of Hearing: 3/27/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>4/3/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

The Committee reviewed the accompanying correspondence from Division Engineer, Jeremy Gorden, related to Contract Amendment #2 submitted by Metro COG in the amount of \$50,000.00 for additional work.

Staff is recommending approval of Contract Amendment #2 in the amount of \$50,000.00, bringing the total contract amount to \$269,976.65.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to recommend approval of Contract Amendment #2 to Metro COG.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Contract Amendment #2 in the amount of \$50,000.00, bringing the total contract amount to \$269,976.65 to Metro COG.

PROJECT FINANCING INFORMATION:


Recommended source of funding for project: Fed Funds, Sales Tax & Traffic Funds

	<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>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input 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"/>	
Bruce Grubb, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Terri Gayhart, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:



Brenda E. Derrig, P.E.  
City Engineer

C: Kristi Olson

## Memorandum

**To:** Members of PWPEC

**From:** Jeremy M. Gorden, PE, PTOE  
Division Engineer - Transportation

**Date:** March 23, 2023

**Re:** Request to Approve Contract Amendment #2 with Metro COG as part of the Fargo Transportation Plan – City of Fargo Project No. MS-21-H0

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In 2021, Metro COG contracted with Kimley-Horn to complete a Transportation Plan for the City of Fargo. This effort was designed to set broad goals for the transportation network; determine metrics for the when, where, and what types of bicycle and pedestrian facilities should be included in the roadway cross sections; and link transportation with the surrounding land use context. The original contract was a Metro COG contract, and the total cost was \$175k, with \$33k coming from the Traffic Engineering budget, \$10k coming from the Sales Tax fund, and the remainder, \$132k, coming in the form of federal planning funds (CPG).

As the project is progressing into its final stages, the project team would like to circle back in order to look at particular transportation issues more closely. We also want to integrate more involvement with City management and elected officials as well as retool efforts that had already been completed by the consultant during the plan's development.

Kimley-Horn, Metro COG, and Fargo staff met to discuss our desire to retool previously completed efforts and integrate enhanced public involvement. Kimley-Horn suggested adding tasks to the project's scope of work as well as the modification of existing tasks. They presented a scope of work and associated supplemental fee for the new work to be completed. Both Metro COG and staff reviewed the proposed amendment materials and concluded it was in the best interest of the study to move forward with modifying the contract to include the additional work tasks.

Included as attachments to this memorandum are a modified scope of work, inclusive of the additional work tasks, and the associated fee the consultant would charge to complete those tasks.

The amendment is for \$50,000. This will bring the contract amount for this project to \$269,976.65. The funding breakdown would be \$33,000 Traffic Engineering funds, \$104,976.65 Sales Tax funds, and \$132,000 being federal planning funds.

### **Recommended Motion**

Approve Contract Amendment #2 with Metro COG, as it relates to out of scope services associated with this project being completed by Kimley-Horn.

Attachment



## **Fargo Transportation Plan Scope of Services**

### **MARCH 2023 AMENDMENT**

This contract amendment to the Fargo Transportation Plan, originally scoped in March 2021, is intended to respond to requests and feedback by the City on ongoing planning work. Over the course of the project, the City of Fargo identified several key priorities and goals for the plan which necessitated re-thinking the original project direction. These included a greater need for coordination with the City's previous street typology work, a need to identify a set of short- and mid-term projects for documentation within the plan, and additional edits to the policy recommendations to better fit the City's needs. In addition, the City desires additional coordination with elected and appointed officials to ensure the transportation vision reflects the view of key stakeholders.

The tasks below outline our current understanding of the City's desired needs to complete the plan in 2023 based on this updated understanding of the overall project goals.

#### **Project Coordination**

- Bi-weekly project coordination meetings, plus other meetings as required
- Monthly invoices and progress reports

#### **Stakeholder and Elected Official Engagement**

- Up to 2 Presentations to city commission or planning commission, as desired

#### **Foundations Report**

- Minor edits to the foundations report to respond to City comments. Major new analysis is not anticipated.

#### **Multimodal Assessment**

- Minor edits to the completed multimodal assessment to respond to City comments. Major new analysis is not anticipated.
- High-level peer city analysis to compare the City of Fargo's performance to up to 5 peer cities (selected in consultation with the City)

#### **Street Design Toolkit and Roadway Playbook**

- Map of short- and mid-term projects, completed in conjunction with City input

#### **Policy Recommendations**

- Edits to the policy recommendations as requested to better align with City processes and context. These edits will be completed in close coordination with the City.
- Development of a draft complete streets policy
- Development of up to 5 "lessons learned" corridors



## **Final Documentation**

- Development of an action plan/action matrix to reflect the priority or timeline of the plan recommendations

For maximum flexibility and efficiency, we recommend developing a single ongoing labor task for the items above. This ensures that if priorities shift, or one task requires more effort than planned while another requires less, the need to manage individual task budgets is reduced and we can focus our efforts on responding to the City's needs.

Kimley-Horn will complete the required tasks as efficiently as possible, and we recommend developing a "not-to-exceed" total labor budget for all future work, with the aim of completing work below the maximum budget. Based on the items listed above, the remaining budget of about \$12,000 and our current rate schedule, we would recommend a maximum budget of approximately \$50,000. We recommend checking in regularly at certain milestones (after every \$10,000 billed) to ensure all work is being completed efficiently, satisfactorily, and identifying ways to adjust our approach as necessary.

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PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: 2023 Storm Water Discharge and Treatment Policy

Location: Citywide

Date of Hearing: 3/27/2023

<u>Routing</u>	<u>Date</u>
City Commission	4/3/2023
PWPEC File	X
Project File	Jody Bertrand

The committee reviewed a communication from Division Engineer, Jody Bertrand, regarding updating the Storm Water Discharge and Treatment Policy.

In 2021, the Storm Water Discharge and Treatment Policy was updated to increase clarity and to identify design requirements for storm water retention and treatment for construction activities in the City of Fargo. Over the last year, Engineering has seen increased interest in re-development of existing commercial properties. Fargo Engineering, with the help of Houston Engineering, has developed a new section within the policy addressing re-development sites stormwater release rates. This new section will allow more flexibility with redevelopment projects.

Staff is recommending approval of the updated 2023 Storm Water Discharge and Treatment Policy.

On a motion by Tim Mahoney, seconded by Steve Sprague, the Committee voted to approve the updated Policy.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve the updated 2023 Storm Water discharge and Treatment Policy

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: None

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


Yes	No
<u>N/A</u>	<u>        </u>
<u>N/A</u>	<u>        </u>
<u>N/A</u>	<u>        </u>

COMMITTEE

- Tim Mahoney, Mayor
- Nicole Crutchfield, Director of Planning
- Steve Dirksen, Fire Chief
- Michael Redlinger, City Administrator
- Ben Dow, Director of Operations
- Steve Sprague, City Auditor
- Brenda Derrig, City Engineer
- Terri Gayhart, Finance Director

Present	Yes	No	Unanimous
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 Brenda E. Derrig, P.E.  
 City Engineer

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC  
**From:** Jody Bertrand, Division Engineer  
**Date:** March 14, 2023  
**Re:** Stormwater Discharge and Treatment Policy – April 2023 Update

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**Background:**

The original stormwater design policy was adopted in 2001 and was re-written and approved in 2019 to provide concise and consistent guidance on the design requirements of the City of Fargo. In 2021, the Stormwater Discharge and Treatment Policy was updated to increase clarity and to further outline specific design requirements for stormwater detention and treatment for construction activities within the City of Fargo. Over the last year, Engineering has seen increased interest in re-development of existing commercial properties. The Fargo Engineering Department, with the help of Houston Engineering, has developed a new section within the policy to allow re-development sites greater stormwater release rates, more in line with actual existing rates, rather than imposing stricter guidelines such as those on new developments. This update also includes reference to a new GIS layer for information for consultant engineers to use when new developments have regional detention or other facilities that vary from the policy guidance. A revised copy of this stormwater design policy and the Houston Engineering evaluation report are attached to this Memorandum.

**Recommended Motion:**

Recommend approval of Stormwater Discharge and Treatment Policy - April 2023 updates.

JRB/klb  
Attachments



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

**City of Fargo**  
**Policy on Stormwater Discharge and**  
**Treatment Requirements**  
**April 2023 Update**

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## GENERAL STORMWATER REQUIREMENTS

### Authority and Purpose

The City of Fargo operates a Municipal Separate Storm Sewer System (MS4) under authority of the North Dakota Department of Environmental Quality Permit NDR04-0000 (Discharge Permit), and City of Fargo Code of Ordinances, Chapters 17 and 37. In compliance with this authority, Fargo has developed this Policy on Stormwater Discharge and Treatment Requirements. This policy establishes standards for stormwater discharge rates and stormwater quality treatment for all development within the City of Fargo's jurisdiction.

### Intent of the Policy

The intent of this policy is to provide guidance to those persons working with the City of Fargo **Stormwater Management Ordinance** and to establish uniform, simplified standards that work within the framework of the City's storm sewer infrastructure.

### Target Audience

This policy is applicable to all development (Code of Ordinances, Chapter 37, Paragraph 37-0102 7.) under the jurisdiction of the City of Fargo.

### Stormwater Management Plan

All previously undeveloped properties and subdivisions; re-plats of existing properties for purposes of development; or re-development of existing developed or un-developed lots one (1) acre in size or larger, or part of a larger common development that is one (1) acre in size or larger, shall provide a Stormwater Management Plan (plan) for the subject area.

Submission of a schematic stormwater management plan shall be included with submittal of the draft plat for approval. Submission and approval of the full stormwater management plan is required prior to construction plan approval. Stormwater management plan requirements are discussed in **Appendix A**.

### Existing Parking Lot Stormwater Requirements

Stormwater management requirements for existing parking lots are outlined in **Appendix B**.

### Stormwater Discharge Requirement/Limit

The maximum stormwater discharge rate as defined in **Appendix C** or **Appendix D** shall apply to the following categories:

1. Newly Platted Ag Conversion that is (1) one acre in size or larger or is part of a common development one acre in size or larger (**Appendix C**).
2. Re-plat of currently platted parcel that is part of a common development that is one acre in size or larger and is currently undeveloped (**Appendix C**).
3. Re-development of existing parcel that is one acre in size or larger, or is part of a common development that is one acre in size or larger (**Appendix D**).

### **Water Quality Treatment**

Water quality treatment is required for all new developments or re-plats one (1) acre in size or larger, common developments collectively one acre or larger, re-development sites one acre or larger, and on existing parking lots as outlined in **Appendix B**. Requirements for water quality treatment are specified in **Appendix E**.

### **Stormwater Detention, Retention, and Discharge Pond Design**

**Appendix F** outlines the requirements for stormwater pond design.

### **Design Requirements within Special Zones**

**Appendix G** covers the design parameters and coverage area for special design requirement areas, including areas that have been developed with regional drainage facilities, and the Downtown Mixed Use zoning area.

## APPENDIX A

### STORMWATER MANAGEMENT PLAN

1. The Stormwater Management Plan schematic preliminary drawing and final plan shall be prepared by a Professional Engineer registered in the State of North Dakota.
2. All newly platted Ag Conversion properties, new subdivisions within a larger common development, and infill projects within a larger platted development equal to or greater than 1 acre in size are required to have a stormwater management plan that includes those Best Management Practices (BMPs) required for the addition or subdivision to meet stormwater quality and quantity requirements. Approval of the regional stormwater management plan is considered part of the plat approval process.
3. Previously platted lots less than one acre in size, which are part of a larger common development, will be required to have a stormwater management plan when the lot is developed. This stormwater management plan shall analyze the impact this newly improved lot will have on the overall stormwater features of the common development. As a minimum, these lots shall drain to a common inlet that is connected to the City storm sewer system, while meeting the allowable release rate and water quality requirements.
4. Article 37-0201 of the City of Fargo Code of Ordinances states: "An owner must submit to the City Engineer a plan for stormwater management and control including detention and retention facilities. The plan shall be submitted, and approval obtained from the City Engineer prior to the owner (a) obtaining approval of an application for a plat, pursuant to Section 20-0907 of the Land Development Code of the City, or (b) engaging in any land disturbing activity."

The plan may include "in the discretion of the City Engineer, arrangements for further planning and implementation of permanent facilities for stormwater management and control by subsequent owners of the property being platted or by the current owner at a later time." Delay in producing the stormwater plan will be considered when extenuating circumstances dictate but will generally not be allowed.

5. The stormwater management plan, at a minimum, shall consist of:
  - a) A Stormwater Management Plan Report prepared using a stormwater modeling system that provides a modeling report similar in nature to HydroCad. The report shall document the assumptions, methodologies, and analysis used in arriving at the selected stormwater management solution. The report must be global, in that it looks at the entire area to be developed as well as any impacts to the site created by neighboring areas. The report shall be conceptual in nature and include:



1. A narrative describing the existing site conditions, proposed site conditions, types and locations of stormwater BMPs proposed to be used.
  2. Model calculations for the post-development 2-, 10-, and 100-year storm events as identified under the most current NOAA Atlas precipitation data for Fargo.
  3. Hydrographs depicting flows into and out of all detention/retention facilities and all flows into the City storm sewer system.
- b) Conceptual plan drawings and topographic maps noting all items covered in the report.
1. A detailed drawing of the outlet structure indicating maximum water elevations for the 2-, 10-, and 100-year storms.
  2. A written description of the proposed water quality treatment method.
- c) Conceptual Operations and Maintenance (O&M) plan for the system, covering all requirements for keeping the system operating as designed.

The above-noted items shall be stamped and signed by a Professional Engineer registered in the State of North Dakota.

6. The plan may utilize regional or on-site detention/retention and water quality facilities; however, per the Fargo Comprehensive Plan, the City prefers to see stormwater facilities constructed as regional amenities whenever possible. A regional stormwater plan can use any combinations of BMPs, selected by the owner and their engineer, which enable the benefitting properties to meet the stormwater quantity and quality requirements. If a regional facility is used, the pond shall be located to facilitate capture of as much site stormwater as possible prior to discharging into the City stormwater system.
7. The submitted conceptual stormwater plan will be reviewed by the City's Engineering Department. The Engineering Department will evaluate the stormwater plan and communicate change requirements or recommendations to the owner and their engineer. Changes made to the stormwater plan prior to plat approval will be considered part of the original plan. If the plan is very complex, it may be brought before the City Commission for discussion and/or public comment prior to approval.
8. If a subdivided property is covered by a previously approved stormwater plan, the previously approved plan shall be reviewed to determine if the subdivided property is still in compliance. A letter from a North Dakota Registered Professional Engineer can accomplish this with City Engineer review and approval.

9. The approved plan will exist for the life of the subject property, including any changes approved by the City Engineering Department. The final approved plan will be included with the amenities plan.
10. The plan may require dedication of stormwater or access easements or additional right-of-way for the construction of stormwater conveyance and/or storage facilities.
11. The plan must ensure the subject area conforms to the site specific performance requirements noted in **Appendices B, C, D, and E** of this policy.

## APPENDIX B

### EXISTING PARKING LOT STORMWATER REQUIREMENTS

Current parking lots being maintained, repaired, replaced, or expanded shall comply with the requirements outlined in this Appendix and shall follow the following categories.

1. Application of these requirements and whether or not City storm sewer is available within a reasonable distance of the site shall be as determined by the City Engineer.
2. Parking lots that expand over time beyond the original grandfathered project may add enough impervious surface through surfacing or added buildings to trigger stormwater requirements.
3. Existing Parking Lot maintenance or repairs, including up to complete removal of asphalt or concrete surfacing, localized repair of gravel or subgrade, or surface treatments (spray coatings, chip/fog seals, crack sealing, striping), with no expansion of the current parking areas and result in no change in drainage, will be exempt from the stormwater requirements.
4. For existing parking lots that are (1) one acre to under (3) three acres and that involve full asphalt or concrete removal, or extensive gravel and subgrade modifications, or mill and overlays that result in modification of drainage patterns, the site shall be required to collect on-site stormwater into inlets, add a water quality device, and convey stormwater into the City stormwater system. A pre-versus post-development drainage study shall be done. If the post-construction flows are the same or less than the pre-construction flows, then no detention is required. If the post-construction flows are larger, then detention shall be required to mitigate the increase in flow only.
5. Existing parking lots (3) three acres or larger that involve full parking lot reconstruction (to include full pavement & base removal) shall be required to collect on-site stormwater in inlets and convey stormwater into the City storm sewer system, and shall comply with stormwater requirements contained in **Appendices C/D and E** for modeling, discharge rate control, and water quality for the existing parking lot being reconstructed and improved.
6. A pre-post stormwater model shall be accomplished for any site, one acre or larger, on which a building addition/expansion is triggering expansion of the parking lot(s). If the post-construction model results in a greater stormwater discharge rate than the pre-construction model during the 100-year event, discharge rate of the added volume shall meet City discharge rate requirements. If the new impervious area is over one acre, water quality requirements must also be met.

**APPENDIX C**

**STORMWATER DISCHARGE REQUIREMENTS (NEWLY PLATTED DEVELOPMENT OR UNDEVELOPED EXISTING PLATS)**

1. The discharge rate for stormwater discharging from any site, equal to or greater than 3 acres in size, into any drain system within City jurisdiction, shall be limited to 1 cfs/acre. For parcels between 1 and 3 acres, the maximum discharge shall be per the following table:

<b>Parcel Size (Acres)</b>	<b>Release Rate (cfs)</b>
1.0	2.00
1.1	2.05
1.2	2.10
1.3	2.15
1.4	2.20
1.5	2.25
1.6	2.30
1.7	2.35
1.8	2.40
1.9	2.45
2.0	2.50
2.1	2.55
2.2	2.60
2.3	2.65
2.4	2.70
2.5	2.75
2.6	2.80
2.7	2.85
2.8	2.90
2.9	2.95
3.0	3.00

This table shall apply to all projects covered under this policy except existing parking lots, which are addressed in **Appendix B**, and re-development of currently developed properties, which are addressed in **Appendix D**.

2. A stormwater report is required for all developments one acre in size or greater or if part of a larger common development that is one acre or larger. The report must comply with the requirements specified in **Appendix A**.
3. All sites except existing parking lots (as described in **Appendix B**) are required to comply with the State Water Quality Design Considerations. Water Quality Design Consideration information is included as **Appendix E** to this policy.
4. The discharge rate noted above will drive detention requirements for a particular site. Dry or wet ponds, oversized pipe, underground stormwater storage facilities, or other methods can be used to achieve required storage volumes.

If a regional detention system, as opposed to site-specific ponds, is chosen for the development area, all water shall be routed to the regional pond prior to discharge into the City system. The original, conceptual stormwater plan (see **Appendix A**) must address the conveyance of stormwater from all parcels in the development to the regional detention facility and shall cover all details of operation and maintenance responsibilities.

If the City of Fargo storm sewer system provides conveyance to the regional facility, the 1 cfs/acre criteria shall be used unless otherwise planned for. If the owner requires larger flows to the regional facility, this must be considered/negotiated during the development of the original regional stormwater plan and the original amenities plan (such as parallel storm sewer lines or open channel flow to existing ponds).

5. Discharge or overland flow of stormwater onto a neighboring property shall not be allowed unless included in the regional plan (see **Appendix A**) and facilitated through the designation of required easements, dedications, or other methods allowing such conveyance.
6. The State of North Dakota Water Quality standards must be met. The method of treatment shall be selected by the design engineer from the options presented in **Appendix E** or as approved by the City Engineer.

Construction of rain gardens, grassy swales, and other methods of achieving water quality are encouraged and will be evaluated on a case-by-case basis.

7. Criteria for construction of regional detention facilities is discussed in **Appendix F**.
8. Each plan set submittal requiring retention/detention shall include a storm system table identifying:
  - Lot size (acreage and square feet)
  - % impervious area

- Required retention/detention volume (100-year storm event)
- Supplied retention/detention volume (100-year storm event)
- Water quality method being proposed, including manufacturer's data
- Allowable release rate for 100-year event (cfs)
- Actual release rate for 100-year event (cfs)

## APPENDIX D

### RE-DEVELOPMENT OF CURRENTLY DEVELOPED PROPERTIES

1. For re-development of currently developed properties, Fargo has increased the allowable release rates to take into account expected existing impervious areas. It should be noted that increases in the release rates for 1 to 4 acre sites is greater than the rate increases for 4 to 8 acres. Fargo believes that re-developments of 4 to 8 acres have more latitude to accommodate stormwater runoff mitigation within the design. The stormwater discharge rate from any site, equal to or greater than 8 acres in size, into any drain system within City jurisdiction, shall be limited to 1 cfs/acre. For parcels between 1 and 8 acres, the maximum discharge shall be per the following table:

<b>Parcel Size (acres)</b>	<b>Allowable Release Rate (cfs)</b>
1	3
1.5	3.77
2	4.53
2.5	5.3
3	6.07
3.5	6.83
4	7.6
4.25	7.64
4.5	7.68
4.75	7.72
5	7.76
5.25	7.79
5.5	7.82
5.75	7.85
6	7.88
6.25	7.9
6.5	7.92
6.75	7.94
0.7	7.96
7.25	7.97
7.5	7.98
7.75	7.99
8	8

This table shall apply to all projects covered under this policy except existing parking lots, which are addressed in **Appendix B**, and newly platted development or existing undeveloped plats, which are addressed in **Appendix C**.

In no circumstance shall the allowable release rate from a re-development lot be greater than the pre-redevelopment release rate. The current condition of the lot shall be evaluated up to 5 years prior to re-development to determine existing impervious values for determining acceptable release rates.

2. A stormwater report is required for all developments one acre in size or greater or if part of a larger common development that is one acre or larger. The report must comply with the requirements specified in **Appendix A**.
3. All sites except existing parking lots (as described in **Appendix B**) are required to comply with the State Water Quality Design Considerations. Water Quality Design Consideration information is included as **Appendix E** to this policy.
4. The discharge rate noted above will drive detention requirements for a particular site. Dry or wet ponds, oversized pipe, underground stormwater storage facilities, or other methods can be used to achieve required storage volumes.

If a regional detention system, as opposed to site-specific ponds, is chosen for the development area, all water shall be routed to the regional pond prior to discharge into the City system. The original, conceptual stormwater plan (see **Appendix A**) must address the conveyance of stormwater from all parcels in the development to the regional detention facility and shall cover all details of operation and maintenance responsibilities.

If the City of Fargo storm sewer system provides conveyance to the regional facility, the 1 cfs/acre criteria shall be used unless otherwise planned for. If the owner requires larger flows to the regional facility, this must be considered/negotiated during the development of the original regional stormwater plan and the original amenities plan (such as parallel storm sewer lines or open channel flow to existing ponds).

5. Discharge or overland flow of stormwater onto a neighboring property shall not be allowed unless included in the regional plan (see **Appendix A**) and facilitated through the designation of required easements, dedications, or other methods allowing such conveyance.
6. The State of North Dakota Water Quality standards must be met. The method of treatment shall be selected by the design engineer from the options presented in **Appendix E** or as approved by the City Engineer.



Construction of rain gardens, grassy swales, and other methods of achieving water quality are encouraged and will be evaluated on a case-by-case basis.

7. Criteria for construction of regional detention facilities is discussed in **Appendix F**.
8. Each plan set submittal requiring retention/detention shall include a storm system table identifying:
  - Lot size (acreage and square feet)
  - % impervious area
  - Required retention/detention volume (100-year storm event)
  - Supplied retention/detention volume (100-year storm event)
  - Water quality method being proposed, including manufacturers' data
  - Allowable release rate for 100-year event (cfs)
  - Actual release rate for 100-year event (cfs)

## APPENDIX E

### MS4 WATER QUALITY DESIGN REQUIREMENTS

The following information is taken from page 29 of the current North Dakota NDR04-0000 MS4 Permit, dated April 1, 2021 and effective to March 31, 2026.

#### Water Quality

A water quality treatment system is required in developments as defined under **Appendices B, C, & D**. The system must meet the minimum standards specified below.

The post-construction controls outlined below are intended to manage water quality by reducing pollutants carried in the first flush of stormwater runoff.

The design considerations for treating a water quality volume for common post-construction controls are as follows:

Control	Water Quality Design Consideration
Wet Detention Ponds	Water Quality Volume ( $V_{wq}$ ) = <b>1800 ft<sup>3</sup> per impervious acre draining to the pond.</b> The drawdown time for the $V_{wq}$ should be a minimum of 12 hours.
Dry Detention Ponds (w/Extended Detention)	Extended Detention / Water Quality Volume ( $V_{wqed}$ ) = <b>1800 ft<sup>3</sup> per impervious acre draining to pond.</b> The drawdown time for the $V_{wqed}$ should be a minimum of 24 hours and not more than 72 hours.
Infiltration	Water Quality Volume ( $V_{wq}$ ) = 0.5 inches from impervious area. The volume captured in rain gardens, or passed through bio filters with under drains, would be grouped with infiltration for water quality treatment.
Flow-Through Treatment Devices	Size devices to treat the first 0.5 inches of runoff from impervious area.
Redevelopment / Retrofit	Incorporate water quality criteria by reducing impervious surface area and implementing controls to treat the first 0.5 inches of runoff from impervious areas.

The water quality criteria apply to on-site or regional systems for post-construction stormwater management. The water quality considerations do not replace or substitute for water quantity or floodplain management requirements for development. The water quality features may be incorporated into the design of structures for flow control or water quality control may be achieved with separate features. Flow-through treatment devices

such as “Defenders™” shall provide a minimum of 80 percent removal of sediment with a particle size distribution equivalent to the standard OK-110 at a feed concentration of 300 mg/L. The treatment device design shall include a bypass for storm flows above the ½” rain event from the impervious area being served.

If it is impractical to meet the water quality criteria, alternative practices may be used (e.g., grassed swales, smaller ponds, or grit chambers). If a combination of practices is used, the water quality volume is accounted for on a percentage basis. Low impact development and/or green infrastructure practices may be used as an alternative to post-construction controls.

The selection and design of post-construction controls must consider clogging or obstructions, freeze-thaw cycles, effects on slope stability and groundwater, and the ability to effectively maintain the control. Design post-construction controls for ease of inspection and maintenance access (e.g., a stabilized access that allows equipment to enter a pond).

Recommended resources for planning and designing controls for urban stormwater runoff are found in the “North Dakota Stormwater Criteria Manual”: <https://www.dot.nd.gov/manuals/design/designmanual/designmanual.htm>

The property owner is responsible for operating and maintaining the water quality device in accordance with the manufacturer’s recommendations. The property owner shall maintain records of maintenance of the water quality device and shall prepare an annual inspection report. These records are to be maintained with the property owner and shall be made available to the City upon request.

## APPENDIX F

### STORMWATER DETENTION, RETENTION, AND DISCHARGE POND DESIGN

The following information shall apply to Standard Regional Pond Design.

#### Design Requirements

Pond design shall be in conformance with the current NDPDES permit.

Minimum pond design shall be for a 100-year storm event based upon the most recent NOAA Atlas 14 Point Precipitation Frequency Estimates data, and shall include one (1) foot freeboard. All design modeling shall be done using HydroCAD or equal commercially available modeling software that produces similar model reporting as HydroCAD. The designer shall provide to the City a drainage report signed by a ND Professional Engineer and shall provide an electronic copy of the complete design drainage model.

Drainage and pond modeling shall include 2-, 10-, and 100-year, 24-hour rainfall events as part of the analysis.

The pond design shall include a control outlet structure with emergency overflow design. The overflow structure shall include provisions to prevent overflows from affecting adjoining properties. The outflow and overflow structure shall be designed to prevent plugging, be easily accessible to maintenance personnel, and shall require minimal maintenance. Maximum outflow to a City storm sewer shall be as defined in **Appendices C and D**. The release rate may be less depending on measures needed to meet water quality standards as defined in **Appendix E**. However, the minimum outlet orifice size shall be 4 inches and shall have a screen ahead of the orifice to prevent plugging.

The pond drawdown time criteria is outlined in **Appendix E**.

#### Geometry

Pond design shall include 15 feet minimum of level ground from the top of back slope of the pond to the property line.

Dry Pond:

1. Slopes shall be 5:1 or flatter up to 15 foot of vertical depth, 6:1 or flatter if 15 foot of vertical depth or greater.
2. 1.5% grade in pond bottom to low flow channel and 0.4% grade from pond inlet to pond outlet with channel liner and 1% grade from pond inlet to pond outlet without channel liner.

3. Dry ponds do not require a safety bench and slope protection armoring if less than or equal to 10 feet deep. Dry ponds do require a safety bench and slope protection armoring if greater than 10 feet deep.
4. Dry ponds require a sloped pond bottom and an underdrain system sufficient to maintain a “dry” state.

#### Wet Pond:

1. Slopes shall be 6:1 or flatter up to 15 feet of depth. If the designer wishes the pond to be deeper than 15 feet, a geotechnical evaluation of the pond slope stability is required. If the pond backs up to residential homes or legal drains, a geotechnical evaluation of the pond slope stability is also required. The pond shall be designed with safety features such as edge plantings to deter entrance to ponds and a safety ledge or bench at pond perimeter one to two feet below normal water level and extend out 10 feet before continuing on slope.
2. Slope protection shall be installed to one foot below safety bench, or one foot above and one foot below normal water level, whichever is greater. The slope protection shall be riprap or turf reinforcement with seeding.
3. The remainder of exposed slopes shall be turf reinforced and seeded. Rip rap shall meet City of Fargo and NDDOT standards.

All pond aesthetic features such as shape, side slopes, and vegetation that are proposed shall be identified on the plans and match the land area requirements identified in the Zoning Ordinance and project development master plan.

#### **City Ownership of Ponds**

The City may take ownership of a stormwater pond that is designed according to the following criteria:

1. To qualify as a regional pond for purposes of City ownership and maintenance, the minimum pond size for a **dry pond shall be 7.5 acre-feet** with a minimum bottom width of 100 feet. The minimum pond size for a **wet pond shall be 15 acre-feet** with an average bottom width of 100 feet. However, the City will review on a case-by-case basis whether a pond qualifies as a regional pond for purposes of City maintenance if its size is smaller than the minimum size identified.
2. A City-owned regional pond should have sufficient right-of-way access for routine and special maintenance as determined by the City Engineer.

3. For ponds to be accepted by the City for maintenance and operation as a regional pond, the features in general shall not result in unusual and/or costly future operation and maintenance, as determined by the City Engineer. Bridges and box culverts, if required, shall meet the design criteria of the regulating authority and shall meet State and Federal safety standards.
4. No fountains or bubblers shall be allowed within City-owned regional wet ponds.

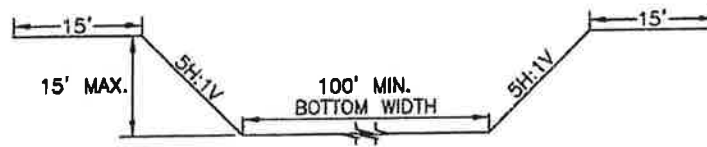
### **Alternative Design**

Ditches, swales, and channels may be designed for a variety of capacities depending on the protection required. When ditches serve as a primary surface water collector in the upper part of a drainage basin, they shall be designed per NDCC 89-14-01 except that as a minimum, shall convey the 10-year storm event without ponding in the roadway or adjacent private property. The City Engineer will ultimately decide if ditches, swales, or channels are allowed in lieu of conventional underground piping.

The City of Fargo Stormwater Service Charge policy identifies credits that may be achieved through building of detention or retention ponds larger than required as determined by this policy. Developers and designers are encouraged to familiarize themselves with the current Stormwater "Determination and Review Policy" for stormwater fees.

**NOTES:**

- 15' MAX. VERTICAL DEPTH
- MIN. POND SIZE = 7.5 ACRE/FEET
- MIN. 100' BOTTOM WIDTH
- MIN. 1' FREE BOARD FOR 100 YEAR EVENT
- NO BENCH REQUIRED



**DRY POND**  
**(15' MAX. VERTICAL DEPTH)**

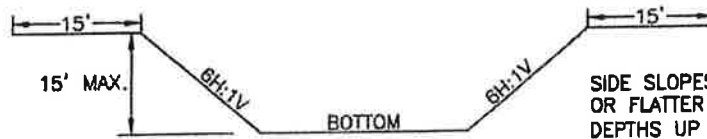


**DRY POND**  
**(GREATER THAN 15' VERTICAL DEPTH)**

**NOTE:**

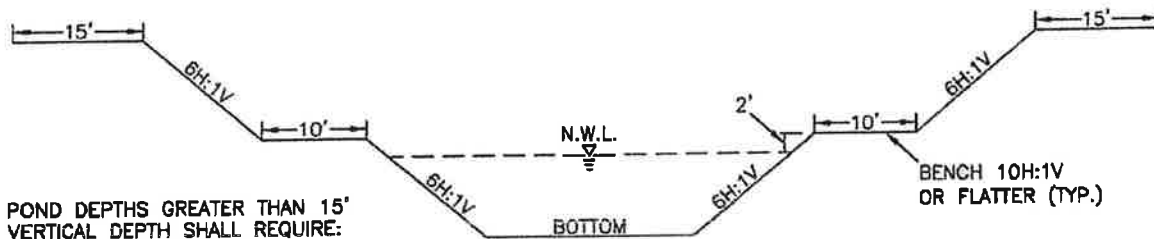
SIDE SLOPES DISPLAYED WITH 5X VERTICAL EXAGGERATION

	ORIGINAL: 2019	
	<b>TYPICAL DRY STORM WATER POND DETAIL</b>	
ENGINEERING DEPARTMENT	APPROVED:	DATE:



SIDE SLOPES SHALL BE 6H:1V OR FLATTER FOR POND DEPTHS UP TO 15' VERTICAL

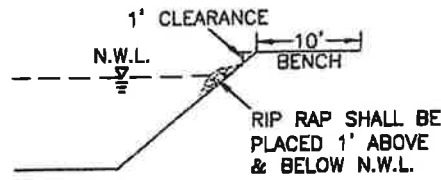
**WET POND**  
**(15' MAX. VERTICAL DEPTH)**



POND DEPTHS GREATER THAN 15' VERTICAL DEPTH SHALL REQUIRE:

- GEOTECHNICAL EVALUATION
- SLOPE REINFORCEMENT

**WET POND**  
**(GREATER THAN 15' VERTICAL DEPTH)**

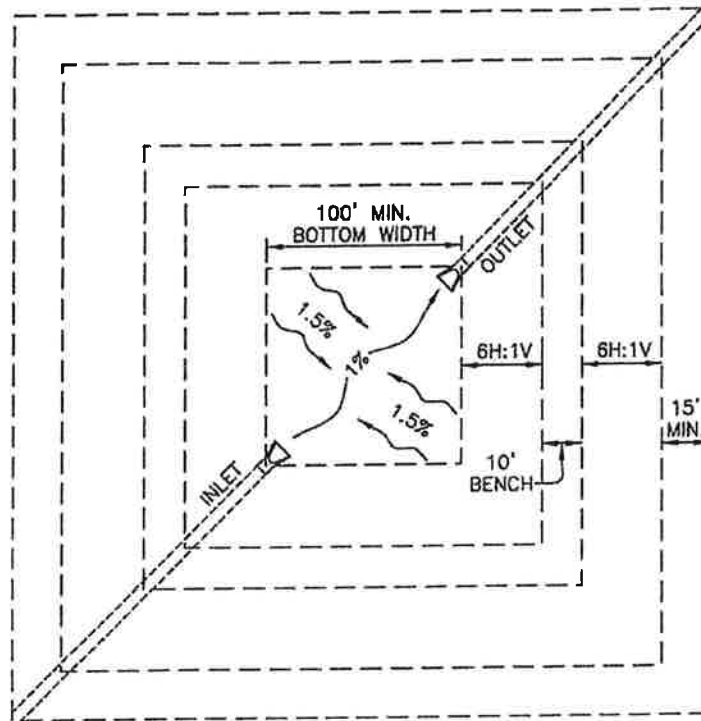


**TYPICAL RIP RAP**  
**PLACEMENT**

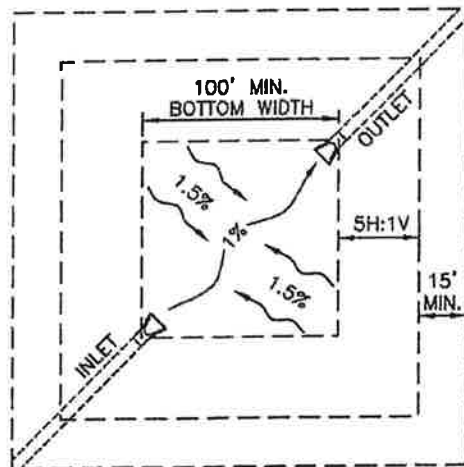
**NOTE:**  
SIDE SLOPES DISPLAYED WITH 5X VERTICAL EXAGGERATION

<p>THE CITY OF <b>Fargo</b> PAR MORES ENGINEERING DEPARTMENT</p>	ORIGINAL: 2019	
	<p><b>TYPICAL WET STORM</b> <b>WATER POND DETAILS</b></p>	
	APPROVED:	DATE:





**POND BOTTOM PLAN VIEW  
(GREATER THAN 15' VERTICAL DEPTH)**



**POND BOTTOM PLAN VIEW  
(15' MAX. VERTICAL DEPTH)**

THE CITY OF  
**Fargo**  
FAR MORE  
ENGINEERING  
DEPARTMENT

ORIGINAL: 2019

**TYPICAL POND  
BOTTOM DETAIL**

APPROVED:

DATE:

## APPENDIX G

### DESIGN REQUIREMENTS WITHIN SPECIAL ZONES

#### **Southwest Metro Stormwater Design Parameters and Pond Coverage**

The following information shall apply to the coverage area for the new Southwest Metro Stormwater Pond. Properties that develop in the area shown will have regional stormwater detention and stormwater quality coverage managed by the City of Fargo. Maps of the drainage boundaries and conceptual design are found in this Appendix.

Fargo has moved forward since 2021 to construct the Lift Station and the first phase of the Southwest Metro Stormwater Pond. Drainage ditches and storm sewer piping within public rights-of-way and easements are being installed as properties and streets develop. Interim measures may be necessary to be constructed while the larger system is being fully designed and developed, due to a proposed improvement parcel's location and distance from currently completed conveyance system components. This stormwater master planning will allow properties within the area outlined to build without meeting discharge and water quality requirements outlined in this Design Policy.

However, developing properties will need to be aware that the City of Fargo designs their street storm sewers for a 2-year rainfall event on local streets and 5-year rainfall event on arterial streets, and developing properties shall design their sites to account for the limited street conveyance of stormwater if not directly discharging to the conveyance ditch system or the pond.

#### **Downtown Mixed Use Zoning (DMU) Requirements for Stormwater**

A modification to the stormwater retention policy for the existing areas classified as within the Downtown Mixed Use zoning district as of July 27, 2015 is as follows: Any development on a parcel one acre in size or larger within the DMU shall be allowed a maximum stormwater runoff rate that is not greater than the existing condition's runoff rate from the parcel for the 2-, 10- & 100-year, 24-hour synthetic rainfall events. No stormwater retention will be required on the parcel unless necessary to maintain the runoff rate below the existing (pre-development) runoff rate. Lots under one acre are exempt from the retention requirements.

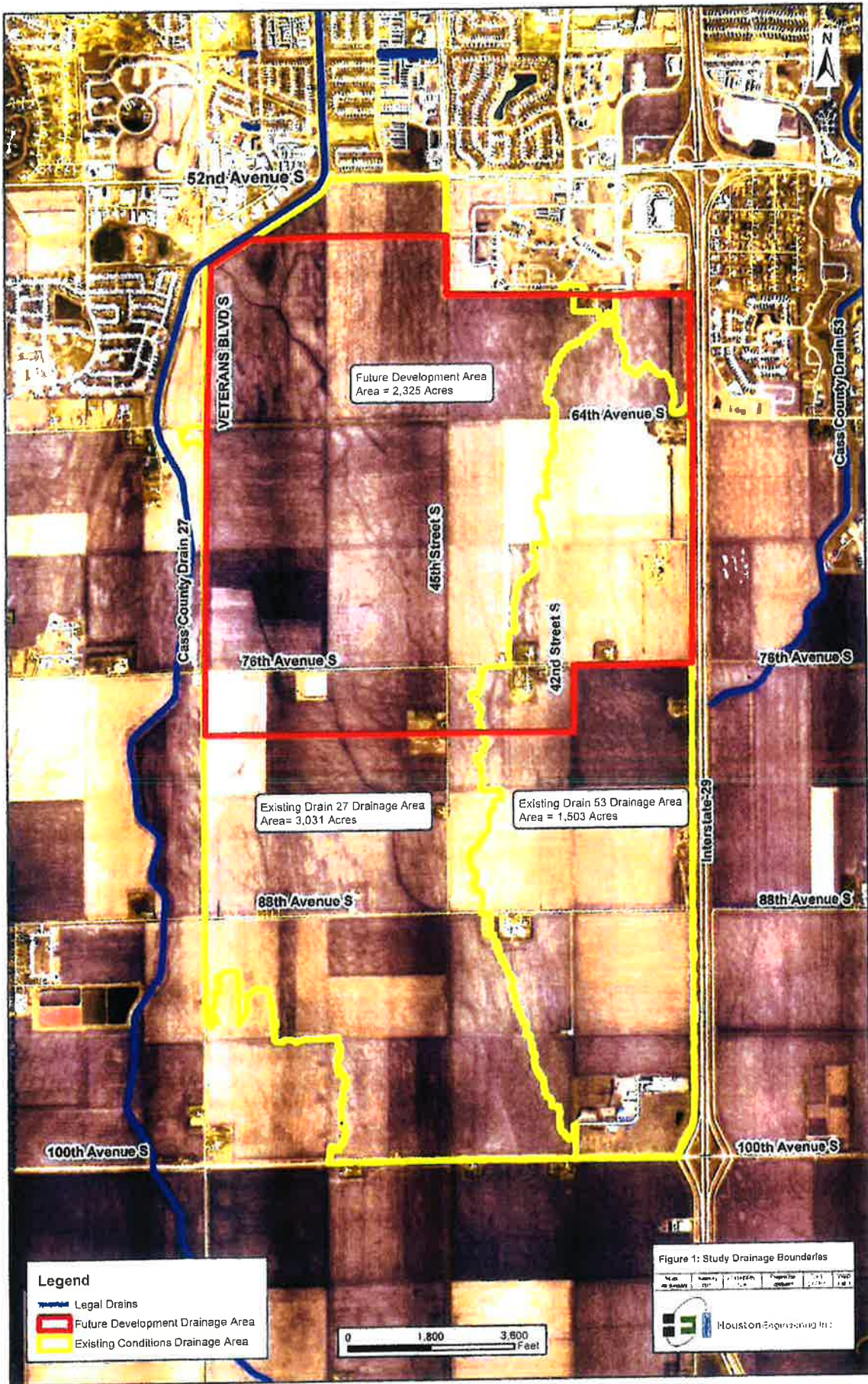
This modified policy does not affect the North Dakota Department of Environmental Quality's water quality requirements. Development of all parcels within the DMU are still required to follow, as applicable, the water quality requirements set by the DEQ.

For parcels completing a zoning change to DMU after the effective date of July 27, 2015, property improvements shall meet all stormwater detention and water quality standards per the policy.

**New Developments with Regional Detention and Special Release Rates**

This section applies to new developments with Site Amenities Plans or Developer's Agreements that provide for regional detention, water quality, and design release rates that differ from the normal requirements covered in this design policy.

The most recent and complete record of these special design areas is available on the City of Fargo public GIS site. The GIS layer to be displayed is "StormPolicyDesignDeviations" with the modified design requirements notated within the differentiated areas.



# Technical Memorandum

**To:** Jody Bertrand, PE  
 City of Fargo

**From:** Gabriel L. Bladow, PE  
 Houston Engineering, Inc.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am duly Licensed Professional Engineer under the laws of the State of North Dakota.



2/15/2023

Gabriel L. Bladow  
 Reg. No. PE-6862

Date

**Subject:** Review of Pre-Development Storm Water Discharge Rates

**Date:** February 10, 2023

**Project:** MS-22-E0

## INTRODUCTION

At the request of the City of Fargo (City), Houston Engineering Inc. (HEI) conducted a study to determine representative storm water runoff discharge rates for pre-developed and redeveloped parcels in the City. The representative discharge rates will aid the City in updating their Policy on Storm Water Discharge and Treatment Requirements.

## PRE-DEVELOPMENT ANALYSIS

### Runoff Methodology

The Natural Resources Conservation Service (NRCS) curve number methodology described in Technical Release 55, Urban Hydrology for Small Watersheds (TR-55) [1] was used to simulate the conversion of rainfall to stormwater runoff. The primary hydrologic input parameters of the NRCS method include drainage area, curve number, and time of concentration. Runoff hydrographs were calculated using HydroCAD 10.2 [2].

### *Drainage Area*

For the analysis drainage areas were varied from one to four acres.

### *Curve Number*

Pre-development curve numbers (CN) were based on the existing land use being agricultural. Using the CN values provided in TR-55, the pre-development land cover type and treatment assumed Small Grains with Straight Rows + Crop Residue in good condition with hydrologic soil group 'D'. This designation results in a CN of 84. The CN value is used in calculating the time of concentration and the overall runoff calculation.

### *Time of Concentration*

Time of concentration values were calculated using the NRCS watershed lag method equation presented in NEH 630 Chapter 15 [3]. The watershed lag equation and inputs are summarized below.

Eq. 15-4b  $T_C = \ell^{0.8} (S + 1)^{0.7} / 1140Y^{0.5}$

Where:  $T_C$  = time of concentration, h  
 $\ell$  = flow length, ft  
 $Y$  = average land slope, %  
 $S$  = max potential retention, in =  $(1000 / CN) - 10$

#### Flow Length

Flow length was calculated using the flow length calculation from NEH 630 Chapter 15.

Eq. 15-5  $\ell = 209A^{0.6}$

Where:  $\ell$  = flow length, ft  
 $A$  = drainage area, acres

#### Land Slope

To determine an approximate average pre-development land slope a selection of undeveloped sections near the City were sampled. The sections were selected based on having minimal drainage improvements. The sampled sections also lacked a definite natural drainage channel. Using lidar information, a slope grid was developed using GIS processes. The land slope grid quantified the slope from each cell to each adjacent cell. Using zonal statistics, a mean slope value was calculated for each section. The composite average of the sampled sections yielded an average land slope of approximately 0.6%. The sampled sections are included in the attached **Exhibit 1**. The average land slope of 0.6% was used for all calculated runoff rates in this study.

#### Rainfall

The rainfall depths used in this study were obtained from the annual maximum precipitation frequency estimates in NOAA Atlas 14 for "FARGO HECTOR INTL AP", Fargo, North Dakota [4]. This resource was utilized because it provides the most recent point precipitation frequency estimates for the Fargo-Moorhead area. For this study 2-year, 10-year, and 100-year, 24-hour rainfalls with depths of 2.26", 3.72", and 6.50" were analyzed.

## PRE-DEVELOPMENT RESULTS

A tabular and graphical comparison of the HydroCAD calculated results are included as **Table 1**.

**Table 1 – Calculated Pre-Development Discharge Rates**

Parcel Size (Acres)	2-Year, 24-Hour Peak Discharge (CFS)	10-Year, 24-Hour Peak Discharge (CFS)	100-Year, 24-Hour Peak Discharge (CFS)
1	1.40	3.18	6.79
1.5	1.94	4.46	9.53
2	2.42	5.56	11.97
2.5	2.88	6.61	14.2
3	3.32	7.66	16.48
4	4.11	9.49	20.43

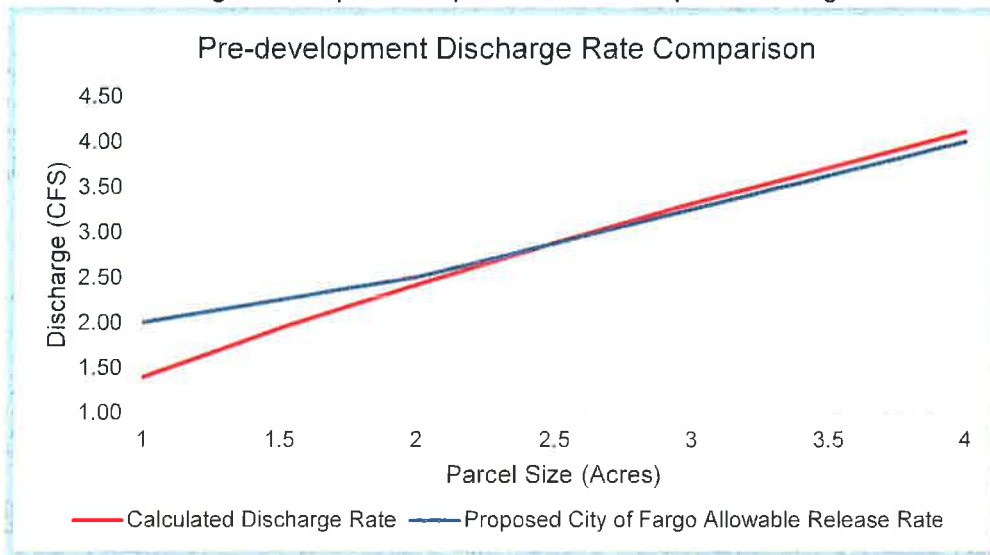
### Comparison to Proposed Allowable Release Rates

The City has proposed a release rate schedule based on parcel size under pre-development conditions. A comparison of the calculated pre-development discharge rates for a 2-year, 24-hour event and the proposed City release rates are compared in **Table 2** and graphically in **Figure 1**.

**Table 2 – Pre-development Discharge Rate Comparison**

Parcel Size (Acres)	Calculated 2-Yr, 24-Hr Peak Discharge (CFS)	Proposed City of Fargo Allowable Release Rate (CFS)
1	1.4	2
1.5	1.94	2.05
2	2.42	2.5
2.5	2.88	2.88
3	3.32	3.25
4	4.11	4

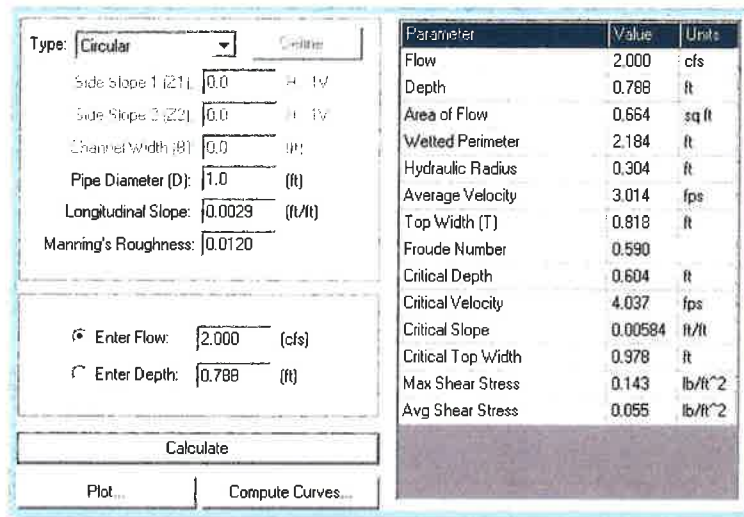
**Figure 1 – Graphical Comparison of Pre-Development Discharge Rates**



The calculated discharge and the proposed allowable discharge rates approximately match the 2-year, 24-hour event as analyzed. The City's existing and future storm sewer systems are generally sized to convey runoff from a 2-year storm event. For this reason, the proposed allowable release rate will be fixed regardless of the rainfall event, for all designs through the 100-year rainfall event. No additional discharge will be allowed for events of varying intensity. The proposed allowable release rate has a minimum of 2 cfs for a 1-acre parcel which is slightly higher than the calculated runoff for a 1-acre parcel. Due to the constraints in developing small parcels, the larger release rate affords developers greater flexibility for designing on-site retention and options for connecting to the existing storm sewer infrastructure. By allowing a minimum of 2 cfs release rate developers may utilize concrete pipe connections that are more likely to achieve cleansing velocity even when installed at minimum slope.

An example calculation of 12" concrete pipe installed at minimum slope while maintaining 3 feet per second cleansing velocity is included as **Figure 2**.

**Figure 2 - Example Pipe Flow Calculation**



## REDEVELOPMENT ANALYSIS

For previously developed parcels, existing site improvements and existing utility constraints tend to make meeting pre-development discharge rates difficult and cost prohibitive. To encourage redevelopment, the City intends to establish a separate allowable release rate standard for redeveloped parcels. The City is considering granting an allowance for a portion of in-place impervious surface contributing to established storm drainage facilities to reduce the amount of required on-site mitigation. **Table 3** was compiled to demonstrate resultant curve numbers for varying percentages of existing impervious surfaces. Composite curve numbers were developed by assuming a CN of 98 for impervious surface and a CN of 80 for pervious surface. Pervious surfaces were assumed to be "Open Space" with type "D" soils in good condition.

**Table 3 - Composite CN Per Impervious Percentage**

% Impervious Surface	Composite CN
0	80
10	81.8
20	83.6
30	85.4
40	87.2
50	89
60	90.8
70	92.6
80	94.4
90	96.2
100	98



One alternative considered is to allow additional discharge for a redeveloped parcel to up to approximately 65% impervious to account for existing improvements and impervious surface. Redevelopment parcels with proposed imperviousness greater than 65% would need to mitigate discharge down to the allowable discharge rate outlined in the policy. For 1-acre parcels an additional 1 cfs will be allowed under redevelopment conditions compared to proposed predevelopment release rates. The 1 cfs increase for 1-acre parcels is a smaller percentage increase from the proposed predevelopment release rate but is still granting greater runoff per acre than larger parcels.

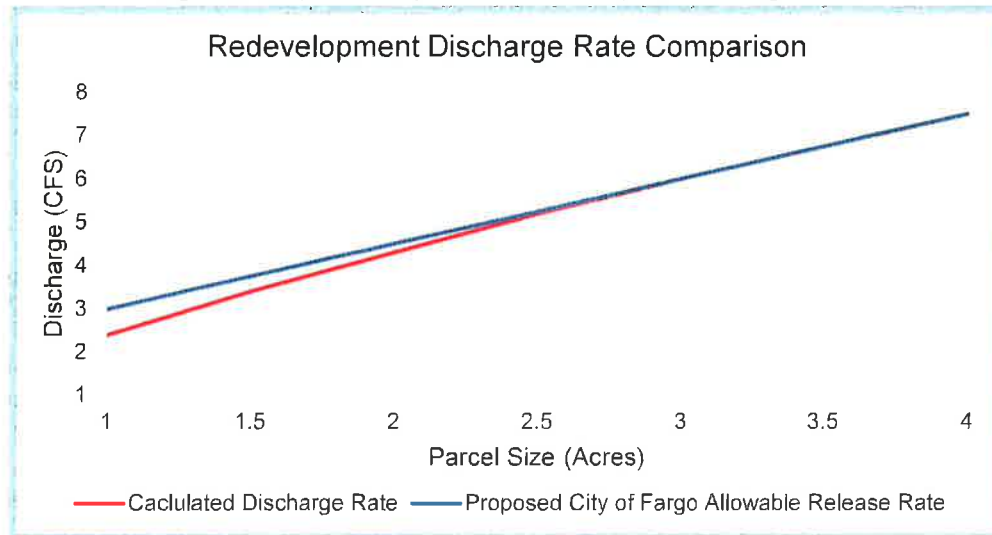
### Redevelopment Results

A CN value of 91.7 corresponds to a 65% impervious surface coverage. A tabular and graphical comparison of the HydroCAD calculated results for a 2-year, 24-hour event with 65% imperviousness and the proposed allowable release rates from the City are included as **Table 4** and **Figure 3**, respectively. The proposed City release rate is a smoothed interpretation of the calculated results. From 1-acre to 4-acre parcels the increase in the allowable discharge rate is linear. For parcels greater than 4 acres up to 8 acres the City intends to reduce the additional redevelopment allowed increase so that at 8 acres, the allowable rate will be back to 8 cfs, or 1cfs/acre. This is due to the greater flexibility for developers to mitigate discharge on larger developments.

**Table 4 - Redevelopment Discharge Rate Comparison**

<b>Parcel Size (Acres)</b>	<b>Calculated Peak Discharge (CFS)</b>	<b>Proposed City of Fargo Allowable Release Rate (CFS)</b>
1	2.4	3
1.5	3.4	3.75
2	4.3	4.5
2.5	5.2	5.25
3	6.0	6.0
4	7.5	7.5

Figure 3 - Graphical Comparison of Redevelopment Discharge Rates



## CONCLUSION

Development of land that includes increases to impervious surfaces and other graded features increases the rate and volume of discharge from the land. Mitigation of these increases is inhibited in the Red River Valley due to multiple geographical constraints. Increases in runoff volume are typically mitigated by infiltration practices where possible. The clay soils of the Red River Valley are not conducive to infiltration, making runoff volume reductions unfeasible in the City of Fargo. The lack of sufficiently available grade within Fargo also impedes conveyance capacity of storm sewers. Flat available slopes often require large diameter storm sewers which are cost prohibitive. This has resulted in the City generally utilizing a 2-year recurrence interval design standard for storm sewer facilities within the City. This is lower than many communities of similar size in other parts of the state and country. While it is common for municipalities and other agencies responsible for adopting storm water policies to rely on methodologies that attempt to limit post-development discharge rates to be at or below pre-development discharge rates, those practices are not sufficient in the City of Fargo. Instead, discharge rates must be further reduced to match as near as possible to the available capacity of existing and proposed storm sewer infrastructure.

The allowable discharge rate schedule for development of previously undeveloped lands proposed by the City of Fargo very closely matches the calculated 2-year, 24-hour pre-development discharge rates for land uses and land slopes within the Red River Valley. It should be noted that while allowable discharge rates for parcels between 1 and 2 acres is slightly higher than 2-year, 24-hour pre-development discharge rates for parcels of this size, they are well below 10-year, 24-hour pre-development discharge rates. The slight increases of allowable discharge rates for these smaller parcels will provide flexibility for developers to design rate mitigation features that are both constructable and maintainable.

The alternate release rate schedule for redevelopment of previously developed lands proposed by the City of Fargo allows for the additional runoff up to 65% imperviousness. It is recommended that the City of Fargo

reserve the right to evaluate the imperviousness of the developed lands prior to redevelopment. This policy would provide benefit to developers by reducing the size of mitigation facilities required to redevelop properties where space and other resources is limited. It would also benefit the City by providing modest decreases in discharge rates from redeveloping lands that currently have imperviousness greater than 65%.

It is our conclusion that the City's proposed allowable discharge rate schedules are more conservative than typical pre-development vs post-development analysis methodologies, which is required to preserve functionality of existing and proposed storm sewer facilities. The inclusion of an alternative rate schedule for redeveloping sites provides benefit to both the City and developers.

## REFERENCES

- [1] Natural Resources Conservation Service, "Technical Release 55: Urban Hydrology for Small Watersheds," 1986.
- [2] HydroCAD Software Solutions LLC, *HydroCAD 10.2-2f*.
- [3] United States Department of Agriculture, Natural Resources Conservation, "Chapter 15, Part 630, National Engineering Handbook," 2010.
- [4] National Oceanic and Atmospheric Administration, "Precipitation Frequency Data Server," National Oceanic and Atmospheric Administration, 2013. [Online]. Available: [https://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html). [Accessed 17 April 2019].



(10)

March 28, 2023

Honorable Board of  
City Commissioners  
City of Fargo  
225 North Fourth Street  
Fargo, ND 58102

Re: Three-Year Deferral Agreement for the Samuel Properties

Dear Commissioners:

Enclosed and delivered for the City Commissions review and approval is a three-year Deferral Agreement with accruing interest for the Samuel Properties located at 6300 27<sup>th</sup> Street South and 6396 27<sup>th</sup> Street South. A prior ten-year Deferral Agreement ended with no development anticipated and a ten-year extension was requested of the City Finance Committee. The Finance Committee unanimously voted to approve a three-year, interest accruing, Deferral Agreement and to forward it on to the City Commission for approval.

**Recommended Motion:**

Approve the three-year, interest accruing, Deferral Agreement with the terms to be stated in the Agreement.

Respectfully Submitted,



Dan Eberhardt  
Special Assessment Coordinator

Attachment

REPORT OF ACTION  
**FINANCE COMMITTEE**

**Project:** \_\_\_\_\_ **Type:** Deferral Extension

**Location:** Samuel Property

**Date of Hearing:** March 28, 2022

<u>Routing</u> _____	<u>Date</u> _____
City Commission	
Project File	<u>Dan Eberhardt</u>

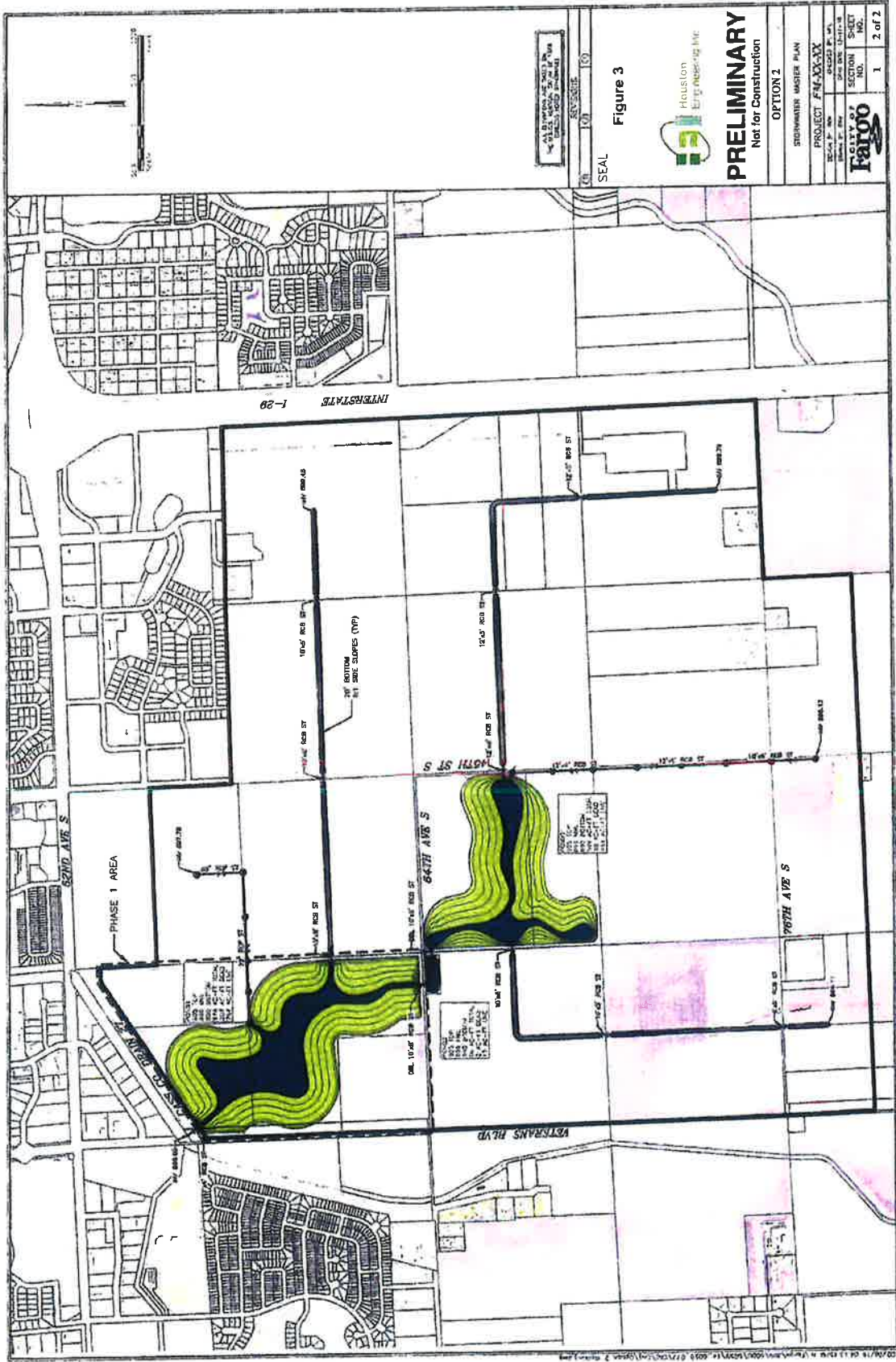
The Samuels entered into a ten year, non-interest bearing deferral agreement in 2012 which is coming due this year. With no development anticipated a deferral agreement extension has been requested. The current deferred amount is \$271,369.97 with two future projects estimated at \$16,524.55. A standard ten-year deferral is customary on larger tracts of land carrying the standard triggering events.

Mahoney asked if they could give a three year extension. Eberhardt stated if the land is developed, the deferral will come off, regardless of the length of the extension. After conversation with Kent and because of the change of some of the infrastructure policies, Eberhardt would suggest putting on the accrued interest.

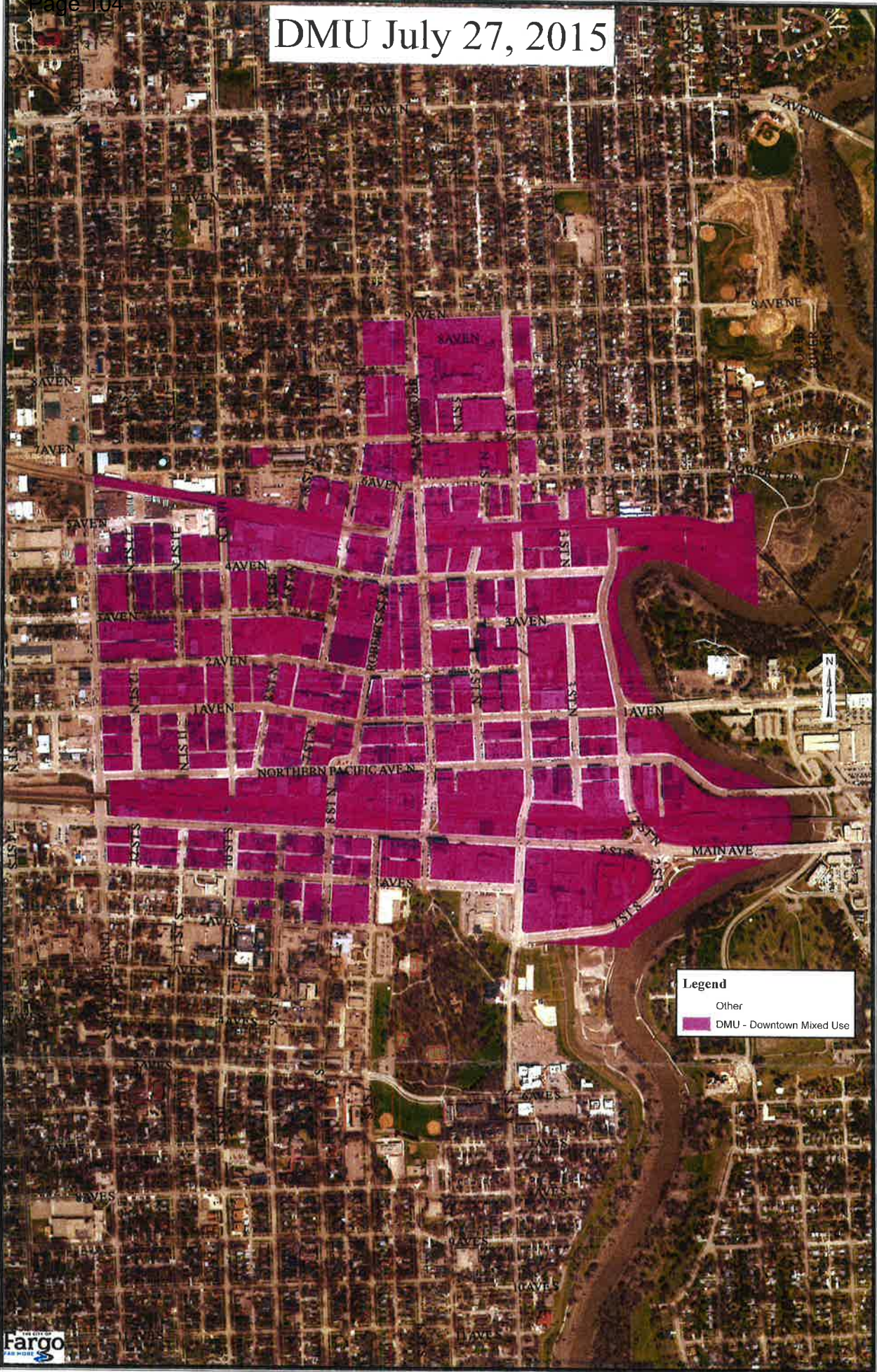
**MOTION:**

On a motion by Kent Costin, seconded by Dave Piepkorn, the Finance Committee voted to approve a three-year extension with interest accruing for the Samuel properties and to forward on to the City Commission with a recommendation for approval.

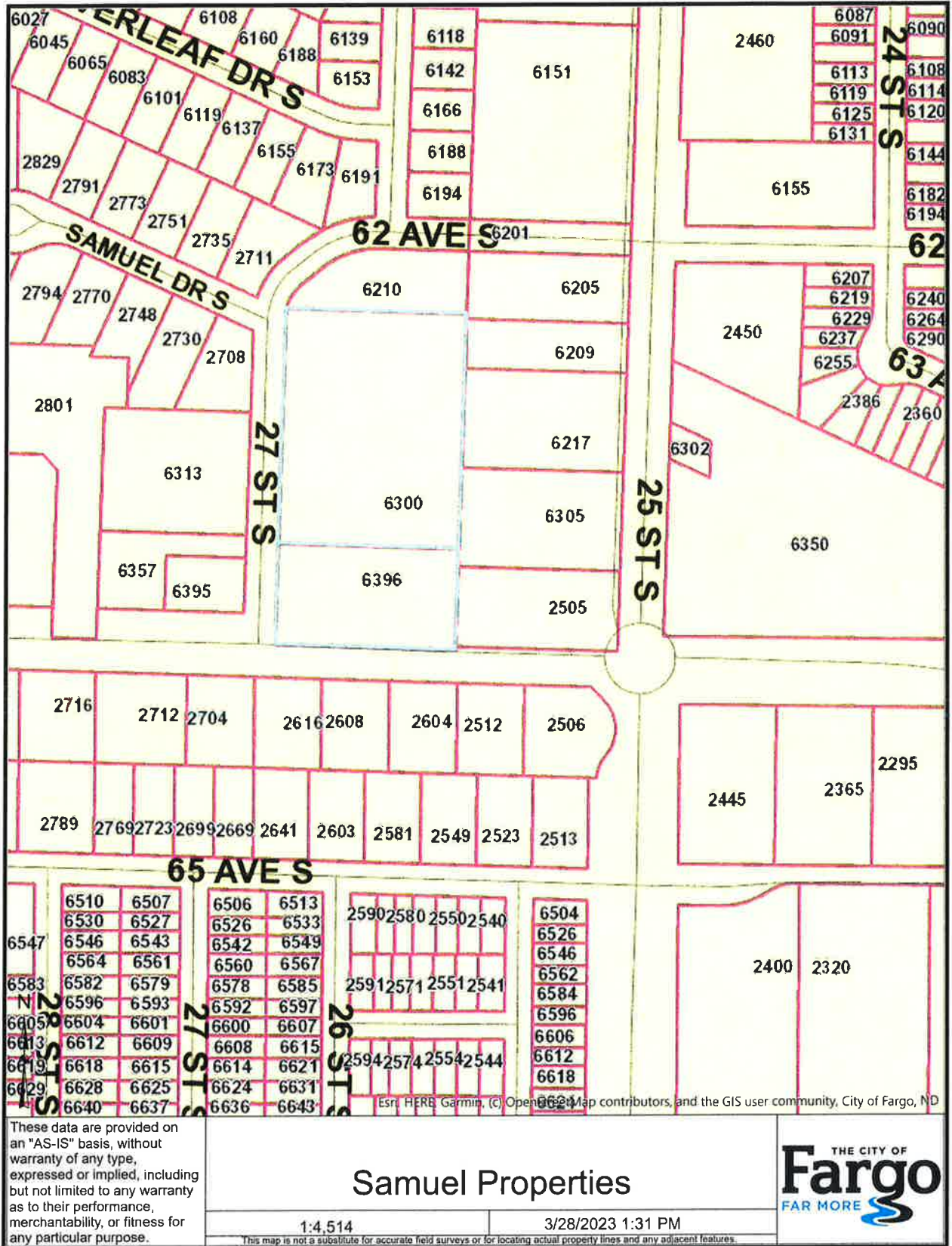
COMMITTEE:	Present	Yes	No	Unanimous
				X
				Proxy
Tim Mahoney, Mayor	X	x		
Dave Piepkorn, City Commissioner	X	x		
Bruce Grubb, City Administrator	X	x		
Mike Redlinger, Assistant City Administrator	X	x		
Kent Costin, Director of Finance	X	x		
Steve Sprague, City Auditor	X	x		



# DMU July 27, 2015







**Dan Eberhardt**

**From:** Walter Samuel <walter6samuel@gmail.com>  
**Sent:** Tuesday, March 8, 2022 7:04 AM  
**To:** Dan Eberhardt  
**Subject:** Option

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

Dan,

Wanted to circle back with you regarding the Option for an Extension of the special assessments that are coming due this 2022 calendar year.

These are on the two parcels below that encompass the house, barn, and pasture of our place.

An Extension to Option would be great, I can appreciate it if we ever develop things being a triggering event, but otherwise differing these expenses would be a help.

6300 & 6396  
27th St. S.  
Fargo, ND 58104

Thanks again for taking the time to explain and go through the specials with me.

Regards,

Walter Samuel D.D.S.  
South University Dental Associates  
3115 South University Drive  
Fargo, ND 58103

Cell 701-799-4381

**AGREEMENT REGARDING SPECIAL ASSESSMENTS**  
**(Samuel Property)**

**THIS AGREEMENT**, made and entered into by and between **Clarence W. Samuel, as Trustee of the Clarence W. Samuel Revocable Living Trust #2 under agreement dated September 15, 2017, as amended (pursuant to QCD #1521089)**, hereinafter collectively called "Owner", and the **City of Fargo, North Dakota**, a municipal corporation ("City").

PREMISES:

- a. The undersigned is the owner of land referred to herein as the "Samuel Property" defined below.
- b. City has made improvements as described in Exhibit "A" attached hereto and incorporated herein by reference.

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

1. **Definitions.** The following definitions shall apply to this agreement:

1.1 **"Samuel Property"** is that certain property situate in the County of Cass and State of North Dakota, more fully described in Exhibit "B" and "C" attached hereto, with the following property addresses:

6396 27<sup>th</sup> Street South, Fargo, ND 58104  
6300 27<sup>th</sup> Street South, Fargo, ND 58104.

1.2 **"Subject Property"** as used in this agreement shall refer to the above described property.

1.3 **"Arterial Public Improvements"** shall be those public municipal infrastructure improvements installed to include streets, sewers, water, lighting, and other miscellaneous improvements along roadways classified as "arterial roadways" under the functional classification system. For purposes of this agreement, Arterial Public Improvements

includes, without limitation, the streets, sewers, water and lighting improvements along the following streets:

1.3.1 25<sup>th</sup> Street South and 64<sup>th</sup> Avenue South

1.4 **“Local Public Improvements”** shall be those public municipal infrastructure improvements installed to include streets, sewers, water, lighting, and other miscellaneous improvements along roadways classified other than “arterial roadways” under the functional classification system. Local Public Improvements shall include such improvements along local and collector roadways to include all public infrastructure as to allow development to occur and building permits to be issued. For the purpose of this agreement improvements on 64<sup>th</sup> Avenue South adjacent to “Subject Property” shall be deferred to the same period as outlined under Section 4.2, Arterial Public Improvements.

1.5 **“Triggering Event”** shall be an occurrence that causes the removal of the deferral of special assessments for the parcel(s) or lot(s) in question. The "triggering event" shall apply to all deferred special assessments to include Arterial and Local Public Improvements.

1.6 **“Public Improvements”** shall be either Arterial Public Improvements, Local Public Improvements, or both.

2. The undersigned is the owner of the Subject Property which has been annexed to, and is presently incorporated as part of, the City of Fargo.

3. Owner understands and agrees that public improvements, including water mains, sewers, storm sewers, paving, curb and gutter and other municipal improvements which are enumerated in Section 40-22-01 N.D.C.C. have been constructed to serve the Subject Property as designated on Exhibit "A" attached hereto and incorporated herein by reference, and that special assessments therefore will be levied and assessed against the Subject Property for such improvements;

accordingly, Owner hereby waives Owner's right to protest the resolution of necessity for any such improvements for which such resolution is required pursuant to Section 40-22-17 N.D.C.C. Owner hereby specifically consents to the construction of such improvements and to the assessment of the costs thereof against the Subject Property. Furthermore, by entering into this agreement, the Owner hereby waives its right to protest the amount or benefit of any special assessment levied against the Subject Property for the Arterial Public Improvements or the Local Public Improvements.

4. City agrees to defer the certification of annual installments of special assessments levied against the Subject Property for any improvements constructed and installed as provided in paragraph 3, above, as follows:

4.1 **Samuel Property.** As to special assessments for Public Improvements on Samuel Property, said deferral shall continue for a period of time ending upon occurrence of the earliest of one of two "triggering events" as follows:

4.1.1 Arterial Public Improvements

4.1.1.1 Three (3) years from the date of this Agreement; or

4.1.1.2 The date of issuance of a building permit for construction of a building or structure upon said parcels.

4.2 **Annual Review.** On or before October 1 of each year during the term of the deferral agreement, the City will determine which parcels or lots have met the "triggering event" criteria and will have special assessment deferrals removed. Each and every lot or parcel that has met the "triggering event" criteria during the previous 12 month period shall have all such deferrals removed for all applicable public improvements (Arterial and Local Public Improvements). All such special assessments whose deferrals have been removed shall be certified for collection beginning the next tax year.

5. **Assessment Period – Interest During Period of Deferral.** At such time as annual installments of special assessments are certified for collection as hereinabove provided, the total

amount to be assessed shall be spread over a period time of not to exceed twenty-five (25) years and the annual installments shall be determined in accordance with Sections 40-24-04 through 40-24-08 N.D.C.C. The total amount to be assessed shall be the entire amount of the assessment as determined by the Special Assessment Commission and as confirmed by the Board of City Commissioners. As to Arterial Public Improvements, the Owner shall bear responsibility for payment of any such accrued deferral interest thereon.

6. For purposes of this Agreement, the date of installation of Public Improvements shall be defined as the date that Public Improvements are functionally complete and assessed costs (to be deferred under the terms of this agreement) have been certified and confirmed by the City Commission.

7. This Agreement shall be binding upon the parties hereto, and their heirs, administrators, successors and assigns. Owner, its heirs, successors and assigns, may assign any or all of their rights and responsibilities under this agreement at such times and as often as the Owner, its heirs, successors and assigns may elect.

8. The parties hereto understand and agree that a memorandum of this agreement may be prepared and signed by both parties which shall make reference to the terms of this agreement and shall be recorded in the office of the Cass County Recorder. The form of the memorandum of agreement shall be in accordance with the attached form which is incorporated herein by reference.

(Signatures on following pages)

Dated this 15 day of Dec, 2022.

OWNERS:

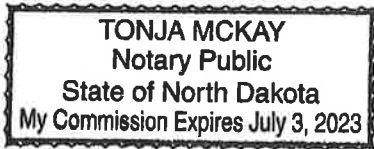
Clarence W. Samuel P.O.A. C.W.M.  
Clarence W. Samuel, as Trustee of the Clarence W. Samuel Revocable Living Trust #2 under agreement Dated September 15, 2017, as amended (pursuant to QCD #1521089)

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

On this 15<sup>th</sup> day of Dec, 2022 before me, a notary public in and for said county and state, personally appeared CLARENCE W. SAMUEL, \_\_\_\_\_ to me known to be the persons described in and that executed the within and foregoing instrument, and acknowledged to me that he/she executed the same.

Tonja McKay  
Notary Public  
Cass County, ND

(SEAL)







**EXHIBIT "A"**

List of Public Improvements to be funded by Special Assessments:

<b>District</b>	<b>Type</b>	<b>Location</b>
5904	Drain Improvements	Drain 53 – Drain 27 to 64 <sup>th</sup> Ave. S.
5966	Sanitary Sewer, Water Main & Storm Sewer	25 <sup>th</sup> St – 58 <sup>th</sup> Ave to 65 <sup>th</sup> Ave
5969	Paving & Street Lights	25 <sup>th</sup> St. – 58 <sup>th</sup> Ave to 65 <sup>th</sup> Ave
6057	Sanitary Sewer	58 <sup>th</sup> Ave-25 <sup>th</sup> Street to 27 <sup>th</sup> Street
6094	Paving & Street	58 <sup>th</sup> Ave - 25 <sup>th</sup> Street to 27 <sup>th</sup> Street

**In addition to the foregoing specific Special Improvement Districts, it is understood and agreed that any new Districts affecting the Subject Property will be automatically included as a special assessment under this Exhibit. Future assessments that will benefit the Subject Property include, but are not limited to, the following:**

- 1. Utilities and paving on ~~64<sup>th</sup> Ave. S.~~ – 31<sup>st</sup> St. to 25<sup>th</sup> St.**
- 2. Other local municipal infrastructure as may be requested.**

**EXHIBIT "B"**

PARCEL ID #: 01-3518-00010-000

CURRENT LAND ADDRESS: 6396 27<sup>th</sup> Street South  
Fargo, ND 58104

**LEGAL DESCRIPTION:**

Lot SEC 2-138-49 2.34 AC A TRACT  
OF LAND IN SE 1/4 DESC AS FOLL: CO  
MM ON THE S LN OF SEC 2 400 FT W  
OF THE SE COR OF SEC 2 WHICH IS TH  
E PT OF BEG, THEN W FOR A DIST OF  
400.25 FT ALG SD SEC LN THN N & PA  
RA W/E LN OF SEC FOR A DIST OF 255  
FT THEN E & PARA W/THE S LN OF SE  
C FOR A DIST OF 400.25 FT THEN S &  
PARA W/THE E LN OF SEC FOR A DIST  
OF 255 FT TO THE PT OF BEG Block  
Addition 2009 SOUTHSIDE ANNEXATI  
ON 4 ANNEXED PT OF SEC 2, 11, 12,

13 & 14 TWP 138 RGE 49 W (1/20/200  
9 B-X1, P-31)  
\*1/27/09 #09-047 SPL/FR 64-0000-  
00521-020

**EXHIBIT "C"**

PARCEL ID #: 01-3518-00020-000

CURRENT LAND ADDRESS: 6300 27<sup>th</sup> Street South  
Fargo, ND 58104

**LEGAL DESCRIPTION:**

Lot A TRACT IN THE SE 1/4 DESC AS  
COMM ON S LN OF SEC 2 400 FT W OF  
SE COR OF THENCE N & PARA W/ THE E  
LN FOR 255 FT TO THE PT OF BEG, T  
HEN W FOR 400.25 FT THEN N & PARA  
W/ THE E LN FOR 534.44 FT THEN E &  
PARA W/ S LN FOR 400.25 FT THEN S  
& PARA W/ THE E LN OF SEC 2 FOR 5  
16.56 FT TO BEG, EXC EASEMENT Block  
Addition 2009 SOUTHSIDE ANNEXAT  
ION 4 ANNEXED PT OF SEC 2, 11, 12,  
13 & 14 TWP 138 RGE 49 W (1/20/20  
09 B-X1, P-31)

\*1/27/09 #09-047 SPL/FR 64-0000-  
00521-030

**MEMORANDUM OF AGREEMENT**  
**REGARDING SPECIAL ASSESSMENTS**  
**(Samuel Property)**

THIS AGREEMENT, made and entered into this 15 day of Dec, 2022, by and between **Clarence W. Samuel, as Trustee of the Clarence W. Samuel Revocable Living Trust #2 under agreement dated September 15, 2017, as amended (pursuant to QCD #1521089) ("Owner")**, and the **City of Fargo, North Dakota**, a municipal corporation ("City").

WHEREAS, the parties have entered in an Agreement Regarding Special Assessments dated as of the 15 day of Dec, 2022, [hereinafter referred to as the "Agreement"] concerning certain property described as the Samuel Property which property is situate in the City of Fargo, Cass County, North Dakota, more fully described as follows:

The "**Samuel Property**" is that certain property situate in the County of Cass and State of North Dakota, more fully described in Exhibit "A" and "B" attached hereto, with the following property addresses:

6396 27<sup>th</sup> Street South, Fargo, ND 58104

6300 27<sup>th</sup> Street South, Fargo, ND 58104.

WHEREAS, as a part of said Agreement, Owner will obtain a deferral of certain annual installments of special assessments against one or more parcels within the Subject Property;

**NOW, THEREFORE, IT IS HEREBY AGREED:**

1. This Memorandum Agreement incorporates by reference all the other terms and provisions of the Agreement, above-described, a copy of said Agreement being on file at the office of the City Auditor, Fargo City Hall, 2254<sup>th</sup> Street North, Fargo, North Dakota, **which Agreement includes the terms by which annual installments of special assessments for various public improvements benefiting the parcels within the Subject Property may be deferred for a period of time, by which such deferral may be removed as to various parcels within the Subject Property and by which interest that will accumulate on such deferrals will be charged against parcels within the Subject Property.**

2. The property that is the subject of the Agreement is the Subject Property, above-described.

3. As provided in said Agreement, all provisions of said agreement shall be deemed binding upon the successors and assigns of the parties hereto, including Purchaser, in accordance with the terms thereof. Owner agrees to apprise any buyers or intended assigns of the existence and content of the Agreement.

**IN WITNESS WHEREOF**, the parties have hereunto executed this Memorandum of Agreement the day and year first above written.

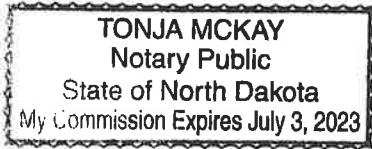
(Signatures on following page)

OWNER:

D.W. Samuel P.O.A. C.W. Samuel  
Clarence W. Samuel, as Trustee of the Clarence W. Samuel Revocable Living Trust #2 under agreement Dated September 15, 2017, as amended (pursuant to QCD #1521089)

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

On this 15 day of Dec, 2022, before me, a notary public in and for said county and state, personally appeared Clarence W. Samuel, as Trustee of the Clarence W. Samuel Revocable Living Trust #2 under agreement dated September 15, 2017, as amended (pursuant to QCD #1521089) to me known to be the persons described in and that executed the within and foregoing instrument and acknowledged to me that they executed the same.



(SEAL)

Tonja McKay  
Notary Public  
Cass County, North Dakota  
My Commission expires: July 3, 2023

corporation

CITY OF FARGO, a North Dakota Municipal

By: \_\_\_\_\_  
TIMOTHY J. MAHONEY, Mayor

ATTEST:

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

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me, a notary public in and for said county and state, personally appeared DENNIS R. WALAKER 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)

Legal description obtained from previously recorded instruments.

EXHIBIT "A"

PARCEL ID #: 01-3518-00010-000

CURRENT LAND ADDRESS: 6396 27<sup>th</sup> Street South  
Fargo, ND 58104

LEGAL DESCRIPTION:

Lot SEC 2-138-49 2.34 AC A TRACT  
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MM ON THE S LN OF SEC 2 400 FT W  
OF THE SE COR OF SEC 2 WHICH IS TH  
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13 & 14 TWP 138 RGE 49 W (1/20/200  
9 B-X1, P-31)  
\*1/27/09 #09-047 SPL/FR 64-0000-  
00521-020



**EXHIBIT "B"**

PARCEL ID #: 01-3518-00020-000

CURRENT LAND ADDRESS: 6300 27<sup>th</sup> Street South  
Fargo, ND 58104

**LEGAL DESCRIPTION:**

Lot A TRACT IN THE SE 1/4 DESC AS  
COMM ON S LN OF SEC 2 400 FT W OF  
SE COR OF THENCE N & PARA W/ THE E  
LN FOR 255 FT TO THE PT OF BEG, T  
HEN W FOR 400.25 FT THEN N & PARA  
W/ THE E LN FOR 534.44 FT THEN E &  
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& PARA W/ THE E LN OF SEC 2 FOR 5  
16.56 FT TO BEG,EXC EASEMENT Block  
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ION 4 ANNEXED PT OF SEC 2, 11, 12,  
13 & 14 TWP 138 RGE 49 W (1/20/20  
09 B-X1, P-31)

\*1/27/09 #09-047 SPL/FR 64-0000-  
00521-030



March 29, 2023

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, North Dakota

Re: Street & Utility Easement and Deferral Request  
Project #UN-23-A

Honorable Commissioners:

Over the past year, Engineering and Water Utility have been developing a water main project on the north side of the City, which will provide improvements to our existing water distribution system by constructing an additional crossing of Interstate 29. By completing this additional crossing, our water distribution system will benefit by increasing the available flows and capacity within the system as well as increase the redundancy of our system.

A portion of these planned improvements are located along 52<sup>nd</sup> Avenue North (between 25<sup>th</sup> Street North and 37<sup>th</sup> Street North), and 37<sup>th</sup> Street North (between 46<sup>th</sup> Avenue North and 52<sup>nd</sup> Avenue North). Neither of these roadways are improved nor platted, and therefore we do not have any existing right of way or easements to allow for the installation of the water main. Staff has been working with the property owner of these properties, and as a result, the property owner is willing to grant the City, at no cost, street and utility easements along 37<sup>th</sup> Street North and 52<sup>nd</sup> Avenue North, which will allow for the installation of the water main.

In return for granting of the easements, the property owner has requested a deferral on the special assessments that will be assigned to his undeveloped properties located within City limits. The deferral request being made is for a 10 year term and would be non-interest bearing. With the cost savings of not purchasing the right of way, staff is recommending approval of this request. The benefit of the water main improvements to the City's overall water distribution system is needed to support the development along the alignment. Although the property owner currently does not have any intentions to develop at this time, if this property is platted prior to the end of the 10 year term, the deferrals on that property will be removed.

Staff has presented this deferral request to Finance Committee for consideration, which they are recommending approval of the request as well.

**Recommended Motion:**

Approve the attached deferral agreements and permanent and temporary easements for parcels 01-3503-00050-000 and 01-3503-00060-000.

Respectfully,

Nathan Boerboom  
Division Engineer

REPORT OF ACTION

**FINANCE COMMITTEE**

**Project:** #UN-23-A1

**Type:** Deferral

**Location:** County 20 Storage and Transfer

**Date of Hearing:** January 30, 2023

<u>Routing</u>	<u>Date</u>
City Commission	
Project File	<u>Dan Eberhardt</u>

A request for a deferral for County 20 Storage and Transfer was presented to the Committee. The City of Fargo Engineering and Water Utility Departments are planning a project to expand the water distribution system in the industrial portion of north Fargo. The project will transfer water from the east side of I-29 to the west of I-29, adding increased water flows, capacity, and redundancy to these areas. County 20 Storage and Transfer (Robert Nelson) owns four parcels adjacent tot 52<sup>nd</sup> Avenue North and 37<sup>th</sup> Street North. Two of the parcels are located in the City limits and two remain in the ET area. Engineering is recommending a deferral request for the two parcels that are located within the City limits. The property owner is willing to donate the right of way easements. With this donation staff is asking the Committee to consider a no interest deferral. At this time, the owner of the property has no desire to develop the parcels.

**MOTION:**

On a motion by Michael Redlinger, seconded by Steve Sprague, the Finance Committee voted to approve a ten year, non-interest bearing deferral, and to forward on to the City Commission with a recommendation for approval.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Tim Mahoney, Mayor	<u>X</u>	<u>x</u>		
Dave Piepkorn, City Commissioner	<u>X</u>	<u>x</u>		
Mike Redlinger, City Administrator	<u>X</u>	<u>x</u>		
Vacant, Assistant City Administrator				
Terri Gayhart, Director of Finance	<u>X</u>	<u>x</u>		
Steve Sprague, City Auditor	<u>X</u>	<u>x</u>		

**PERMANENT EASEMENT**  
(Street and Utility)

**KNOW ALL MEN BY THESE PRESENTS** that **Robert L. Nelson Revocable Trust**, 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 laying, constructing, operating, maintaining and repairing a street and all other public utilities, together with the customary appurtenances including location of any and all utilities, said parcel being more particularly described as follows:

**PERMANENT EASEMENT**

That part of the Northeast Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The North 70.00 feet of the Northeast Quarter (NE1/4).

Said tract contains 184,320 square feet, more or less.

Said parcel is represented on an Easement Exhibit attached hereto and incorporated herein by reference as Exhibit “A”.

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

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

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 15<sup>th</sup> day of March, 2023.

**GRANTOR:**

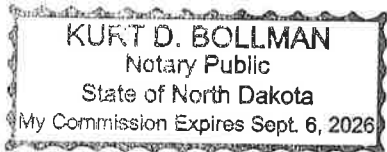
**Robert L. Nelson Revocable Trust**


  
By: Robert L. Nelson, Trustee

STATE OF NORTH DAKOTA    )  
  )  
COUNTY OF CASS            )

On this 15 day of March, 2023, before me, a notary public in and for said county and state, personally appeared Robert L. Nelson, to me known to be the Trustee of the ROBERT L. NELSON REVOCABLE TRUST, and that he executed the within and foregoing instrument, and acknowledged to me that he executed the same.

(SEAL)



  
Notary Public  
My Commission Expires: 9.6.26

**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                )

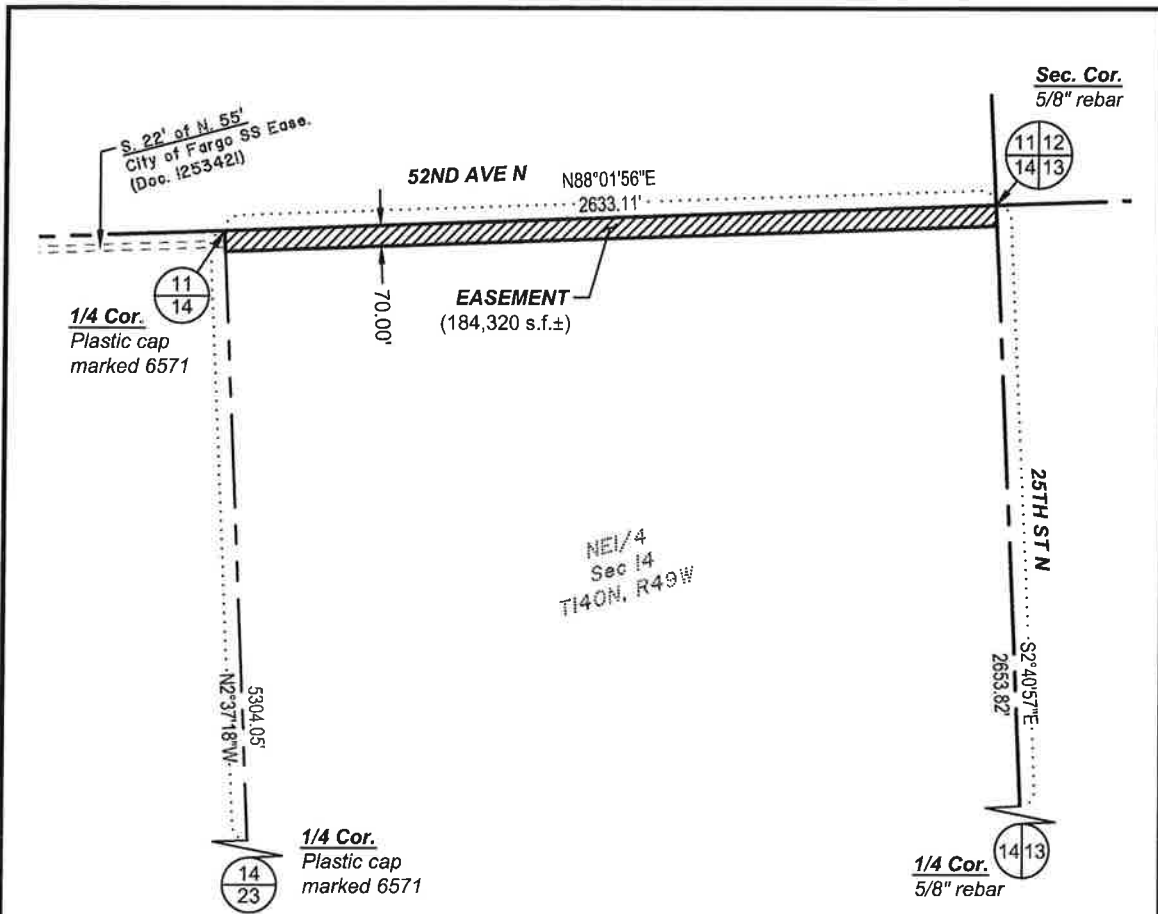
On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

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

The legal description was prepared by:  
AE2S  
4170 28th Avenue South  
Fargo, ND 58104  
(701) 364-9111

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



**PERMANENT EASEMENT - LEGAL DESCRIPTION**

That part of the Northeast Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The North 70.00 feet of the Northeast Quarter (NE1/4).

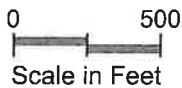
Said tract contains 184,320 square feet, more or less.

**CERTIFICATE OF SURVEYOR**

I hereby certify that this survey was prepared by me or or under my direct supervision and that I am duly Licensed Land Surveyor under the laws of the State of North Dakota. All measurements are true and correct, and all monuments are of the nature and occupy the positions shown hereon, to the best of my knowledge and belief.

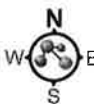
*Nicholas R. Stattelmann*

Nicholas R Stattelmann  
ND Reg. No. 8218



**LEGEND**

- SECTION LINE
- - - 1/4 LINE
- - - - - EXIST. EASEMENT LINE
- NEW EASEMENT LINE
- ▨ NEW PERMANENT EASEMENT



BASIS OF BEARINGS: CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992. DISTANCES ARE GROUND, US SURVEY FEET.

PROJECT NO: P00803-2022-002	<b>CERTIFICATE OF SURVEY</b>	SURVEY DATE: 6/15/22
DRAWING TYPE: COS	OWNER: <b>Robert L. Nelson Revocable Trust</b>	PREPARED BY: TH
	PARENT PARCEL ABBREVIATED LEGAL DESCRIPTION: E1/2 Lying N & W of Cass Co Drain 10, including Leedah's Sub. Section 14, T140N, R49W, Cass County, North Dakota	CHECKED BY: NS
	Advanced Engineering and Environmental Services, LLC www.ae2s.com	APPROVED BY: NS



**PERMANENT EASEMENT**  
(Street and Utility)

**KNOW ALL MEN BY THESE PRESENTS** that **County 20 Storage & Transfer, Inc.**, 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 laying, constructing, operating, maintaining and repairing a street and all other public utilities, together with the customary appurtenances including location of any and all utilities, said parcel being more particularly described as follows:

**PERMANENT EASEMENT**

That part of the Northwest Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The North 70.00 feet of the Northwest Quarter (NW1/4) and the West 60.00 feet LESS the North 70.00 feet of the West 60.00 feet of said NW1/4.

Said tract contains 341,410 square feet, more or less.

Said parcel is represented on an Easement Exhibit attached hereto and incorporated herein by reference as Exhibit "A".

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


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

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 15~~th~~ day of March, 2023.

**GRANTOR:**

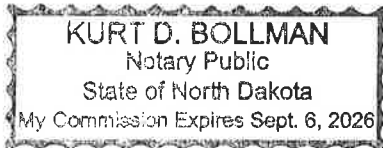
**County 20 Storage & Transfer, Inc.**


  
By: Robert L. Nelson

STATE OF NORTH DAKOTA    )  
  )  
COUNTY OF CASS            )

On this 15 day of March, 2023, before me, a notary public in and for said county and state, personally appeared Robert L. Nelson, to me known to be the President / owner for COUNTY 20 STORAGE & TRANSFER, INC., and that he executed the within and foregoing instrument, and acknowledged to me that he executed the same.

(SEAL)



  
Notary Public  
My Commission Expires: 9.6.26

**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                  )

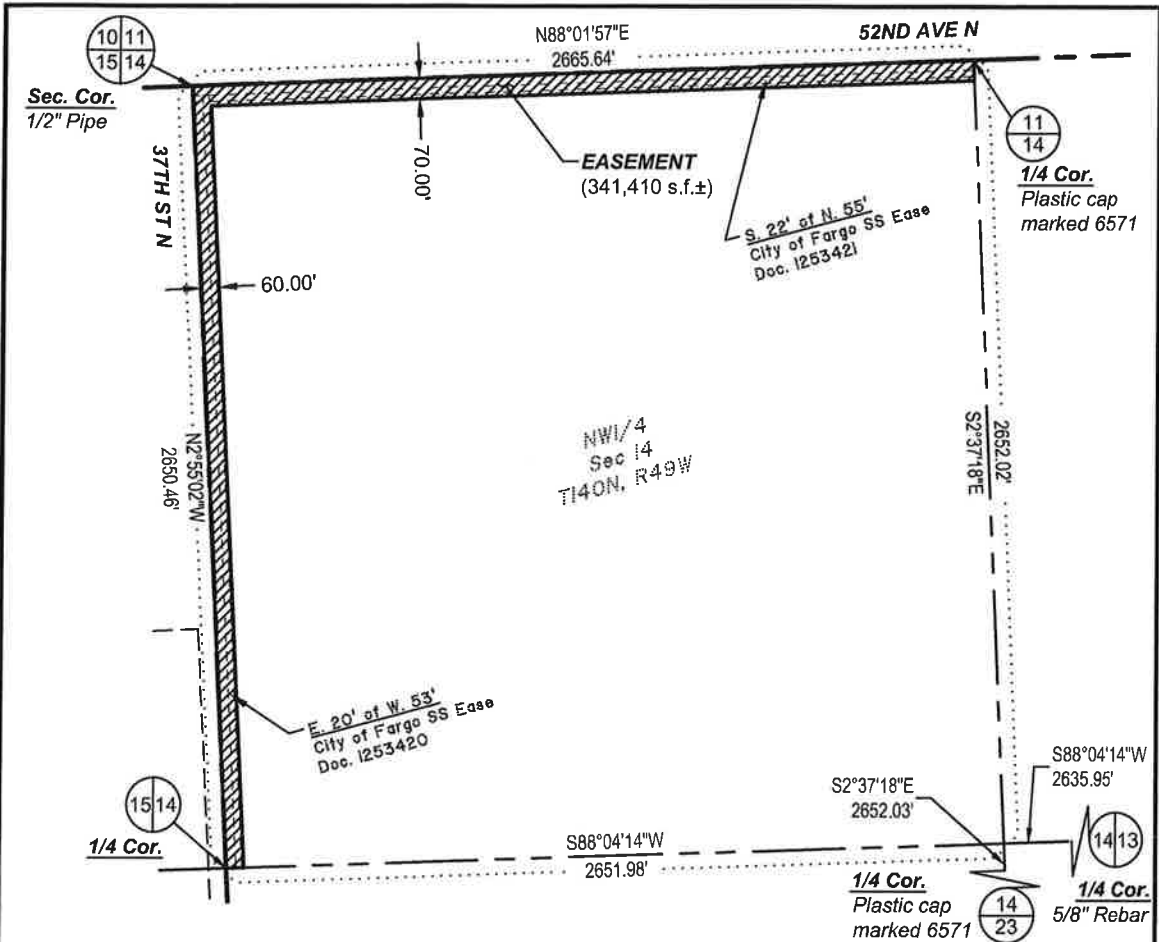
On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

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

The legal description was prepared by:  
AE2S  
4170 28th Avenue South  
Fargo, ND 58104  
(701) 364-9111

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



**PERMANENT EASEMENT - LEGAL DESCRIPTION**

That part of the Northwest Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The North 70.00 feet of the Northwest Quarter (NW1/4) and the West 60.00 feet LESS the North 70.00 feet of the West 60.00 feet of said NW1/4.

Said tract contains 341,410 square feet, more or less.

**CERTIFICATE OF SURVEYOR**

I hereby certify that this survey was prepared by me or or under my direct supervision and that I am duly Licensed Land Surveyor under the laws of the State of North Dakota. All measurements are true and correct, and all monuments are of the nature and occupy the positions shown hereon, to the best of my knowledge and belief.

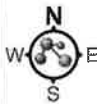
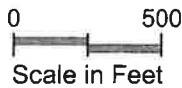
*Nicholas R. Stattelma*

Nicholas R Stattelma  
ND Reg. No. 8218



**LEGEND**

- — — SECTION LINE
- - - 1/4 LINE
- - - EXIST. EASEMENT LINE
- — — NEW EASEMENT LINE
- ▨ NEW PERMANENT EASEMENT



BASIS OF BEARINGS: CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992. DISTANCES ARE GROUND, US SURVEY FEET.

PROJECT NO: P00803-2022-002	<b>CERTIFICATE OF SURVEY</b>	SURVEY DATE: 6/15/22
DRAWING TYPE: COS	OWNER: <b>County 20 Storage &amp; Transfer, Inc.</b>	PREPARED BY: TH
	PARENT PARCEL ABBREVIATED LEGAL DESCRIPTION: <b>Northwest Quarter Section 14, T140N, R49W, Cass County, North Dakota</b>	CHECKED BY: NS
	<b>Advanced Engineering and Environmental Services, LLC www.ae2s.com</b>	APPROVED BY: NS

**EASEMENT**

(Temporary Construction Easement)

**KNOW ALL MEN BY THESE PRESENTS** that **Robert L. Nelson Revocable Trust**, 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 temporary construction easement over, upon and in the land hereinafter described for the purpose of constructing street and other public utilities, together with the customary appurtenances, said land being more particularly described as follows (represented in Exhibit A attached hereto and made a part hereof):

**TEMPORARY CONSTRUCTION EASEMENT**

That part of the Northeast Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The South 10.00 feet of the North 80.00 feet of the Northeast Quarter (NE1/4).

Said tract contains 26,330 square feet, more or less.

Grantor, their 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, their successors and assigns, further agree that 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, 2024.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 15~~th~~ day of March, 2023.

**GRANTOR:**

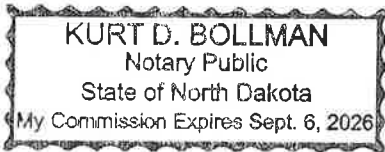
**Robert L. Nelson Revocable Trust**


  
By: Robert L. Nelson, Trustee

STATE OF NORTH DAKOTA    )  
  )  
COUNTY OF CASS            )

On this 15 day of March, 2023, before me, a notary public in and for said county and state, personally appeared Robert L. Nelson, to me known to be the Trustee of the ROBERT L. NELSON REVOCABLE TRUST, and that he executed the within and foregoing instrument, and acknowledged to me that he executed the same.

(SEAL)



  
Notary Public  
My Commission Expires: 9.6.26



**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            )

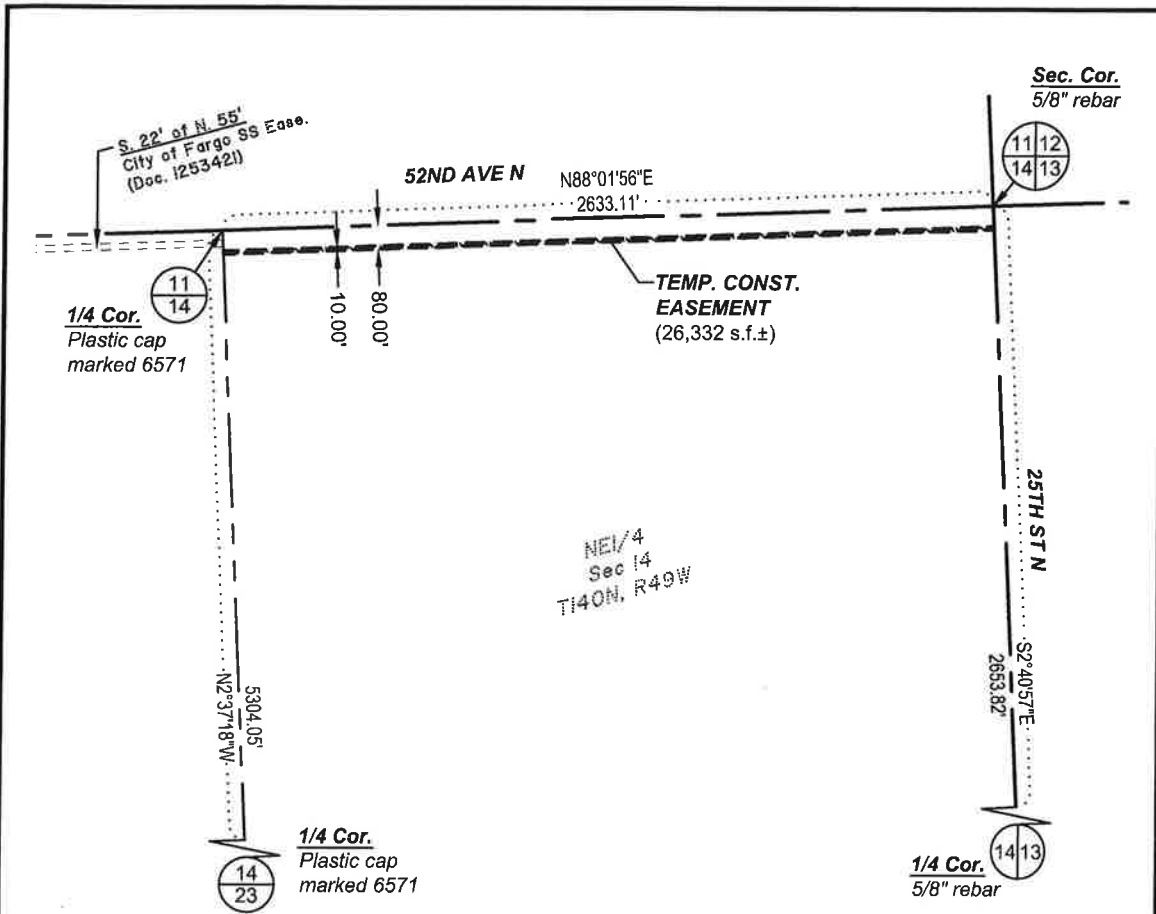
On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

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

The legal description was prepared by:  
AE2S  
4170 28th Avenue South  
Fargo, ND 58104  
(701) 364-9111

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



**TEMPORARY CONSTRUCTION EASEMENT (TCE) - LEGAL DESCRIPTION**

That part of the Northeast Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The South 10.00 feet of the North 80.00 feet of the Northeast Quarter (NE1/4).

Said tract contains 26,330 square feet, more or less.

**CERTIFICATE OF SURVEYOR**

I hereby certify that this survey was prepared by me or or under my direct supervision and that I am duly Licensed Land Surveyor under the laws of the State of North Dakota. All measurements are true and correct, and all monuments are of the nature and occupy the positions shown hereon, to the best of my knowledge and belief.

*Nicholas R. Stattelmann*

Nicholas R Stattelmann  
ND Reg. No. 8218



**LEGEND**

- SECTION LINE
- - - - 1/4 LINE
- - - - EXIST. EASEMENT LINE
- - - - NEW TCE LINE
- ▨ NEW TEMP. CONST. EASE. (TCE)

N  
E  
S  
W  
BASIS OF BEARINGS: CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992. DISTANCES ARE GROUND, US SURVEY FEET.

PROJECT NO: P00803-2022-002	<b>CERTIFICATE OF SURVEY</b>		SURVEY DATE: 6/15/22
DRAWING TYPE: COS	OWNER: <b>Robert L. Nelson Revocable Trust</b>	PREPARED BY: TH	
	PARENT PARCEL ABBREVIATED LEGAL DESCRIPTION: E1/2 Lying N & W of Cass Co Drain 10, including Leedah's Sub. Section 14, T140N, R49W, Cass County, North Dakota		CHECKED BY: NS
	Advanced Engineering and Environmental Services, LLC <a href="http://www.ae2s.com">www.ae2s.com</a>		APPROVED BY: NS

**EASEMENT**

(Temporary Construction Easement)

**KNOW ALL MEN BY THESE PRESENTS** that **County 20 Storage & Transfer, Inc.**, 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 temporary construction easement over, upon and in the land hereinafter described for the purpose of constructing street and other public utilities, together with the customary appurtenances, said land being more particularly described as follows (represented in Exhibit A attached hereto and made a part hereof):

**TEMPORARY CONSTRUCTION EASEMENT**

That part of the Northwest Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The South 10.00 feet of the North 80.00 feet LESS the West 60.00 feet of the Northwest Quarter (NW1/4).

Said tract contains 26,052 square feet, more or less.

Grantor, their 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, their successors and assigns, further agree that 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, 2024.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 15<sup>th</sup> day of March, 2023.

**GRANTOR:**


**County 20 Storage & Transfer, Inc.**

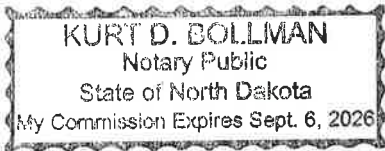
  
By: Robert L. Nelson

STATE OF NORTH DAKOTA )  
  )  
COUNTY OF CASS                  )

On this 15 day of March, 2023, before me, a notary public in and for said county and state, personally appeared Robert L. Nelson, to me known to be the President / owner for COUNTY 20 STORAGE & TRANSFER, INC., and that he executed the within and foregoing instrument, and acknowledged to me that he executed the same.

(SEAL)

  
Notary Public  
My Commission Expires: 9.6.24



**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                    )

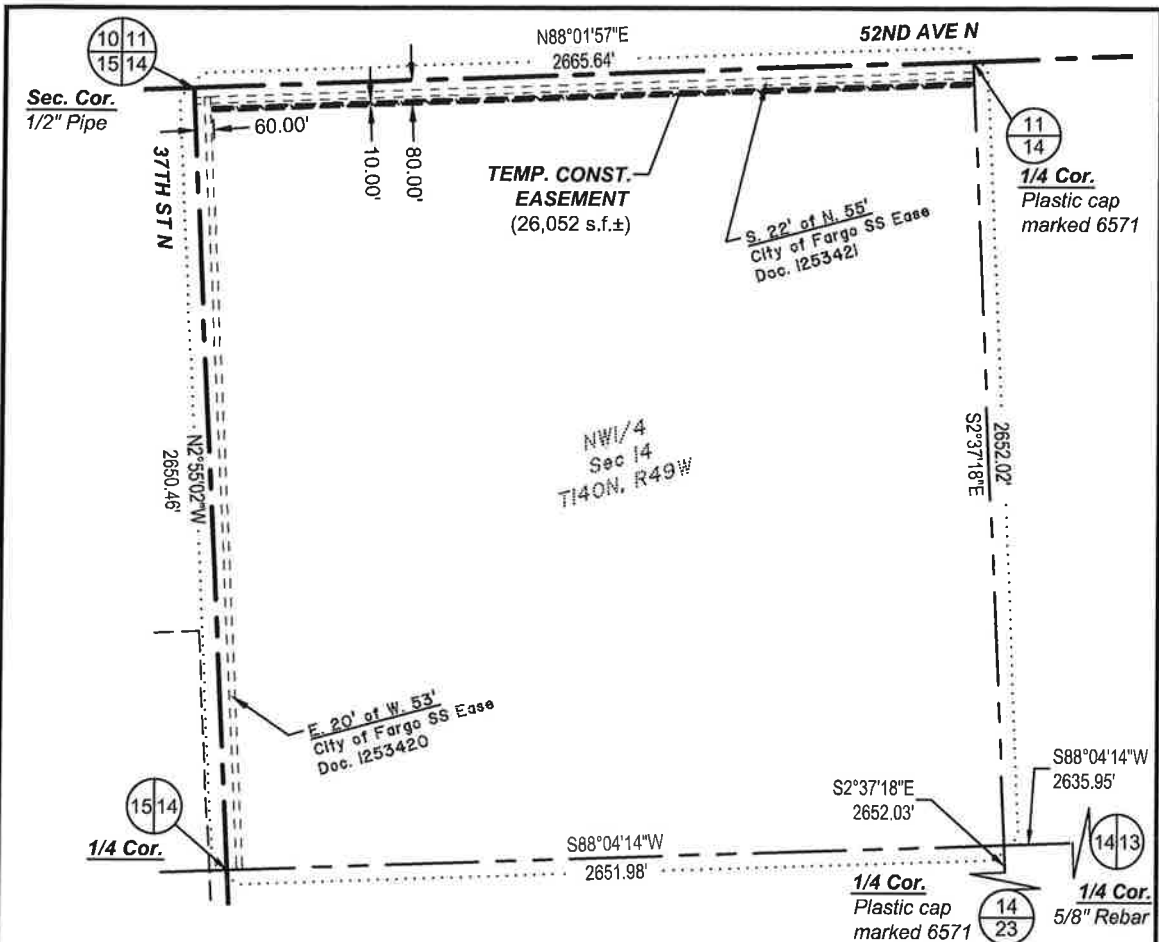
On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me a notary public in and for said county and state, personally appeared Timothy J. Mahoney and Steve Sprague, known to me to be the Mayor and City Auditor, respectively of the city of Fargo, the Grantee described in and that executed the within and foregoing instrument, and acknowledged to me that said Grantee executed the same.

(SEAL)

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

The legal description was prepared by:  
AE2S  
4170 28th Avenue South  
Fargo, ND 58104  
(701) 364-9111

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



**TEMPORARY CONSTRUCTION EASEMENT (TCE) - LEGAL DESCRIPTION**

That part of the Northwest Quarter of Section 14, Township 140 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

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**CERTIFICATE OF SURVEYOR**

I hereby certify that this survey was prepared by me or under my direct supervision and that I am duly Licensed Land Surveyor under the laws of the State of North Dakota. All measurements are true and correct, and all monuments are of the nature and occupy the positions shown hereon, to the best of my knowledge and belief.

*Nicholas R. Stattelmann*

Nicholas R Stattelmann  
ND Reg. No. 8218



**LEGEND**

0 500  
Scale in Feet

SECTION LINE  
 1/4 LINE  
 EXIST. EASEMENT LINE  
 NEW TCE LINE  
 NEW TEMP. CONST. EASE. (TCE)

BASIS OF BEARINGS: CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.  
 DISTANCES ARE GROUND, US SURVEY FEET.

PROJECT NO: P00803-2022-002	<b>CERTIFICATE OF SURVEY</b>	SURVEY DATE: 6/15/22
DRAWING TYPE: COS	OWNER: County 20 Storage & Transfer, Inc.	PREPARED BY: TH
	PARENT PARCEL ABBREVIATED LEGAL DESCRIPTION: Northwest Quarter Section 14, T140N, R49W, Cass County, North Dakota	CHECKED BY: NS
	Advanced Engineering and Environmental Services, LLC www.ae2s.com	APPROVED BY: NS

**AGREEMENT REGARDING DEFERRAL OF SPECIAL ASSESSMENTS**

**THIS AGREEMENT**, made and entered into by and between County 20 Storage & Transfer Inc., a North Dakota corporation, hereinafter called “Owner”, and the **City of Fargo, North Dakota**, a municipal corporation (“City”).

Recitals

**WHEREAS**, Owner is the fee simple owner of land referred to herein as the “Subject Property” legally described on Exhibit A attached hereto; and

**WHEREAS**, City intends to make public improvements as identified in Exhibit “B” attached hereto and incorporated herein by reference; and

**WHEREAS**, City will establish a property improvement project or projects wherein the City will install storm sewer, sanitation sewer, water, street paving with curb and gutter, street lights, and other infrastructure improvements over and across Owner’s property to serve the development to the south of Owner’s property; and,

**WHEREAS**, Owner requested a deferral of the Special Assessments attributable to the proposed project(s); and

**WHEREAS**, the Finance Committee recommended approval of a deferral in accordance with Fargo Municipal Code §3-1004 for a period of 10 years.



Agreement

**NOW, THEREFORE**, for good and valuable consideration hereby acknowledged, it is agreed by and between the parties hereto as follows:

1. Ownership. The undersigned is the owner of the Subject Property which has been annexed to, and is presently incorporated as part of the City of Fargo.

2. Definitions.

**“Arterial Public Improvements”** shall be those public municipal infrastructure improvements installed to include streets, sewers, water, lighting, and other miscellaneous improvements along roadways classified as ‘arterial roadways’ under the functional classification system. For purposes of this agreement, Arterial Public Improvements includes, without limitations, the streets, sewers, water and lighting improvements along the following streets:

**“Local Public Improvements”** shall be those public municipal infrastructure improvements installed to include streets, sewers, water, lighting, and other miscellaneous improvements along roadways classified other than “arterial roadways” under the functional classification system. Local Public Improvements shall include such improvements along local and collector roadways to include all public infrastructure as to allow development to occur and building permits to be issued. For the purposes of this agreement improvements on Street / Avenue adjacent to “Subject Property” shall be deferred to the same period as outlined under Section 4.2, Arterial Public Improvements.

**“Triggering Event”** shall be an occurrence that causes the removal of the deferral of special assessments for the parcel(s) or lot(s) in question. The ‘triggering event’ shall apply to all deferred special assessments to include Arterial and Local Public Improvements.

**“Public Improvements”** shall be either Arterial Public Improvements, Local Public Improvements or both.

3. Public Improvements to Property. Owner understands and agrees that public improvements, including water mains, sewers, storm sewers, paving, curb and gutter, and other municipal improvements which are enumerated in North Dakota Century Code § 40-22-01 will be constructed over and across Owner’s Property, and that the improvements benefit the Subject Property as designed on Exhibit B attached hereto and incorporated herein by reference, and that special assessments therefore will be levied and assessed against the Subject Property for such improvements. Owner hereby waives Owner’s right to protest the resolution of necessity for any such improvements for which such resolution is required pursuant to N.D.C.C. §40-22-17. Owner hereby specifically consents to the construction of such improvements and to the assessment of the costs thereof against the Subject Property. Furthermore, by entering into this agreement, the Owner hereby waives its right to protest the amount of benefit of any special assessment levied against the Subject Property for the Local Public Improvements.

4. Deferral of Certification of Special Assessment. City agrees to defer the certification of annual installments of special assessments levied against the Subject Property for any improvements constructed and installed as provided above, as follows (hereinafter identified as “Triggering Events”):

- a. Ten (10) years from the date of substantial completion for the infrastructure for 52<sup>nd</sup> Avenue North and 37<sup>th</sup> Street N; or
- b. Development of the Subject Property to a higher use than at the time of this Agreement, i.e., platting (other than platting of rights of way) or the application for a building permit on the deferred property; or
- c. The date of installation for “Local Public Improvements” requested by the Owner (local streets, sewers, water and lighting improvements have been installed and are available to serve the parcel or lot) that serve the Subject Property, except as to the Local Improvement stated herein; or
- d. In the event that all or any portion of the Property is sold by Owner, this deferral agreement and the term hereby shall continue, provided, however, that no improvements are made by the new owner (i.e. platting of property or building permits taken out for construction).

5. Annual Review. On or before October 1 of each year during the term of the deferral agreement, the City will determine continued compliance with the deferral conditions for purposes of determining whether or not the Special Assessment deferral should continue.

Special assessments no longer deferred shall be certified for collection beginning the next tax year.

6. Assessment Period – Interest During Period of Deferral. At such time as annual installments of special assessments are certified for collection, the total amount to be assessed shall be spread over a period time of not to exceed twenty-five (25) years and the annual installments shall be determined in accordance with N.D. Cent. Code §§ 40-24-04 through 40-24-08. Interest shall not accrue in accordance with Fargo Municipal Code §3-1004.

For purposes of this Agreement, the date of installation of Public Improvements shall be defined as the date that Public Improvements are functionally complete and assessed costs (to be deferred under the terms of this agreement) have been certified and confirmed by the City Commission.

7. Assessment Amount. The total amount to be assessed shall be the entire amount of the assessments as determined by the Special Assessment Commission and as confirmed by the Board of City Commissioners.

8. Dedication of Street & Utility Easements. As further consideration for this agreement, Owner agrees to dedicate the necessary street & utility easements over its property (including right-of-way utilities) at no cost to the City as follows: Internal collector and local streets as the tract is platted. The necessary right-of-way is inclusive of statutory right-of-way, if any.

9. Binding Agreement. This agreement shall be binding upon the parties hereto, and their heirs, administrators, successors and assigns. Owner, its heirs, successors and assigns, may assign any or all of their rights and responsibilities under this agreement at such times and as often as the Owner, its heirs, successors and assigns may elect.

10. Recording. The parties understand and agree that this Agreement may be recorded in the office of the Cass County Recorder.

(Signatures on following pages)

Dated this 15<sup>th</sup> day of March, 2023.

County 20 Storage & Transfer Inc.,  
a North Dakota Corporation



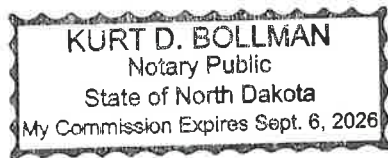
STATE OF NORTH DAKOTA        )  
  ) ss.  
COUNTY OF CASS                 )

On this 15 day of March, 2023, before me, a notary public in and for said county and state, personally appeared Robert Nelson, to me known to be the President of County 20 Storage & Transfer, Inc. in and that executed the within and foregoing instrument, and acknowledged to me that said person executed the same.



Notary Public  
Cass County, North Dakota

(SEAL)



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

CITY OF FARGO, A North Dakota Municipal Corporation

By \_\_\_\_\_  
Dr. 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 DR. 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.

(SEAL)

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

**EXHIBIT "A"**

PARCEL ID#: 01-3503-00060-000

CURRENT LAND ADDRESS: 3252 52<sup>ND</sup> AVENUE N  
FARGO ND 58102

LEGAL DESCRIPTION:

EAST 16 ACRES OF THE NORTHWEST ¼, SECTION 14, TOWNSHIP 140 NORTH, RANGE 49 WEST

EXHIBIT "B"

PARCEL ID#: 01-3503-00050-000

CURRENT LAND ADDRESS: 3336 52<sup>ND</sup> AVENUE N  
FARGO ND 58102

LEGAL DESCRIPTION:

EAST 97.63 ACRES LESS EAST 16 ACRES OF THE NORTHWEST ¼, SECTION 14, TOWNSHIP 140  
NORTH, RANGE 49 WEST

(12)

March 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  
Property Acquisition – Project #NR-23-A1**

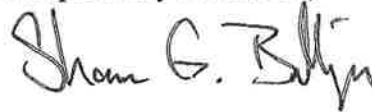
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of property rights in association with project #NR-23-A1. 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 fee acquisition, permanent easement, temporary easement & access easement from **3739129 Partners LLP** in association with Project #NR-23-A1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner document on behalf of the City of Fargo.

Please return the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Nathan Boerboom  
Nancy J. Morris



# MEMORANDUM OF OFFER TO LANDOWNER

City of Fargo, Engineering Department

Project NR-23-A1	County Cass	Parcel(s) 3, 3A, 4 & 5
Landowner 3739129 Partners LLP		
Mailing Address PO Box 7340 Fargo, ND 58106-7340		


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


See attached exhibits: Parcel 3 (warranty deed), Parcel 3A (temporary easement), Parcel 4 (storm sewer easement) & Parcel 5 (access easement).

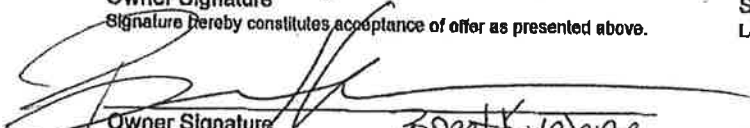
I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 216,545.00 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	<u>50,687.00</u>	
Easement and Access Control	\$	<u>110,858.00</u>	
Improvements on Right of Way*	\$	<u>                  </u>	
Damages to Remainder	\$	<u>55,000.00</u>	
Total Offer	\$		<u>216,545.00</u>

\*Description of Damages to Remainder are as follows:

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

  
 Shawn G. Bullinger  
 Land Acquisition Specialist, City of Fargo

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

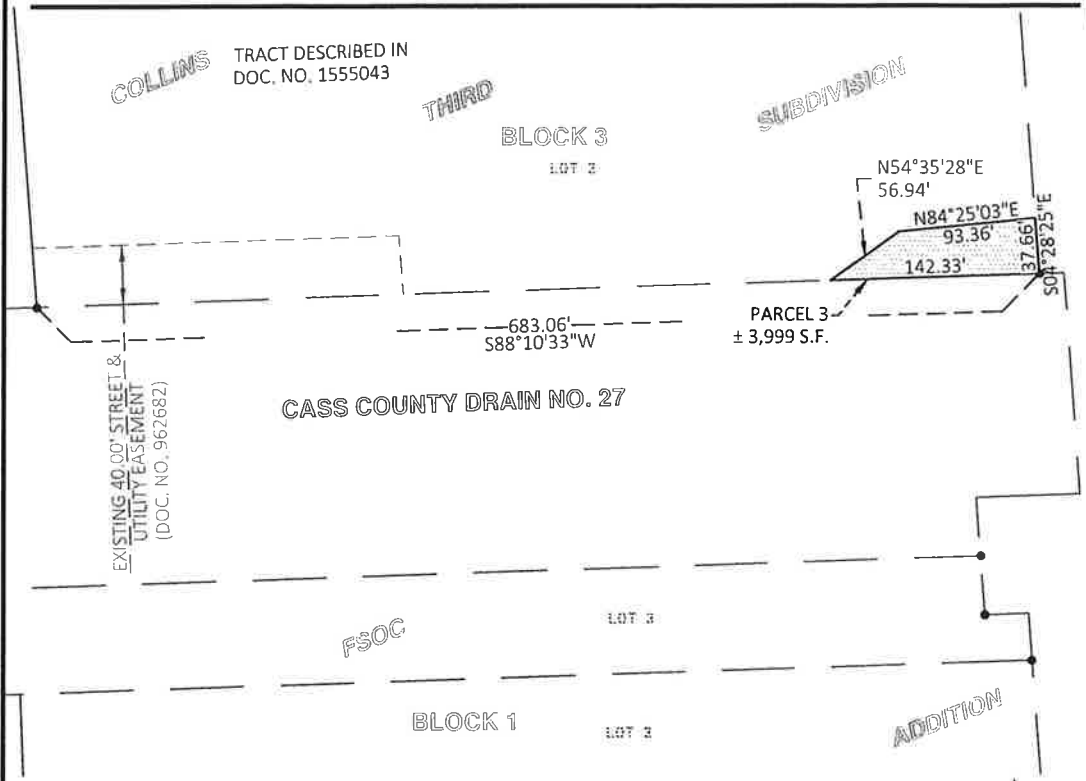
Fargo City Commission has considered the offer and approves the same:

Timothy J. Mahoney  
MAYOR

SIGNATURE

DATE

PART OF LOT 2, BLOCK 3  
 COLLINS THIRD SUBDIVISION  
 CITY OF FARGO, CASS COUNTY  
 STATE OF NORTH DAKOTA



**Description - Parcel 3:**

That part of Lot 2, Block 3, Collins Third Subdivision in the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southeast corner of said Lot 2; thence South 88°10'33" West, along the southerly line of said Lot 2, for a distance of 142.33 feet; thence North 54°35'28" East for a distance of 56.94 feet; thence North 84°25'03" East for a distance of 93.36 feet to a point of intersection with the easterly line of said Lot 2; thence South 04°28'25" East, along the easterly line of said Lot 2, for a distance of 37.66 feet to the point of beginning.

Said tract contains 3,999 square feet, more or less.

Scale: 1" = 100'



**LEGEND**

IRON MONUMENT FOUND	●
MEASURED BEARING	S59°27'46"E
MEASURED DISTANCE	105.00'
PLAT BEARING	(N57°00'00"W)
PLAT DISTANCE	(105.00')
PARCEL 3	

NOTE: ALL BEARINGS GIVEN ARE BASED ON THE CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.



**CERTIFICATE OF SURVEY**

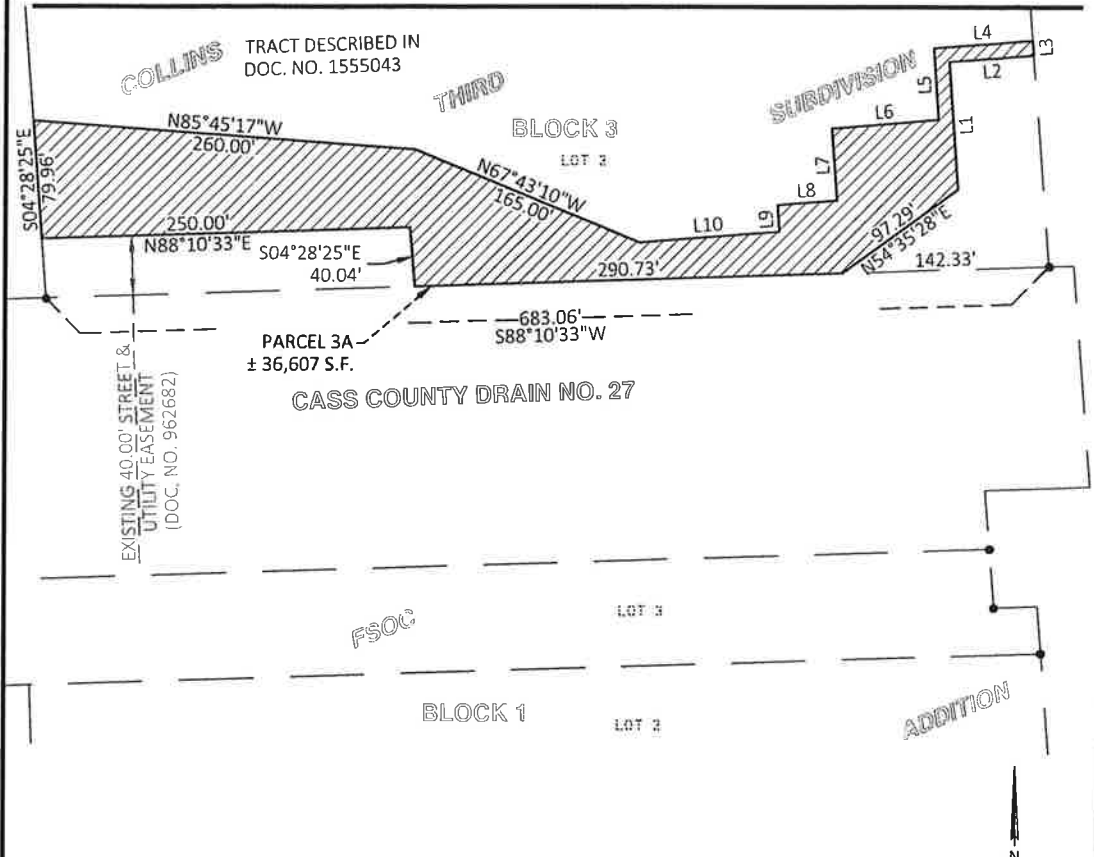
PROJECT NO.  
 6059-0193

DRAIN NO. 27 - STORM SEWER LIFT STATIONS NO. 47 & 48  
 CITY OF FARGO, CASS CO., ND

SHEET  
 1 OF 1

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PART OF LOT 2, BLOCK 3  
 COLLINS THIRD SUBDIVISION  
 CITY OF FARGO, CASS COUNTY  
 STATE OF NORTH DAKOTA



Parcel Line Table		
Line #	Length	Direction
L1	86.49	N04°09'04"W
L2	58.24	N85°33'16"E
L3	10.00	N04°28'25"W
L4	68.19	S85°33'16"W
L5	48.49	S04°09'04"E

Parcel Line Table		
Line #	Length	Direction
L6	73.61	S85°33'16"W
L7	48.84	S04°30'19"E
L8	40.89	S85°29'41"W
L9	17.93	S04°17'48"E
L10	95.00	S85°33'05"W

Scale: 1" = 100'



LEGEND

- IRON MONUMENT FOUND
- MEASURED BEARING: S59°27'46"E
- MEASURED DISTANCE: 105.00'
- PLAT BEARING: (N57°00'00"W)
- PLAT DISTANCE: (105.00')
- TEMPORARY EASEMENT

NOTE: ALL BEARINGS GIVEN ARE BASED ON THE CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.



EASEMENT EXHIBIT

PROJECT NO. 6059-0193

DRAIN NO. 27 - STORM SEWER LIFT STATIONS NO. 47 & 48  
 CITY OF FARGO, CASS CO., ND

SHEET 1 OF 2

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PART OF LOT 2, BLOCK 3  
COLLINS THIRD SUBDIVISION  
CITY OF FARGO, CASS COUNTY  
STATE OF NORTH DAKOTA

Description - Parcel 3A (Temporary Easement):

That part of Lot 2, Block 3, Collins Third Subdivision in the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southeast corner of said Lot 2; thence South 88°10'33" West, along the southerly line of said Lot 2, for a distance of 142.33 feet to the true point of beginning; thence North 54°35'28" East for a distance of 97.29 feet; thence North 04°09'04" West for a distance of 86.49 feet; thence North 85°33'16" East for a distance of 58.24 feet to a point of intersection with the easterly line of said Lot 2; thence North 04°28'25" West, along the easterly line of said Lot 2, for a distance of 10.00 feet; thence South 85°33'16" West for a distance of 68.19 feet; thence South 04°09'04" East for a distance of 48.49 feet; thence South 85°33'16" West for a distance of 73.61 feet; thence South 04°30'19" East for a distance of 48.84 feet; thence South 85°29'41" West for a distance of 40.89 feet; thence South 04°17'48" East for a distance of 17.93 feet; thence South 85°33'05" West for a distance of 95.00 feet; thence North 67°43'10" West for a distance of 165.00 feet; thence North 85°45'17" West to a point of intersection with the westerly line of a tract described in Document No. 1555043, on file at the Cass County Recorder's Office; thence South 04°28'25" East, along the westerly line of a tract described in said Document No. 1555043, for a distance of 79.96 feet to a point of intersection with the northerly line of the south 40.00 feet of said Lot 2; thence North 88°10'33" East, along the northerly line of the south 40.00 feet of said Lot 2, for a distance of 250.00 feet; thence South 04°28'25" East for a distance of 40.04 feet to a point of intersection with the southerly line of said Lot 2; thence North 88°10'33" East, along the southerly line of said Lot 2, for a distance of 290.73 feet to the true point of beginning.

Said tract contains 36,607 square feet, more or less.



**EASEMENT EXHIBIT**

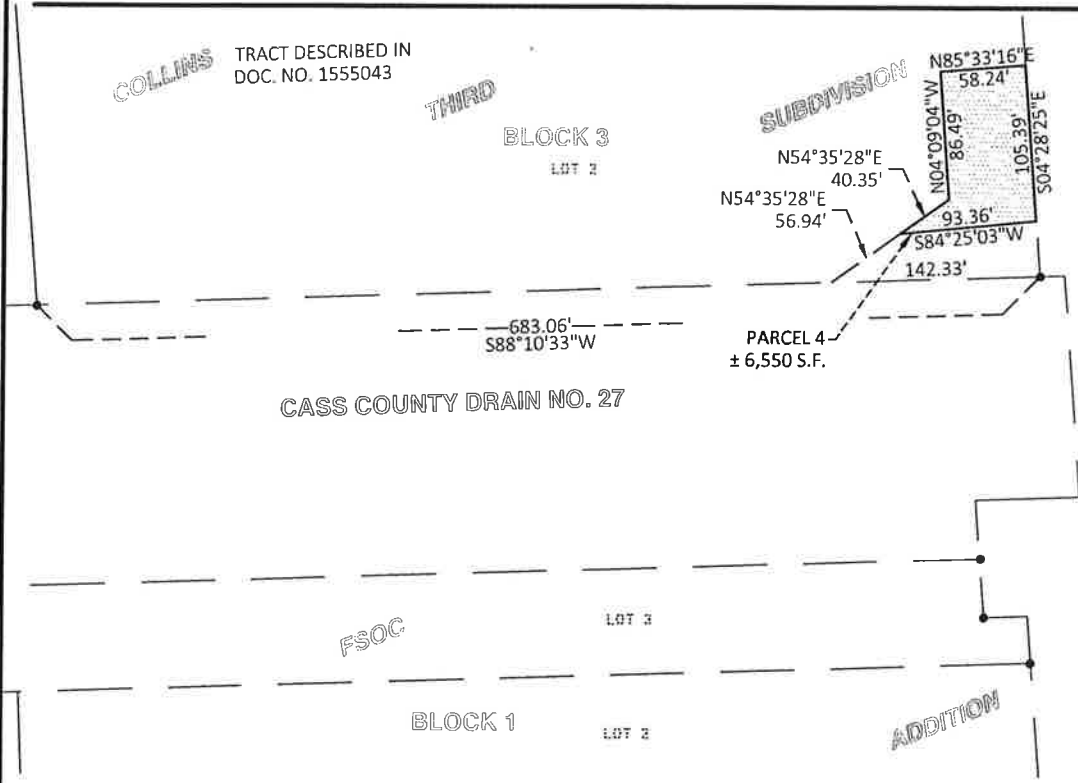
PROJECT NO.  
6059-0193

**DRAIN NO. 27 - STORM SEWER LIFT STATIONS NO. 47 & 48  
CITY OF FARGO, CASS CO., ND**

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1 OF 2**

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PART OF LOT 2, BLOCK 3  
 COLLINS THIRD SUBDIVISION  
 CITY OF FARGO, CASS COUNTY  
 STATE OF NORTH DAKOTA



**Description - Parcel 4 (Permanent Easement):**

That part of Lot 2, Block 3, Collins Third Subdivision in the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southeast corner of said Lot 2; thence South 88°10'33" West, along the southerly line of said Lot 2, for a distance of 142.33 feet; thence North 54°35'28" East for a distance of 56.94 feet to the true point of beginning; thence North 54°35'28" East for a distance of 40.35 feet; thence North 04°09'04" West for a distance of 86.49 feet; thence North 85°33'16" East for a distance of 58.24 feet to a point of intersection with the easterly line of said Lot 2; thence South 04°28'25" East, along the easterly line of said Lot 2, for a distance of 105.39 feet to the true point of beginning.

Said tract contains 6,550 square feet, more or less.



**LEGEND**

IRON MONUMENT FOUND	•
MEASURED BEARING	S59°27'46"E
MEASURED DISTANCE	105.00'
PLAT BEARING	(N57°00'00"W)
PLAT DISTANCE	(105.00')
PERMANENT EASEMENT	

NOTE: ALL BEARINGS GIVEN ARE BASED ON THE CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.



**EASEMENT EXHIBIT**

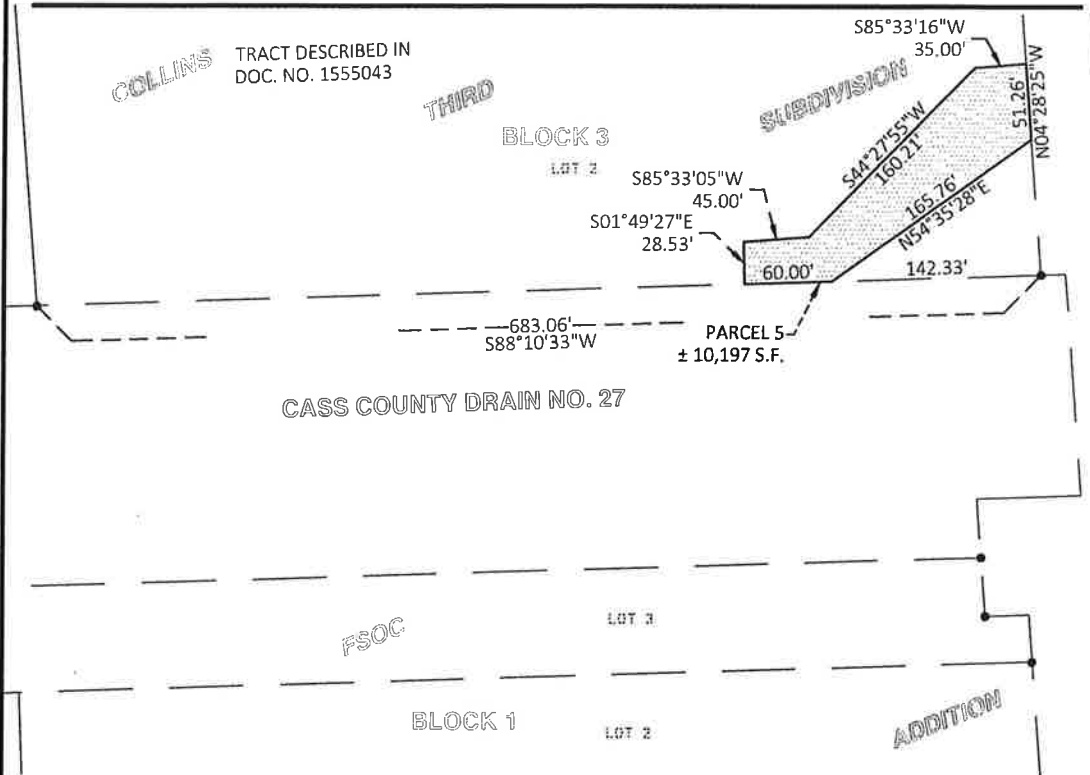
PROJECT NO.  
6059-0193

DRAIN NO. 27 - STORM SEWER LIFT STATIONS NO. 47 & 48  
 CITY OF FARGO, CASS CO., ND

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PART OF LOT 2, BLOCK 3  
 COLLINS THIRD SUBDIVISION  
 CITY OF FARGO, CASS COUNTY  
 STATE OF NORTH DAKOTA



**Description - Parcel 5 (Permanent Access Easement):**

That part of Lot 2, Block 3, Collins Third Subdivision in the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southeast corner of said Lot 2; thence South 88°10'33" West, along the southerly line of said Lot 2, for a distance of 142.33 feet to the true point of beginning; thence North 54°35'28" East for a distance of 165.76 feet to a point of intersection with the easterly line of said Lot 2; thence North 04°28'25" West, along the easterly line of said Lot 2, for a distance of 51.26 feet; thence South 85°33'16" West for a distance of 35.00 feet; thence South 44°27'55" West for a distance of 160.21 feet; thence South 85°33'05" West for a distance of 45.00 feet; thence South 01°49'27" East for a distance of 28.53 feet to a point of intersection with the southerly line of said Lot 2; thence North 88°10'33" East, along the southerly line of said Lot 2, for a distance of 60.00 feet to the true point of beginning.

Said tract contains 10,197 square feet, more or less.

**LEGEND**

IRON MONUMENT FOUND	•
MEASURED BEARING	S59°27'46"E
MEASURED DISTANCE	105.00'
PLAT BEARING	(N57°00'00"W)
PLAT DISTANCE	(105.00')
PERMANENT EASEMENT	

NOTE: ALL BEARINGS GIVEN ARE BASED ON THE CITY OF FARGO GROUND COORDINATE SYSTEM, DECEMBER 1992.



**EASEMENT EXHIBIT**

PROJECT NO.  
6059-0193

DRAIN NO. 27 - STORM SEWER LIFT STATIONS NO. 47 & 48  
 CITY OF FARGO, CASS CO., ND

SHEET  
1 OF 1

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13

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

March 29, 2023

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Project No. NR-23-B1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, March 29th 2023, for Storm Sewer Lift Station SCADA Upgrades, Project No. NR-23-B1, located at STS LS #17 (Main Ave at University Dr) & STS LS #29 (9th Ave N at Mickelson Field Levee).

The bids were as follows:

Sun Electric	\$142,000.00
Fusion Automation Inc.	\$209,050.00
Engineers Estimate	\$110,000.00

Private financial security is not needed.

No protests have been recieved.

This office recommends award of the contract to Sun Electric in the amount of \$142,000.00 as the lowest and best bid.

Sincerely,

---

Thomas Knakmuhs, PE  
Assistant City Engineer



**Engineer's Statement Of Cost**  
**Project # NR-23-B1**  
**Storm Sewer Lift Station SCADA Upgrades**

STS LS #17 (Main Ave at University Dr) & STS LS #29 (9th Ave N  
 at Mickelson Field Levee)

WHEREAS, bids have been opened and filed for the above described Improvement District for City of Fargo, North Dakota; and WHEREAS, an estimate of the cost of work is required by the engineer for the City of Fargo, North Dakota;

NOW THEREFORE Thomas Knakmuhs, do hereby certify as follows:

That I am the Assistant City Engineer for the City of Fargo, North Dakota;

That the following is detailed statement of the estimated cost of the job described as:

Storm Sewer Lift Station SCADA Upgrades Project # NR-23-B1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)	
<b>STS LS #17</b>						
1	F&I Lift Station Electrical	LS	1.00	100,000.00	100,000.00	
STS LS #17 Total					<b>100,000.00</b>	
<b>STS LS #29</b>						
2	F&I Lift Station Electrical	LS	1.00	42,000.00	42,000.00	
STS LS #29 Total					<b>42,000.00</b>	
<b>Total Construction in \$</b>					<b>142,000.00</b>	
				Engineering	10.00%	14,200.00
				Admin	4.00%	5,680.00
				Legal	3.00%	4,260.00
				Interest	4.00%	5,680.00
				Contingency	5.00%	7,100.00
				Misc. Costs		34,000.00
				<b>Total Estimated Costs</b>		<b>212,920.00</b>
				Utility Funds - Stormwater - 524		212,920.00
				<b>Unfunded Costs</b>		<b>0.00</b>

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

Date: 03/29/2023





---

Thomas Knakmuhs

Assistant City Engineer



PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

14

Improvement District No. BN-25-A0

Type: Amendment #1

Location: 64th Ave S & I-29

Date of Hearing: 3/27/2023

<u>Routing</u>	<u>Date</u>
City Commission	4/3/2023
PWPEC File	X
Project File	Eric Hodgson

The Committee reviewed the accompanying correspondence from Project Manager, Eric Hodgson, regarding Amendment #1 in the amount of \$99,930.00 for additional work.

Staff is recommending approval of Amendment #1 in the amount of \$99,930.00, bringing the total contract amount to \$866,076.00.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to recommend approval of Amendment #1 to Bolton & Menk.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve Amendment #1 in the amount of \$99,930.00, bringing the total contract amount to \$866,076.00 to Bolton & Menk.

PROJECT FINANCING INFORMATION:

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


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

<u>Yes</u>	<u>No</u>
	N/A
	N/A
	N/A

COMMITTEE

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
			<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
<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"/>	

Tim Mahoney, Mayor  
 Nicole Crutchfield, Director of Planning  
 Steve Dirksen, Fire Chief  
 Michael Redlinger, City Administrator  
 Ben Dow, Director of Operations  
 Steve Sprague, City Auditor  
 Brenda Derrig, City Engineer  
 Terri Gayhart, Finance Director

  
 Brenda E. Derrig, P.E.  
 City Engineer

ATTEST:

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC  
**From:** Eric Hodgson, Civil Engineer II  
**Date:** March 27, 2023  
**Re:** Project No. BN-25-A0 – Amendment #1  
64<sup>th</sup> Avenue South & I29 Interchange

---

**Background:**

Bolton & Menk, Inc. was selected in January 2023 to perform the Engineering work on Project No. BN-25-A, which is on 64<sup>th</sup> Avenue South & the I29 Interchange. Since then, additional alternatives have been requested to be looked at by the City. The change in scope requires an amendment to the original contract.

Included in this packet is the revised scope (Amendment #1) for the referenced project in the amount of \$99,930.00

**Recommended Motion:**

Approve Amendment #1 in the amount of \$99,930.

EBH/klb

Attachments:  
- Amendment #1

**AMENDMENT NO. 1**  
**64<sup>th</sup> Avenue South & I29 Interchange**

This Amendment No. 1 is entered into by and between the City of Fargo and Bolton & Menk, Inc., in order to amend the contract dated February 3<sup>rd</sup>, 2023, thereto as follows:

- I. Exhibit A: Scope of Services, pages 6 to 11, is amended to incorporate additional alternatives to study for preliminary design and traffic operations analysis.


Task	Description	Fee Before Amendment	Amendment # 1	Fee After Amendment
1	Project Administration	\$58,941	\$0	\$58,941
2	Preliminary Engineering Interchange Alternatives	\$97,425	\$64,680	\$162,105
3	Interstate System Access Change Request (ISACR)	\$59,670	\$23,800	\$83,470
4	Preliminary Survey	\$30,366	\$0	\$30,366
5	Environmental Document (Documented CATEX)	\$52,209	\$11,450	\$63,659
6	Geotechnical Investigation	\$17,634	\$0	\$17,634
7	All Meetings	\$71,388	\$0	\$71,388
8	Final Design and Plan Preparation	\$378,513	\$0	\$378,513
<b>Total</b>		<b>\$766,146</b>	<b>\$99,930</b>	<b>\$866,076</b>

All other terms and conditions of the original contract dated February 3<sup>rd</sup>, 2023 not expressly amended herein remain in full force and effect.

**City of Fargo**

**BOLTON & MENK, INC.**

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

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

Name: Tim Mahoney

Name: Chris Chromy

Title: Mayor

Title: Senior Principal

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

Date: March 27, 2023

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

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



Real People. Real Solutions.

3168 41st Street South  
Suite 2  
Fargo, ND 58104

Ph: (701) 566-5339  
Fax: (701) 566-5348  
Bolton-Menk.com

### Scope of Services: Amendment # 1

Project BN-25-A0: 64<sup>th</sup> Avenue South & I-29 Interchange

March 17, 2023

Amendment # 1 is needed to incorporate additional alternatives to the project for preliminary design and traffic operations analysis. The Bolton & Menk team will be responsible for completing the following tasks:

1. **Project Administration**

No change. The added alternatives will not increase the hours needed for this task.

2. **Preliminary Engineering Interchange Alternatives**

Task includes developing additional interchange alternatives, **in bold**, emphasizing safe and efficient operations while also providing surface street designs that meet demand for all travel modes. Preliminary design alternatives will consider:

- a. Roundabouts without bridge widening
- b. Roundabouts with bridge widening
- c. **Diverging Diamond with bridge widening**
- d. Traffic signal west, Roundabout east, ramps/loops, bridge widening
- e. **Interchange Interstate normal access with speed limit reduction**
- f. Interchange Auxiliary lanes
- g. Collector-Distributor System
- h. **64<sup>th</sup> Avenue South access configuration with minimum NDDOT spacing**
- i. **65<sup>th</sup> Avenue South access configuration with as close to desired NDDOT spacing as possible**

Preliminary designs will be prepared in combination with the environmental document to establish construction limits and identify impacts. Designs will attempt to incorporate NDDOT preferred ½ mile and minimum ¼ mile access spacing policies which may include access control at existing intersections and access points. Includes preparing context sensitive solutions for the adjacent land use as it is currently and as it will most likely develop into the future. Includes expansion and enhancement of pedestrian and bicycle networks, street lighting improvements, stormwater management network improvements, and City watermain and sanitary sewer networks improvements. Includes performing utility coordination and impact identification for all alternatives and subsequent meetings with utility owners to determine necessary utility adjustments or relocations.

Includes developing cost estimates for each alternative and preparing a decisions document. Does not include additional hours for data collection & review.

3. **Interstate System Access Change Request (ISACR)**

Task includes traffic modeling and multimodal analysis of the additional alternatives noted in Task 2. The data collection, traffic forecasting, report and ISACR document effort does not change.


**BOLTON  
& MENK**

Real People. Real Solutions.

 3168 41st Street South  
 Suite 2  
 Fargo, ND 58104

 Ph: (701) 566-5339  
 Fax: (701) 566-5348  
 Bolton-Menk.com

4. **Preliminary Survey**

No change. The added alternatives will not increase the hours needed for this task.

5. **Environmental Document (Documented CATEX - DCE)**

The added alternatives will result in additional time needed to draft the DCE, prepare the noise analysis and report, and prepare the public involvement report. Task includes developing the DCE per chapter 2 of the NDDOT design manual. Includes one public input meeting in Fargo and one NDDOT management meeting in Bismarck. Includes preparation and mailing of solicitation of view letters to necessary local, state, and federal agencies. After the 30-day SOV comment period all responses received will be incorporated into the public involvement report and DCE appendix. Includes section 106 cultural resources investigation and report. Includes wetland delineation field work, reporting, and USACE 404 permit package. Includes field noise monitoring and report, endangered species act checklist, 4(f) & 6(f) documentation, and environmental justice analysis. Does not include additional hours for SOV letters, Cultural Resources Investigation, Wetland Delineation / Reporting / 404 Permit, ESA checklist, 4 (f) & 6 (f) Compliance, or Environmental Justice Analysis.

6. **Geotechnical Investigation**

No change. The added alternatives will not increase the hours needed for this task.

7. **All Meetings**

No change. The added alternatives will not increase the hours needed for this task.

8. **Final Design and Plan Preparation**

No change. The added alternatives will not increase the hours needed for this task.

**Delivery of Data, Format, and Standards:** All data will become property of the City of Fargo upon completion. All data will be generated in the following formats and standards were applicable:

- Microsoft Word, Excel, Teams, and Project
- AutoCAD Civil 3D 2023
- NDDOT CADD Manual
- NDDOT Consultant Survey Manual Chapter 19
- NDDOT CADD Editing Standards Manual Chapter 21
- NDDOT Data Collection Codes and Procedures
- NDDOT Design Manual and Plan Preparation Guide Website
- NDDOT Right of Way Manual
- NDDOT Standard Specifications for Road and Bridge Construction
- City of Fargo Standard Specifications for water and sanitary sewer improvements
- Adobe Acrobat Reader Pro

**Schedule:** No change.

- Project Kickoff – February 2023
- Establish need and Baseline Environmental Reports – Spring 2023
- Preliminary Concepts and Assessment – Summer 2023



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Fargo, ND 58104

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- Stakeholder Engagement – Fall 2023
- Environmental Document and ISACR – Winter 2023/2024
- ROW Preservation and Utility Coordination – Spring 2024
- Final Design – Spring/Fall 2024
- Construction - 2025

# 2022 SCHEDULE OF FEES

The following fee schedule is based upon competent, responsible professional services and is the minimum, below which adequate professional standards cannot be maintained. It is, therefore, to the advantage of both the professional and the client that fees be commensurate with the service rendered. Charges are based on hours spent at hourly rates in effect for the individuals performing the work. The hourly rates for principals and members of the staff vary according to skill and experience. The current specific billing rate for any individual can be provided upon request.

The fee schedule shall apply for the period through December 31, 2022. These rates may be adjusted annually thereafter to account for changed labor costs, inflation, or changed overhead conditions.

These rates include labor, general business, and other normal and customary expenses associated with operating a professional business. Unless otherwise agreed, the above rates include vehicle and personal expenses, mileage, telephone, survey stakes, and routine expendable supplies; no separate charges will be made for these activities and materials. Expenses beyond the agreed scope of services and non-routine expenses, such as large quantities of prints, extra report copies, outsourced graphics and photographic reproductions, document recording fees, outside professional and technical assistance, and other items of this general nature will be invoiced separately. Rates and charges do not include sales tax, if applicable.

Employee Classification	Hourly Billing Rates
Senior Project Manager	\$175-240
Project Manager	\$140-190
Senior Project Engineer	\$145-185
Project Engineer	\$126-170
Design Engineer	\$110-150
Graduate Engineer	\$110-145
Senior Planner	\$150-192
Planner	\$110-156
Senior Landscape Architect	\$150-170
Landscape Architect	\$118-142
Landscape Designer	\$85-112
Licensed Project Surveyor	\$160-192
Graduate Surveyor	\$126-165
Survey Technician	\$85-165
Senior Technician	\$105-169
Technician	\$85-146
Specialist*	\$90-180
Practice Expert**	\$180-290
Senior Principal	\$198-235
Principal	\$158-225
Administrative/Corporate Specialists	\$65-120
GPS/Robotic Survey Equipment	NO CHARGE
CAD/Computer Usage	NO CHARGE
Routine Office Supplies	NO CHARGE
Routine Photo Copying/Reproduction	NO CHARGE
Field Supplies/Survey Stakes & Equipment	NO CHARGE
Mileage	NO CHARGE

<sup>1</sup> No separate charges will be made for GPS or robotic total stations on Bolton & Menk, Inc. survey assignments; the cost of this equipment is included in the rates for survey technicians.

\*Specialized role not classified above otherwise, incl. graphic design, project communication, funding support, etc.

\*\*Highly specialized and industry expertise unique to the market or area of discipline.



Amendment # 1 Cost Form

Improvement District No.: BN-25-A0

Type: Interstate Access Report, Environmental Document, and Design

Location: 64th Avenue S at I-29

Task No.	Work Task Description	Fixed Fee Lump Sum
1	Project Administration	\$0.00
2	Preliminary Engineering Interchange Alternatives	\$64,680.00
3	Interstate System Access Change Request (ISACR)	\$23,800.00
4	Preliminary Survey	\$0.00
5	Environmental Document (Documented CATEX)	\$11,450.00
6	Geotechnical Investigation	\$0.00
7	All Meetings	\$0.00
8	Final Design and Plan Preparation	\$0.00
<b>Total Not to Exceed - Amendment # 1</b>		<b>\$99,930.00</b>

15

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-23-B1

Type: Change Order #1

Location: 8th St N, 7th - 10th Ave; 8th Ave N, 9th - 7th St & 10th Ave N, 9th - 7th St

Date of Hearing: 3/27/2023

<u>Routing</u>	<u>Date</u>
City Commission	4/3/2023
PWPEC File	X
Project File	Aaron Edgar

The Committee reviewed the accompanying correspondence from Project Manager, Aaron Edgar, related to Change Order #1 in the amount of \$52,250.00 for an emergency sewer repair.

Staff is recommending approval of Change Order #1 in the amount of \$52,250.00, bringing the total contract amount to \$2,694,009.60.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to recommend approval of Change Order #1 to Master Construction.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #1 in the amount of \$52,250.00, bringing the total contract amount to \$2,694,009.60 to Master Construction.

PROJECT FINANCING INFORMATION:

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

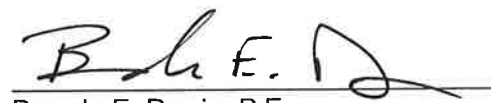
	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	<u>        </u>
Agreement for payment of specials required of developer	<u>N/A</u>	<u>        </u>
Letter of Credit required (per policy approved 5-28-13)	<u>N/A</u>	<u>        </u>

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input 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"/>	
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Terri Gayhart, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
Brenda E. Derrig, P.E.  
City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Aaron Edgar, Project Manager  
**Date:** March 21, 2023  
**Re:** Improvement District No. BR-23-B1 – Change Order #1

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**Background:**

Improvement District BR-23-B1 is for the Paving and Utility Rehab/Reconstruction of 8<sup>th</sup> Street North from 7<sup>th</sup> Avenue to 10<sup>th</sup> Avenue, on 8<sup>th</sup> Avenue North from 9<sup>th</sup> Street to 7<sup>th</sup> Street, and on 10<sup>th</sup> Avenue North from 9<sup>th</sup> Street to 7<sup>th</sup> Street.

Master Construction is the Prime Contractor for this project.

At the PWPEC meeting, that was held on February 13, 2023, the members approved an emergency sewer repair in the amount of \$56,400 and authorized the Engineering Department to change order the work onto Improvement District No. BR-23-B1.

The attached Change Order in the amount of \$52,250 (1.98% of the original contract), which increases the total contract amount to \$2,694,009.60, is for additional work as shown on Change Order #1.

**Change Order #1:**

- 1.) The Contractor repaired a section of broken sanitary sewer pipe, at the intersection of 7<sup>th</sup> Street North and 11<sup>th</sup> Avenue. The Contractor is requesting \$52,250 for this additional work.

**Recommended Motion:**

Approve Change Order #1 in the amount of \$52,250.

Attachment



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

**Change Order No** 1      **Change Order Date** 3/15/2023  
**Contractor** Master Construction Co Inc

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

**EXPLANATION OF CHANGE**      Change Order # 1

This change order is for the emergency repair of a section of broken sanitary sewer pipe, at the intersection of 7th Street North and 11th Avenue.

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	83	Repair Pipe 12" Dia	EA	0	0	0	1	1	\$52,250.00	\$52,250.00
<b>Change Order 1 Sub Total</b>										<b>\$52,250.00</b>

**Summary.**

**Source Of Funding**

Wastewater Utility, Water Utility, Infrastructure Sales Tax, and Special Assessments	\$52,250.00
Net Amount Change Order # 1 (\$)	\$0.00
Previous Change Orders (\$)	\$2,641,759.60
Original Contract Amount (\$)	\$2,694,009.60
Total Contract Amount (\$)	

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

APPROVED

For Contractor

Title

*Tyler Hofer*  
Project Manager

APPROVED DATE

Department Head

Mayor

Attest



(16)

March 29, 2023

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

Re: Temporary Construction Easement  
Improvement District #BR-23-J1

Dear Commissioners:

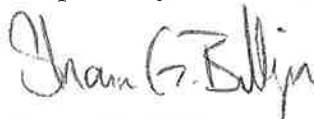
Accompanying for City Commission review and approval is a Temporary Construction Easement with the **Park District to the City of Fargo** in association with Improvement District #BR-23-J1.

RECOMMENDED MOTION:

Approve Temporary Construction Easement with the **Park District to the City of Fargo**.

Please return a copy of the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Jason Leonard  
Kasey McNary

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

**KNOW ALL MEN BY THESE PRESENTS** that **PARK DISTRICT TO THE CITY OF FARGO**, 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 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 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 tract of land in the Northeast Quarter of Section 7, Township 139 North, Range 48 West of the 5<sup>th</sup> Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

The northerly 5.00 feet of the east half of Lot 1, Block 20 and the northerly 5.00 feet of the west half of vacated 5<sup>th</sup> Street South lying southerly of and coincident with the southerly right-of-way line of 1<sup>st</sup> Avenue South, Original Townsite, City of Fargo, Cass County, North Dakota.

Said tract contains 325 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 agrees it 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, 2024 or end of project, whichever occurs later.

(Signatures on following pages).



IN WITNESS WHEREOF, Grantor set his/her hand and caused this instrument to be executed this 13<sup>th</sup> day of March, 2023.

GRANTOR:

PARK DISTRICT TO THE CITY OF FARGO

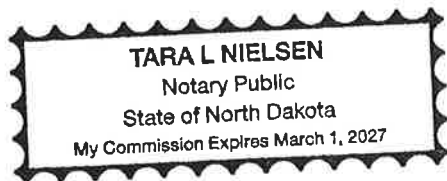
By: *Dave Leker*

Its: *Executive Director*

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

On this 13<sup>th</sup> day of March, 2023, before me, a notary public in and for said county and state, personally appeared Dave Leker, the Executive Director of PARK DISTRICT TO THE CITY OF FARGO, 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.

(SEAL)



*Tara L Nielsen*  
Notary Public  
Cass County, North Dakota



(17)

March 29, 2023

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

Re: Temporary Construction Easement  
Improvement District #BR-23-J1

Dear Commissioners:

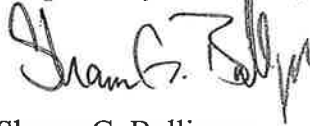
Accompanying for City Commission review and approval is a Temporary Construction Easement with the **YMCA of Cass and Clay Counties** in association with Improvement District #BR-23-J1.

RECOMMENDED MOTION:

Approve Temporary Construction Easement with the **YMCA of Cass and Clay Counties**.

Please return a copy of the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Jason Leonard  
Kasey McNary

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

KNOW ALL MEN BY THESE PRESENTS that YMCA OF CASS AND CLAY COUNTIES, a North Dakota non-profit corporation, 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 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 over, upon and in land hereinafter described for the purpose of street and utility construction and activities appurtenant thereto (the "project"), said land being more fully described, to-wit:

A tract of land in the Northeast Quarter of Section 7, Township 139 North, Range 48 West of the 5<sup>th</sup> Principal Meridian, City of Fargo, Cass County, North Dakota more particularly described as follows:

The northerly 5.00 feet of Block 21 and the northerly 5.00 feet of the east half of vacated 5<sup>th</sup> Street South lying southerly of and coincident with the southerly right-of-way line of 1<sup>st</sup> Avenue South, Original Townsite, City of Fargo, Cass County, North Dakota.

Said tract contains 1,700 square feet, more or less.

(the "Easement Area").

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 the Easement Area 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 it will not disturb, injure, molest or in any manner interfere with the

Easement Area 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 Easement Area so as to interfere in any manner with the Grantee's use of the Easement Area, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the Easement Area in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

Grantee shall be responsible for the reasonable costs and expenses of constructing, maintaining, and repairing the Easement Area until the easement terminates, including without limitation street cleaning. During the construction phase of the project, Grantee will also keep the Easement Area free of snow and ice. After the construction phase of the project, Grantee will, to the extent reasonably practical, remove all of its tools, vehicles, and equipment from the Easement Area.

Grantee shall not cause, suffer, or permit any mechanic's, materialman's, construction or similar lien to stand against any portion of the Easement Area or any portion of the Grantor's property for any labor performed or material furnished in connection with any work performed or caused to be performed to the Easement Area.

Grantee, by acceptance of this easement, agrees, to the fullest extent permitted by law, to indemnify and hold Grantor, its officers, directors, agents, and employees ("Grantor Parties") harmless from any and all claims, demands, damages, costs, expenses, and legal fees, including the cost of defense, for any loss, injury, death or damage to persons or property, which, at any time, is suffered or sustained by the Grantor Parties, the public, or by any person whatsoever may be using, occupying, visiting, or maintaining the Easement Area, or may be on or about the Easement Area when such loss, injury, death or damage is asserted to have been caused by any negligent act or omission, or intentional act or misconduct of the Grantee, its agents, servants, employees, invitees, or contractors, or by the breach of this easement by the Grantee or its agents, servants, employees, invitees, or contractors. In case of any action or proceeding brought against the Grantor Parties, by reason of such a claim, upon notice from the Grantor, Grantee shall cover the cost to defend such action or proceeding. The Grantor Parties shall not be liable and the Grantee waives and releases the Grantor Parties from all claims for damage to persons or property sustained by the Grantee, or the Grantee's employees, agents, servants, invitees, contractors and customers resulting by reason of

occupying or visiting the Easement Area and/or pertaining to any equipment or appurtenances being used, save for Grantor Parties' negligence. All property belonging to the Grantee and any use of the Easement Area shall be at the risk of the Grantee, and the Grantor Parties shall not be liable for damages to any such property or for theft or misappropriation thereof. The parties further acknowledge that during construction, the Grantee shall insure that the Grantee's contractor shall have a valid bond and liability insurance which shall protect and cover the Grantee and the Grantor Parties until construction is completed.

Nothing contained in this easement will, or will be deemed to, constitute a gift or dedication of any portion of any part of the land described above to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this easement be strictly limited to and for the purposes expressed herein.

No easements shall be implied.

This easement shall terminate on June 30, 2024 or end of project, whichever occurs later.

(Signatures on following pages).

IN WITNESS WHEREOF, Grantor set his/her hand and caused this instrument to be executed this 28 day of March, 2023.

GRANTOR:

YMCA of Cass and Clay Counties  
a North Dakota non-profit corporation

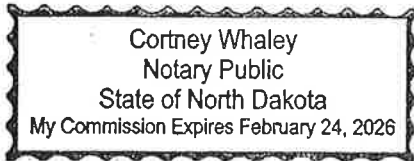
By: 

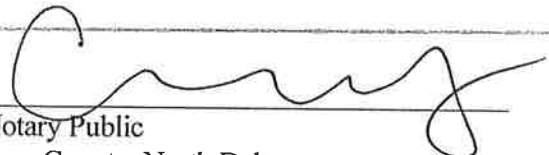
Its: President and CEO

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

On this 28 day of March, 2023, before me, a notary public in and for said county and state, personally appeared in Cass County, the Fercho Building of YMCA of Cass and Clay Counties, a North Dakota non-profit corporation, 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.

(SEAL)



  
\_\_\_\_\_  
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:  
City of Fargo Engineering Department  
225 4<sup>th</sup> Street North  
Fargo, ND 58102  
(701) 241-1545

This document was prepared by:  
Kasey D. McNary  
Assistant City Attorney  
Serkland Law Firm  
10 Roberts Street  
Fargo, ND 58102  
(701) 232-8957  
[kmcnary@serklandlaw.com](mailto:kmcnary@serklandlaw.com)





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

March 29, 2023

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Improvement District No. AN-22-B1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, March 29th 2023, for Alley Paving, Improvement District No. AN-22-B1, located at 3 Ave N to 4 Ave N between 7 St N and 8 St N.

The bids were as follows:

Dirt Dynamics	\$181,034.00
Key Contracting Inc	\$226,231.00
Engineers Estimate	\$171,986.00

Private financial security is not needed.

No protests have been recieved.

This office recommends award of the contract to Dirt Dynamics in the amount of \$181,034.00 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE  
Assistant City Engineer



**Engineer's Statement Of Cost**  
**Improvement District # AN-22-B1**  
**Alley Paving**

3 Ave N to 4 Ave N between 7 St N and 8 St N

WHEREAS, bids have been opened and filed for the above described Improvement District for City of Fargo, North Dakota; and WHEREAS, an estimate of the cost of work is required by the engineer for the City of Fargo, North Dakota;

NOW THEREFORE Thomas Knakmuhs, do hereby certify as follows:

That I am the Assistant City Engineer for the City of Fargo, North Dakota;

That the following is detailed statement of the estimated cost of the job described as:

Alley Paving Improvement District # AN-22-B1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
<b>Storm Sewer (Beyond Shelter)</b>					
1	Mobilization	LS	1.00	6,250.00	6,250.00
2	F&I Inlet - Manhole (MHI) 4' Dia Reinf Conc	EA	2.00	7,500.00	15,000.00
3	Connect Pipe to Exist Pipe	EA	1.00	750.00	750.00
4	F&I Pipe w/GB SDR 35 - 12" Dia PVC	LF	183.00	105.00	19,215.00
5	Casting to Grade - w/Conc	EA	2.00	550.00	1,100.00
6	F&I Traffic Surface Gravel	Ton	50.00	54.00	2,700.00
7	Inlet Protection - New Inlet	EA	2.00	245.00	490.00
8	Inlet Protection - Existing Inlet	EA	4.00	205.00	820.00
<b>Storm Sewer (Beyond Shelter) Total</b>					<b>46,325.00</b>
<b>Paving</b>					
9	Mobilization	LS	1.00	8,250.00	8,250.00
10	Remove Pavement All Thicknesses All Types	SY	821.00	18.00	14,778.00
11	Excavation	CY	225.00	24.00	5,400.00
12	Subgrade Preparation	SY	783.00	7.00	5,481.00
13	F&I Pavement 7" Thick Reinf Conc	SY	730.00	112.00	81,760.00
14	F&I Driveway 7" Thick Reinf Conc	SY	53.00	100.00	5,300.00
15	Remove Driveway All Thicknesses All Types	SY	50.00	24.00	1,200.00
16	Repair Pavement - Patch Asph	SY	44.00	190.00	8,360.00
17	Mulching Type 1 Hydro	SY	30.00	22.00	660.00
18	Seeding Type B	SY	30.00	22.00	660.00
19	Traffic Control - Type 1	LS	1.00	1,485.00	1,485.00
20	F&I Rock Mulch	Ton	5.00	275.00	1,375.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
Paving Total					134,709.00
<b>Total Construction in \$</b>					<b>181,034.00</b>
Engineering					18,103.40
Admin					7,241.36
Legal					5,431.02
Interest					7,241.36
Contingency					9,051.70
<b>Total Estimated Costs</b>					<b>228,102.84</b>
Special Assessments					228,102.84
<b>Unfunded Costs</b>					<b>0.00</b>

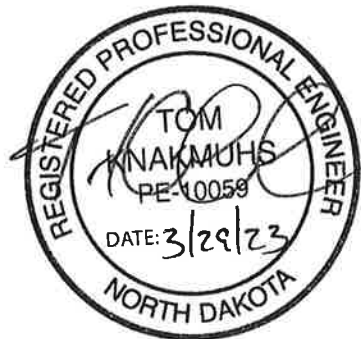
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 03/29/2023



Thomas Knakmuhs

Assistant City Engineer





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

March 29, 2023

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Improvement District No. PR-23-E1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, March 29, 2023, for Asphalt Mill & Overlay, Improvement District No. PR-23-E1, located at Section 1 - 7th Ave S to 13th Ave S between 45th St S to 52nd St S, Section 2 - 17th Ave S to 21st Ave S between 45th St S to 52nd St S, Section 3 - 23rd Ave S to 32nd Ave S between 25th St S to 36th St. S, Section 4 - 40th Ave S to 46th Ave S between Timberline Dr. S to 36th St S.

The bids were as follows:

Border States Paving Inc	\$3,773,510.60
Central Specialties, Inc	\$4,095,767.00
Northern Improvement Co	\$4,219,102.65
Engineers Estimate	\$4,540,123.00

Private financial security is not needed.

No protests have been recieved.

This office recommends award of the contract to Border States Paving Inc. in the amount of \$3,773,510.60 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE  
Assistant City Engineer



**Engineer's Statement Of Cost**  
**Improvement District # PR-23-E1**  
**Asphalt Mill & Overlay**

Section 1 - 7th Ave S to 13th Ave S between 45th St S to 52nd St S,  
 Section 2 - 17th Ave S to 21st Ave S between 45th St S to 52nd St S,  
 Section 3 - 23rd Ave S to 32nd Ave S between 25th St S to 36th St. S,  
 Section 4 - 40th Ave S to 46th Ave S between Timberline Dr. S to 36th St S

WHEREAS, bids have been opened and filed for the above described Improvement District for City of Fargo, North Dakota; and WHEREAS, an estimate of the cost of work is required by the engineer for the City of Fargo, North Dakota;

NOW THEREFORE Thomas Knakmuhs, do hereby certify as follows:

That I am the Assistant City Engineer for the City of Fargo, North Dakota;

That the following is detailed statement of the estimated cost of the job described as:

Asphalt Mill & Overlay Improvement District # PR-23-E1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
<b>Section 1</b>					
1	Repair Inlet	EA	9.00	841.00	7,569.00
2	F&I Repair Band 4" thru 12" Dia	EA	9.00	1,260.00	11,340.00
3	Adjust Curb & Gutter - Mud/Sand Jack	LF	2,000.00	15.80	31,600.00
4	Rem & Repl Curb & Gutter	LF	1,000.00	72.50	72,500.00
5	F&I Sidewalk 6" Thick Reinf Conc	SY	180.00	99.90	17,982.00
6	Remove Sidewalk All Thicknesses All Types	SY	175.00	21.00	3,675.00
7	Adjust Driveway - Mud/Sand Jack	SF	2,000.00	4.20	8,400.00
8	Rem & Repl Driveway 6" Thick Reinf Conc	SY	50.00	116.00	5,800.00
9	F&I Det Warn Panels Cast Iron	SF	384.00	63.10	24,230.40
10	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	4,400.00	80.00	352,000.00
11	Rem & Repl Casting - Inlet	EA	2.00	999.00	1,998.00
12	Rem & Repl Casting - Self Leveling	EA	1.00	2,100.00	2,100.00
13	Casting to Grade - no Conc	EA	9.00	275.00	2,475.00
14	GV Box to Grade - no Conc	EA	2.00	76.60	153.20
15	Rem & Repl Pavement 9" Thick Asph	SY	100.00	70.20	7,020.00
16	Mill / Grind Asphalt Pvmt Along Curb	LF	19,014.00	2.00	38,028.00
17	Mill / Grind Asphalt Pvmt 1" to 2" Thick	SY	2,000.00	3.00	6,000.00
18	Sodding	SY	150.00	23.70	3,555.00
19	F&I Grooved Plastic Film 16" Wide	LF	56.00	40.00	2,240.00
20	F&I Grooved Plastic Film 24" Wide	LF	300.00	53.60	16,080.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
21	Paint Epoxy Line 4" Wide	LF	1,164.00	4.75	5,529.00
22	Paint Epoxy Line 8" Wide	LF	301.00	9.45	2,844.45
23	Paint Epoxy Message	SF	96.00	26.30	2,524.80
24	Traffic Control - Type 1	LS	1.00	2,000.00	2,000.00
25	F&I Detection In-Ground Loop	EA	7.00	2,630.00	18,410.00
<b>Section 1 Total</b>					<b>646,053.85</b>
<b>Section 2</b>					
26	Repair Inlet	EA	10.00	841.00	8,410.00
27	F&I Repair Band 4" thru 12" Dia	EA	10.00	1,260.00	12,600.00
28	Adjust Curb & Gutter - Mud/Sand Jack	LF	1,500.00	15.80	23,700.00
29	Rem & Repl Curb & Gutter	LF	1,000.00	72.50	72,500.00
30	F&I Sidewalk 6" Thick Reinf Conc	SY	200.00	99.90	19,980.00
31	Remove Sidewalk All Thicknesses All Types	SY	200.00	21.00	4,200.00
32	Adjust Driveway - Mud/Sand Jack	SF	3,000.00	4.20	12,600.00
33	Rem & Repl Driveway 6" Thick Reinf Conc	SY	50.00	116.00	5,800.00
34	F&I Det Warn Panels Cast Iron	SF	392.00	63.10	24,735.20
35	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	3,500.00	80.00	280,000.00
36	Rem & Repl Casting - Inlet	EA	1.00	999.00	999.00
37	Rem & Repl Casting - Self Leveling	EA	1.00	2,100.00	2,100.00
38	Casting to Grade - no Conc	EA	1.00	275.00	275.00
39	GV Box to Grade - no Conc	EA	13.00	76.60	995.80
40	Rem & Repl Pavement 9" Thick Asph	SY	100.00	70.20	7,020.00
41	Mill / Grind Asphalt Pvmt 1" to 2" Thick	SY	28,379.00	3.00	85,137.00
42	Sodding	SY	200.00	23.70	4,740.00
43	Paint Epoxy Line 4" Wide	LF	680.00	4.75	3,230.00
44	Traffic Control - Type 1	LS	1.00	799.00	799.00
<b>Section 2 Total</b>					<b>569,821.00</b>
<b>Section 3</b>					
45	Repair Inlet	EA	16.00	841.00	13,456.00
46	F&I Repair Band 4" thru 12" Dia	EA	16.00	1,260.00	20,160.00
47	Adjust Curb & Gutter - Mud/Sand Jack	LF	3,000.00	15.80	47,400.00
48	Rem & Repl Curb & Gutter	LF	2,000.00	72.50	145,000.00
49	F&I Sidewalk 6" Thick Reinf Conc	SY	280.00	99.90	27,972.00
50	Remove Sidewalk All Thicknesses All Types	SY	228.00	21.00	4,788.00
51	Adjust Driveway - Mud/Sand Jack	SF	2,000.00	4.20	8,400.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
52	Rem & Repl Driveway 6" Thick Reinf Conc	SY	50.00	116.00	5,800.00
53	F&I Det Warn Panels Cast Iron	SF	492.00	63.10	31,045.20
54	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	11,500.00	80.00	920,000.00
55	Rem & Repl Casting - Inlet	EA	2.00	999.00	1,998.00
56	Rem & Repl Casting - Self Leveling	EA	17.00	2,100.00	35,700.00
57	Casting to Grade - no Conc	EA	3.00	275.00	825.00
58	GV Box to Grade - no Conc	EA	31.00	76.60	2,374.60
59	Rem & Repl Pavement 9" Thick Asph	SY	100.00	70.00	7,000.00
60	Mill / Grind Asphalt Pvmt 1" to 2" Thick	SY	92,992.00	2.00	185,984.00
61	Mill / Grind Asphalt Pvmt 2" to 4" Thick	SY	300.00	3.00	900.00
62	Sodding	SY	400.00	23.70	9,480.00
63	Paint Epoxy Line 4" Wide	LF	184.00	4.75	874.00
64	Paint Epoxy Line 8" Wide	LF	55.00	9.45	519.75
65	Paint Epoxy Line 24" Wide	LF	48.00	21.00	1,008.00
66	Paint Epoxy Message	SF	496.00	42.10	20,881.60
67	Traffic Control - Type 1	LS	1.00	3,790.00	3,790.00
68	F&I Detection In-Ground Loop	EA	1.00	2,630.00	2,630.00
<b>Section 3 Total</b>					<b>1,497,986.15</b>
<b>Section 4</b>					
69	Repair Inlet	EA	25.00	841.00	21,025.00
70	F&I Repair Band 4" thru 12" Dia	EA	25.00	1,260.00	31,500.00
71	Adjust Curb & Gutter - Mud/Sand Jack	LF	1,000.00	15.80	15,800.00
72	Rem & Repl Curb & Gutter	LF	1,000.00	72.50	72,500.00
73	F&I Sidewalk 6" Thick Reinf Conc	SY	270.00	99.90	26,973.00
74	Remove Sidewalk All Thicknesses All Types	SY	270.00	21.00	5,670.00
75	Adjust Driveway - Mud/Sand Jack	SF	2,000.00	4.20	8,400.00
76	Rem & Repl Driveway 6" Thick Reinf Conc	SY	50.00	116.00	5,800.00
77	F&I Det Warn Panels Cast Iron	SF	572.00	63.10	36,093.20
78	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	8,500.00	80.00	680,000.00
79	Rem & Repl Casting - Inlet	EA	2.00	999.00	1,998.00
80	Casting to Grade - no Conc	EA	1.00	275.00	275.00
81	GV Box to Grade - no Conc	EA	24.00	76.60	1,838.40
82	Rem & Repl Pavement 9" Thick Asph	SY	100.00	71.50	7,150.00
83	Mill / Grind Asphalt Pvmt 1" to 2" Thick	SY	69,836.00	2.00	139,672.00
84	Sodding	SY	150.00	23.70	3,555.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
85	Traffic Control - Type 1	LS	1.00	1,400.00	1,400.00
Section 4 Total					<b>1,059,649.60</b>
<b>Total Construction in \$</b>					<b>3,773,510.60</b>
		Engineering	10.00%		377,351.07
		Admin	4.00%		150,940.42
		Legal	3.00%		113,205.32
		Interest	4.00%		150,940.42
		Contingency	5.00%		188,675.53
<b>Total Estimated Costs</b>					<b>4,754,623.36</b>
Sales Tax Funds - Infrastructure - 420					2,297,893.87
Special Assessments					2,377,311.69
Utility Funds - Stormwater - 524					79,417.80
<b>Unfunded Costs</b>					<b>0.00</b>

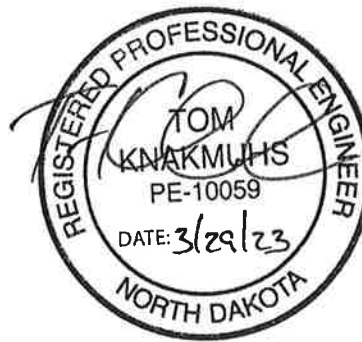
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 03/29/2023



Thomas Knakmuhs

Assistant City Engineer





COVER SHEET  
CITY OF FARGO PROJECTS

(20)

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

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

Paving and Utility Rehab/Reconstruction

Improvement

District No. BR-23-H

Call For Bids	<u>April 3</u>	,	<u>2023</u>
Advertise Dates	<u>April 12 &amp; 19</u>	,	<u>2023</u>
Bid Opening Date	<u>May 10</u>	,	<u>2023</u>
Substantial Completion Date	<u>September 29</u>	,	<u>2023</u>
Final Completion Date	<u>October 27</u>	,	<u>2023</u>

<u>N/A</u>	PWPEC Report (Part of 2023 CIP)
<u>X</u>	Engineer's Report (Attach Copy)
<u>X</u>	Direct City Auditor to Advertise for Bids
<u>X</u>	Bid Quantities (Attach Copy for Auditor's Office Only)
<u>X</u>	Notice to Property Owners (Dan Eberhardt)

Project Engineer Jeremy Engquist

Phone No. (701) 241-1545

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

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



**ENGINEER'S REPORT**  
**PAVING AND UTILITY REHAB/RECONSTRUCTION**  
**IMPROVEMENT DISTRICT NO. BR-23-H**  
**25TH STREET - MAIN AVE TO 1ST AVE N**

**Nature & Scope**

This project is for the replacement of the storm sewer inlets & leads, concrete curb & gutter, concrete pavement, sidewalks, pedestrian railing, and traffic signal improvements.

**Purpose**

The street reconstruction is necessary because the existing street section has deteriorated significantly and has exceeded its life expectancy.

**Feasibility**

The estimated cost of construction is \$2,181,553.00. The cost breakdown is as follows:

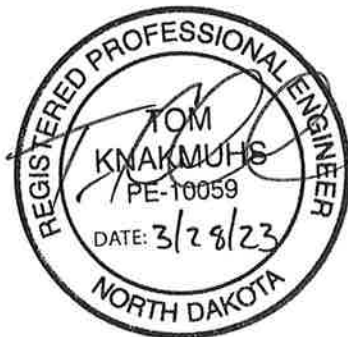
<b>Paving</b>		
<b>Construction Cost</b>		<b>\$1,990,308.00</b>
<b>Fees</b>		
Admin	4%	\$79,612.32
Contingency	5%	\$99,515.40
Engineering	10%	\$199,030.80
Interest	4%	\$79,612.32
Legal	3%	\$59,709.24
<b>Total Estimated Cost</b>		<b>\$2,507,788.08</b>
<b>Funding</b>		
Special Assessments	35.33%	\$885,909.47
State Funds - Other ND	64.67%	\$1,621,878.61

<b>Storm Sewer</b>		
<b>Construction Cost</b>		<b>\$191,245.00</b>
<b>Fees</b>		
Admin	4%	\$7,649.80
Contingency	5%	\$9,562.25
Engineering	10%	\$19,124.50
Interest	4%	\$7,649.80
Legal	3%	\$5,737.35
<b>Total Estimated Cost</b>		<b>\$240,968.70</b>
<b>Funding</b>		
Special Assessments	50.00%	\$120,484.35
State Funds - Other ND	50.00%	\$120,484.35

<b>Project Funding Summary</b>		
Special Assessments	36.61%	\$1,006,393.82
State Funds - Other ND	63.39%	\$1,742,362.96
<b>Total Estimated Project Cost</b>		<b>\$2,748,756.78</b>

**This project does not have any alternate or optional containers.**

We believe this project to be cost effective.



*T. Knakmuhs*  
 Thomas Knakmuhs, PE  
 Assistant City Engineer



**LOCATION AND COMPRISING  
PAVING AND UTILITY REHAB/RECONSTRUCTION  
IMPROVEMENT DISTRICT NO. BR-23-H  
25TH STREET - MAIN AVE TO 1ST AVE N**

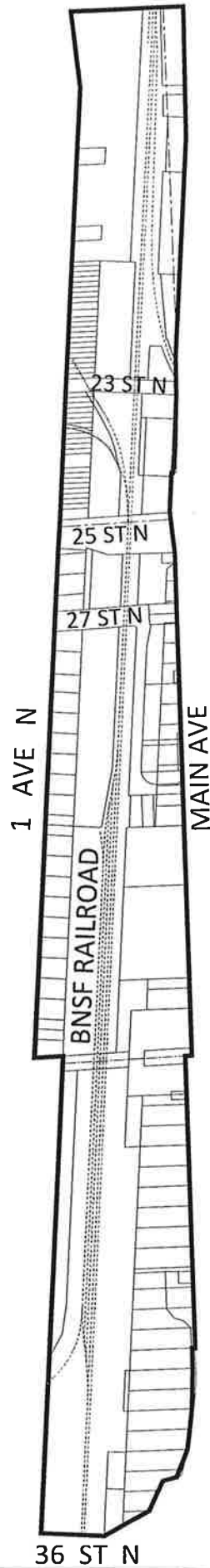
**LOCATION:**

On 25th Street North from 1st Avenue North to Main Avenue.

**COMPRISING:**

An area bound on the north by 1st Avenue North, bound on the south by Main Avenue, bound on the west by 36th Street North, and bound on the east by the eastern property line of Lot 1, Block 1, Cityscapes Business Park Addition, extending south to Main Avenue. Including all vacated alley's, unplatted land, and Railroad right of way within this area.

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



CITY OF FARGO  
ENGINEERING DEPARTMENT

LOCATION & ASSESSMENT AREA

PAVING AND UTILITY  
REHAB/RECONSTRUCTION

IMPROVEMENT DISTRICT NO. BR-23-H

COVER SHEET  
CITY OF FARGO PROJECTS

21

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

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

Traffic Signal Improvements

Improvement

District No. TN-23-A

Call For Bids	<u>April 3</u>	, <u>2023</u>
Advertise Dates	<u>April 12 &amp; 19</u>	, <u>2023</u>
Bid Opening Date	<u>May 10</u>	, <u>2023</u>
Substantial Completion Date	<u>December 15</u>	, <u>2023</u>
Final Completion Date	<u>June 14</u>	, <u>2024</u>

- N/A PWPEC Report (Part of 2023 CIP)
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Dan Eberhardt)

Project Engineer Jacob Rick

Phone No. (701) 241-1545

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

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



**ENGINEER'S REPORT  
TRAFFIC SIGNAL IMPROVEMENTS  
IMPROVEMENT DISTRICT NO. TN-23-A  
DEER CREEK PARKWAY / 55 AVE S AND 42 ST S / 47 AVE S**

**Nature & Scope**

This project calls for the installation of HAWK signals at 2 locations, one on Deer Creek Parkway near 55th Avenue South and the other on 42nd Street South near 47th Avenue South. These HAWK signals will help with pedestrian traffic movements at these locations and improve safety. Initial HAWK signal installations are typically 100% special assessed; however, both of these improved crossings have a direct benefit to the adjacent school and a greater benefit to the existing, or planned, regional trail system. Because of this, the costs are being 50% special assessed to that adjacent school parcels and 50% City funded.

**Purpose**

The projects goal is to increase safety and convenience of the residents and the traveling public.

**Feasibility**

The estimated cost of construction is \$228,515.00. The cost breakdown is as follows:

<b>Deer Creek</b>		
<b>Construction Cost</b>		<b>\$113,544.00</b>
<b>Fees</b>		
Admin	4%	\$4,541.76
Contingency	5%	\$5,677.20
Engineering	10%	\$11,354.40
Interest	4%	\$4,541.76
Legal	3%	\$3,406.32
<b>Total Estimated Cost</b>		<b>\$143,065.44</b>
<b>Funding</b>		
Special Assessments	50.00%	\$71,532.72
Utility Funds - Street Lights - 528	50.00%	\$71,532.72


<b>42nd St</b>		
<b>Construction Cost</b>		<b>\$114,971.00</b>
<b>Fees</b>		
Admin	4%	\$4,598.84
Contingency	5%	\$5,748.55
Engineering	10%	\$11,497.10
Interest	4%	\$4,598.84
Legal	3%	\$3,449.13
<b>Total Estimated Cost</b>		<b>\$144,863.46</b>
<b>Funding</b>		
Special Assessments	50.00%	\$72,431.73
Utility Funds - Street Lights - 528	50.00%	\$72,431.73

<b>Project Funding Summary</b>		
Special Assessments	50.00%	\$143,964.45
Utility Funds - Street Lights - 528	50.00%	\$143,964.45
<b>Total Estimated Project Cost</b>		<b>\$287,928.90</b>

**This project does not have any alternate or optional containers.**

We believe this project to be cost effective.



  
 Thomas Knakmuhs, PE  
 Assistant City Engineer





**LOCATION AND COMPRISING  
TRAFFIC SIGNAL IMPROVEMENTS  
IMPROVEMENT DISTRICT NO. TN-23-A  
DEER CREEK PARKWAY / 55 AVE S AND 42 ST S / 47 AVE S**

**LOCATION:**

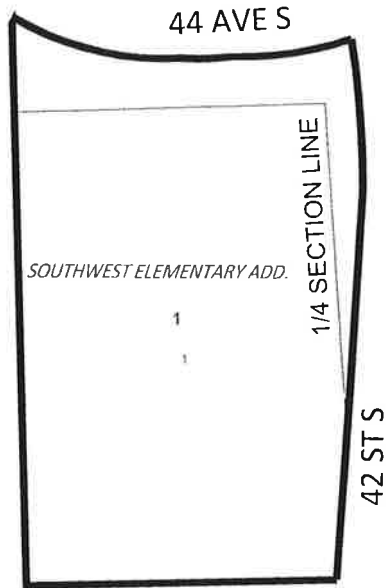
AREA 1 - On 42nd St S between 44th Ave S and 47th Ave S.

AREA 2 - On 63rd St S between 53rd Ave S and 55th Ave S.

**COMPRISING:**

Lot 1, Block 1, Southwest Elementary Addition.

Lot 10, Block 4, Grayland First Addition.

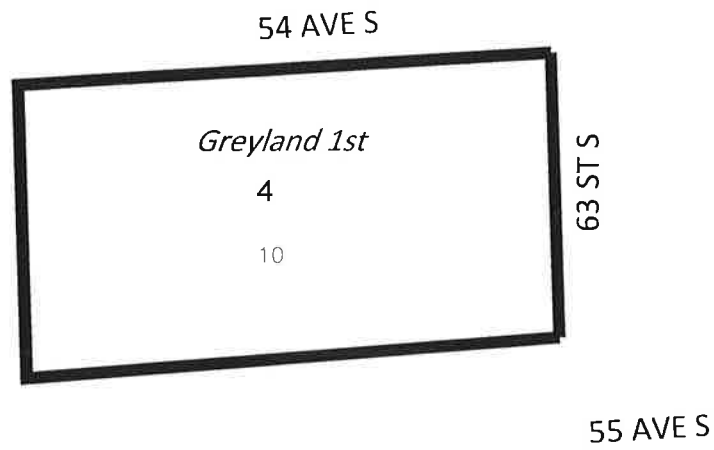


CITY OF FARGO ENGINEERING  
DEPARTMENT

LOCATION & ASSESSMENT AREA

TRAFFIC SIGNAL IMPROVEMENTS

IMPROVEMENT DISTRICT NO. TN-23-A1



CITY OF FARGO ENGINEERING  
DEPARTMENT

LOCATION & ASSESSMENT AREA

TRAFFIC SIGNAL IMPROVEMENTS

IMPROVEMENT DISTRICT NO. TN-23-A1

COVER SHEET  
CITY OF FARGO PROJECTS

22

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

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

Asphalt Wear Course

Improvement

District No. PN-23-A

Call For Bids	<u>April 3</u>	, <u>2023</u>
Advertise Dates	<u>April 12 &amp; 19</u>	, <u>2023</u>
Bid Opening Date	<u>May 10</u>	, <u>2023</u>
Substantial Completion Date	<u>September 30</u>	, <u>2023</u>
Final Completion Date	<u>October 30</u>	, <u>2023</u>

- N/A PWPEC Report (Attach Copy)
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Dan Eberhardt)

Project Engineer Jason Hoogland

Phone No. (701) 241-1545

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

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



**ENGINEER'S REPORT  
 ASPHALT WEAR COURSE  
 IMPROVEMENT DISTRICT NO. PN-23-A  
 SECTION 1 - WEST 29 ADDITION, SECTION 2 - URBAN  
 PLAINS AREA, SECTION 3 - WOODHURST ADDITION,  
 SECTION 4 - SILVERLEAF ADDITION, SECTION 5 -  
 GOLDEN VALLEY ADDITION, SECTION 6 - CROFTON  
 COVES ADDITION.**

**Nature & Scope**

Under this project, the City will be installing asphalt wear course on streets and avenues in 6 different areas of the City.

**Purpose**

Consistent with our standard practice, the asphalt wear course was not installed on these streets under the original paving contract. This allows for a wear course to be installed upon the completion of most of the housing construction in the area. By installing the wear course at this time, we are able to correct deficiencies in the street caused by settlement and the activities associated with home construction. The installation of these wearing courses, at this time, will improve the drainage and ride quality, along with extending the life of these streets.

**Feasibility**

The estimated cost of construction is \$1,921,736.60. The cost breakdown is as follows:

<b>Section 1</b>		
<b>Construction Cost</b>		<b>\$99,903.00</b>
<b>Fees</b>		
Admin	4%	\$3,996.12
Contingency	5%	\$4,995.15
Engineering	10%	\$9,990.30
Interest	4%	\$3,996.12
Legal	3%	\$2,997.09
<b>Total Estimated Cost</b>		<b>\$125,877.78</b>
<b>Funding</b>		
Special Assessments	100.00%	\$125,877.78

**Section 2**

<b>Construction Cost</b>		\$635,264.60
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**Fees**

Admin	4%	\$25,410.58
Contingency	5%	\$31,763.23
Engineering	10%	\$63,526.46
Interest	4%	\$25,410.58
Legal	3%	\$19,057.94

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<b>Total Estimated Cost</b>		<b>\$800,433.39</b>
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**Funding**

Special Assessments	100.00%	\$800,433.39
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**Section 3**

<b>Construction Cost</b>		\$94,841.00
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**Fees**

Admin	4%	\$3,793.64
Contingency	5%	\$4,742.05
Engineering	10%	\$9,484.10
Interest	4%	\$3,793.64
Legal	3%	\$2,845.23

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<b>Total Estimated Cost</b>		<b>\$119,499.66</b>
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**Funding**

Special Assessments	100.00%	\$119,499.66
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**Section 4**

<b>Construction Cost</b>		\$178,286.00
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**Fees**

Admin	4%	\$7,131.44
Contingency	5%	\$8,914.30
Engineering	10%	\$17,828.60
Interest	4%	\$7,131.44
Legal	3%	\$5,348.58

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<b>Total Estimated Cost</b>		<b>\$224,640.36</b>
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**Funding**

Special Assessments	100.00%	\$224,640.36
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**Section 5**

<b>Construction Cost</b>		\$319,882.00
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**Fees**

Admin	4%	\$12,795.28
Contingency	5%	\$15,994.10
Engineering	10%	\$31,988.20
Interest	4%	\$12,795.28
Legal	3%	\$9,596.46

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<b>Total Estimated Cost</b>		<b>\$403,051.32</b>
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**Funding**

Special Assessments	100.00%	\$403,051.32
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<b>Section 6</b>		
<b>Construction Cost</b>		\$593,560.00
<b>Fees</b>		
Admin	4%	\$23,742.40
Contingency	5%	\$29,678.00
Engineering	10%	\$59,356.00
Interest	4%	\$23,742.40
Legal	3%	\$17,806.80
<b>Total Estimated Cost</b>		<b>\$747,885.60</b>
<b>Funding</b>		
Special Assessments	100.00%	\$747,885.60

<b>Project Funding Summary</b>		
Special Assessments	100.00%	\$2,421,388.11
<b>Total Estimated Project Cost</b>		<b>\$2,421,388.11</b>

**This project does not have any alternate or optional containers.**

We believe this project to be cost effective.



  
 Thomas Knakmuhs, PE  
 Assistant City Engineer





**LOCATION AND COMPRISING  
ASPHALT WEAR COURSE  
IMPROVEMENT DISTRICT NO. PN-23-A**

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

**LOCATION:**

LOCATION (Section 1):

On 26th Avenue South from 41st Street South to 42nd Street South.  
On 41st Street South from 26th Avenue South to 28th Avenue South.

LOCATION (Section 2):

On 26th Avenue South from 55th Street South to Veterans Boulevard.  
On 28th Avenue South from 55th Street South to Veterans Boulevard.  
On Seter Parkway South from Veterans Boulevard to 33rd Avenue South.  
On 33rd Avenue South from Seter Parkway South to Veterans Boulevard.  
On 34th Avenue South from 55th Street South to Veterans Boulevard.  
On 55th Street South from Amber Valley Parkway South to Seter Parkway South.  
On 56th Street South from 34th Avenue South to 36th Avenue South.

LOCATION (Section 3):

On 31st Street South from 130' south of Prairie Grove Court South to 64th Avenue South.

LOCATION (Section 4):

On 62nd Avenue South from 25th Street South to 27th Street South.  
On Samuel Drive South.  
On 27th Street South from 62nd Avenue South to 64th Avenue South.

LOCATION (Section 5):

On 70th Avenue South from 25th Street South to Golden Valley Parkway South.  
On Golden Valley Parkway South from east of 26th Street South to 106' north of Golden Lane South.  
On Golden Lane South from 26th Street South to Golden Valley Parkway South.  
On 26th Street South from Golden Lane South to 160' south of Golden Valley Parkway South.

LOCATION (Section 6):

On 65th Avenue South from 19th Street South to 25th Street South.

On 67th Avenue South from 490' east of Crofton Lane South to 21st Street South.

On 69th Avenue South from Crofton Lane South to 21st Street South.

On Crofton Lane South from north end of cul-de-sac to 70th Avenue South.

On 19th Street South from 64th Avenue South to 65th Avenue South.

On 21st Street South from 64th Avenue South to 70th Avenue South.

**COMPRISING:**

COMPRISING (Section 1):

Lots 1 & 2, Block 1, West 29 3rd Addition.

Lot 1, Block 1, West 29 4th Addition.

Lot 1, Block 1, West 29 5th Addition.

Lot 3, Block 1, West 29 7th Addition.

COMPRISING (Section 2):

Lots 3 & 4, Block 1, Amber Valley West 1st Addition.

Lots 1 & 2, Block 1, Amber Valley West 2nd Addition.

Lot 1, Block 1, Amber Valley West 3rd Addition.

Lots 1 & 2, Block 1, Amber Valley West 4th Addition.

Lot 1, Block 1, Amber Valley West 5th Addition.

Lots 1 & 2, Block 1, Amber Valley West 6th Addition.

Lots 3 through 6, Block 1, Bentley Place 1st Addition.

Lots 2 & 3, Block 1, Bentley Place 2nd Addition.

Lots 1 & 2, Block 1, Bentley Place 3rd Addition.

Lot 30, Block 14, Brandt Crossing 1st Addition.

Lot 2, Block 1, Brandt Crossing 5th Addition.

Lot 1, Block 1, Brandt Crossing 7th Addition.

Lots 1 & 3, Block 1, Urban Plains Recreational 2nd.

Lot 1, Block 4, Urban Plains Center Addition.

Lots 2 through 4, Block 5, Urban Plains by Brandt 1st Addition.

Lot 1, Block 2.

Lots 1 & 2, Block 4.

Lots 1 through 3, Block 5.

All in Urban Plains by Brandt 2nd Addition.

Lots 1, 4 & 5, Block 1, Urban Plains by Brandt 3rd Addition.

Lots 1 & 2, Block 1, Urban Plains by Brandt 4th Addition.

Lots 1 through 5, Block 1, Urban Plains by Brandt 5th Addition.

Lot 1, Block 2.

Lot 1, Block 3.

All in Schatz 3rd Addition.

Lots 1 through 3, Block 1, Schatz 4th Addition.

COMPRISING (Section 3):

Lots 1 through 9, Block 1.

Lots 1 through 6, Block 2.

All in Woodhurst Addition.

Lot 28, Block 1, Maple Valley 2nd Addition.

COMPRISING (Section 4):

Lots 8 through 13, Januscheitis Subdivision.

Lot 24, Block 2.

Lots 16 & 17, Block 3.

Lot 1, Block 5.

All in Silverleaf Addition.

Lots 1 & 2, Block 1.

Lots 4 through 14, Block 1.

All in Silverleaf 2nd Addition.

Lot 1, Block 1, Silverleaf 3rd Addition.

Lot 1, Block 1, Commemorative Addition.

Lots 1 & 2, Block 1, Gardenia Addition.

Unplatted land in SE ¼ SEC 2 TWP 138 RGE 49 W.

COMPRISING (Section 5):

Lots 1 through 19, Block 1.

Lots 1 through 17, Block 2.

Lots 22 through 26, Block 2.

Lots 1 through 17, Block 3.

Lots 1 through 20, Block 4.

Lots 1 through 6, Block 5.

All in Golden Valley Addition.

COMPRISING (Section 6):

Lots 1 & 2, Block 1, Cass Rural Water Addition.

Lots 1 through 3, & 19, Block 1, Davies 2nd Addition.

Lots 1 through 9, Block 2.

Lot 1, Block 3.

Lots 1 through 52, Block 4.

Lot 1, Block 5.

Lots 1 through 12, Block 6.

Lots 1 through 35, Block 7.

Lots 1 through 10, Block 8.

Lots 2 through 10, Block 9.

Lots 3 through 6, Block 10.

All in Crofton Coves 1st Addition.

Lots 1 through 28, Block 1, Crofton Coves 2nd Addition.

Lot 1, Block 1.

Lots 1 & 2, Block 2.

Lots 1 through 6, Block 3.

All in South Ridge 1st Addition.

Lots 11 through 13, Block 1.

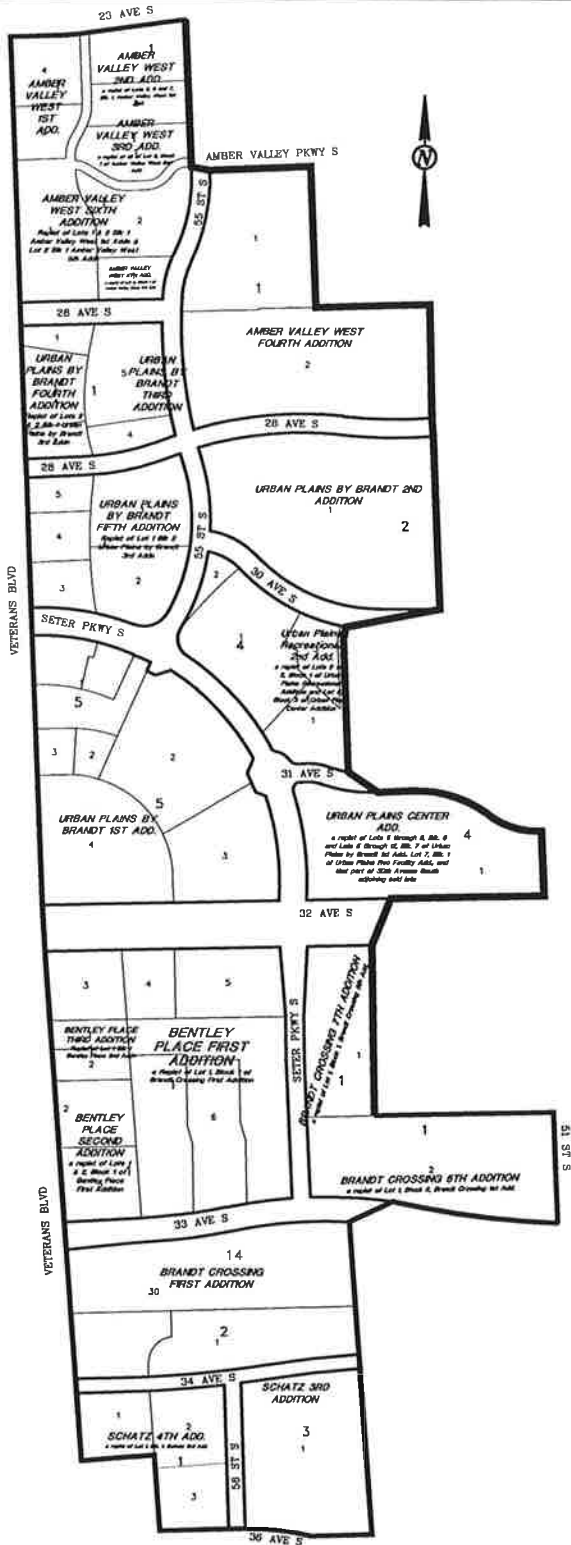
Lots 1 & 2, Block 2.

All in Bison Meadows Additon.

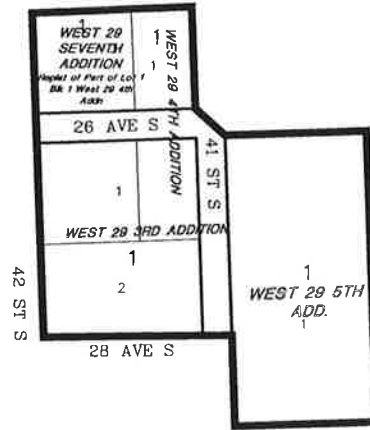
Lot 18, Block 1.

Lot 71, Block 2.

All in Bison Meadows 2nd Addition.



SECTION 2



SECTION 1



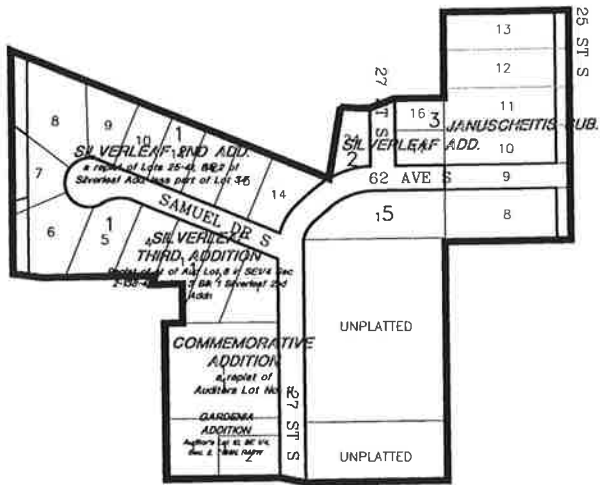
SECTION 3

CITY OF FARGO  
ENGINEERING DEPARTMENT

LOCATION & ASSESSMENT AREA

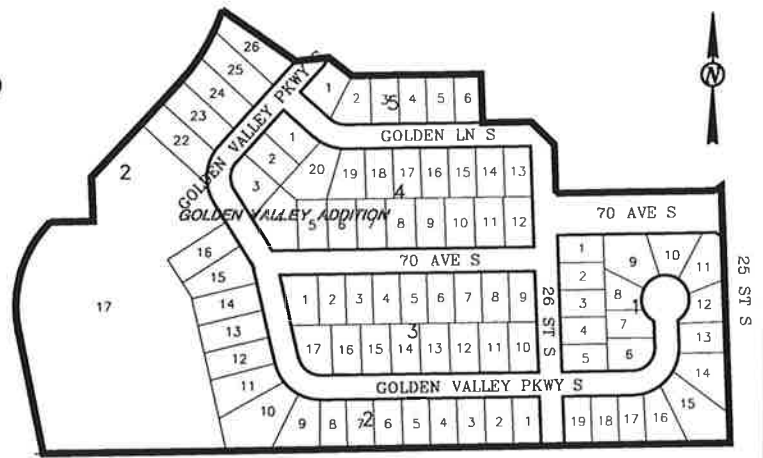
ASPHALT WEAR COURSE

IMPROVEMENT DISTRICT NO. PN-23-A

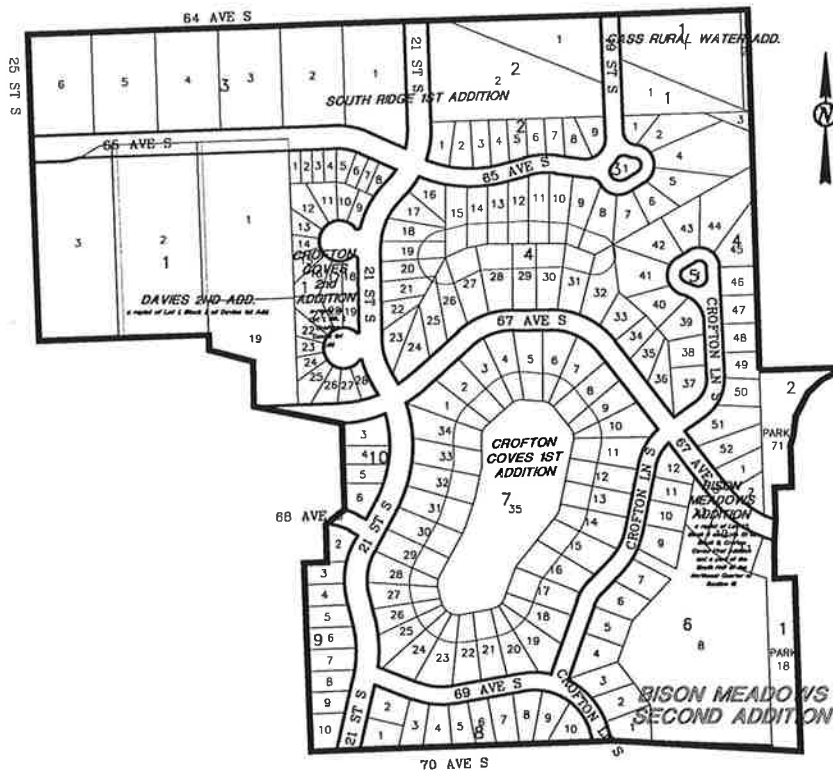


64 Ave S

SECTION 4



SECTION 5



SECTION 6

CITY OF FARGO  
ENGINEERING DEPARTMENT

LOCATION & ASSESSMENT AREA

ASPHALT WEAR COURSE

IMPROVEMENT DISTRICT NO. PN-23-A

COVER SHEET  
CITY OF FARGO PROJECTS

(23)

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

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

New Paving Construction

Improvement

District No. PN-23-C

Call For Bids	<u>April 3</u>	, <u>2023</u>
Advertise Dates	<u>April 12 &amp; 19</u>	, <u>2023</u>
Bid Opening Date	<u>May 10</u>	, <u>2023</u>
Substantial Completion Date	<u>August 18</u>	, <u>2023</u>
Final Completion Date	<u>September 17</u>	, <u>2023</u>

<u>N/A</u>	PWPEC Report (Part of 2023 CIP)
<u>X</u>	Engineer's Report (Attach Copy)
<u>X</u>	Direct City Auditor to Advertise for Bids
<u>X</u>	Bid Quantities (Attach Copy for Auditor's Office Only)
<u>X</u>	Notice to Property Owners (Dan Eberhardt)

Project Engineer Matthew Jennings

Phone No. (701) 241-1545

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

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





**ENGINEER'S REPORT  
NEW PAVING CONSTRUCTION  
IMPROVEMENT DISTRICT NO. PN-23-C  
ALONG 52ND AVE S WEST BOUND BETWEEN 45TH ST S  
& 47TH ST S**

**Nature & Scope**

This purpose of this project is to add a concrete turn lane along 52nd Avenue South and adjust the existing storm sewer to accommodate the turn lane.

**Purpose**

This project is to add a westbound right turn lane along 52nd Avenue South and improve access for the adjacent properties.

**Feasibility**

The estimated cost of construction is \$127,960.00. The cost breakdown is as follows:


<b>Base Bid</b>			
<b>Construction Cost</b>			\$127,960.00
<b>Fees</b>			
Admin	4%		\$5,118.40
Contingency	5%		\$6,398.00
Engineering	10%		\$12,796.00
Interest	4%		\$5,118.40
Legal	3%		\$3,838.80
<b>Total Estimated Cost</b>			<b>\$161,229.60</b>
<b>Funding</b>			
Special Assessments	100.00%		\$161,229.60

<b>Project Funding Summary</b>			
Special Assessments	100.00%		\$161,229.60
<b>Total Estimated Project Cost</b>			<b>\$161,229.60</b>

**This project does not have any alternate or optional containers.**

We believe this project to be cost effective.



  
Thomas Knakmuhs, PE  
Assistant City Engineer



**LOCATION AND COMPRISING  
NEW PAVING CONSTRUCTION  
IMPROVEMENT DISTRICT NO. PN-23-C  
ALONG 52ND AVE S WEST BOUND BETWEEN 45TH ST S  
& 47TH ST S**

**LOCATION:**

Between 49th Avenue South to 52nd Avenue South. Between 45th Street South to 47th Street South. All located in Osgood Townsite Addition.

**COMPRISING:**

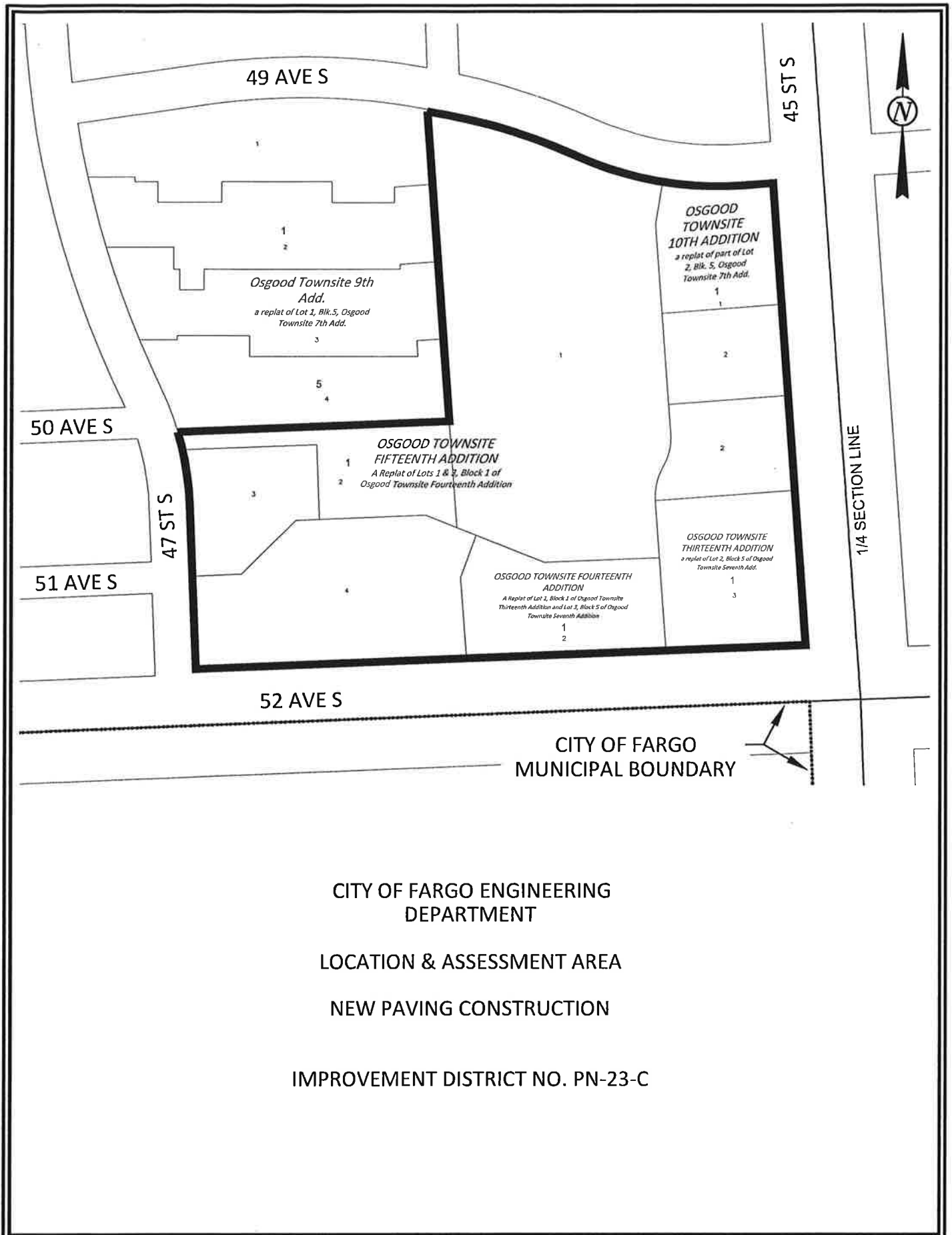
Lots 1, and 2, Block 1. All in Osgood Townsite 10th Addition.

Lots 2, and 3, Block 1. All in Osgood Townsite 13th Addition.

Lot 2, Block 1. All in Osgood Townsite 14th Addition.

Lots 1 through 4, inclusive, Block 1. All in Osgood Townsite 15th Addition.

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



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# Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** April 3, 2023  
**Re:** Contract for Project Management Services with KLJ

---

The Downtown Library is in need of new window shades. The current system has failed and is beyond end of life. Some of the shades can no longer be raised or lowered – even manually. This project was requested as a capital project for 2023. At the March 27, 2023 Finance Committee meeting, funding for the full Downtown Library Window Shade Replacement Project was approved.

The current system was controlled by a central server. Due to the numerous problems, the decision was made that the replacement be controlled by local controls instead. This is a highly technical project and Facilities solicited quotes for architectural and contract administration services. Three bids were obtained and the low bid was from JLG.

Stone Group	\$24,000
KLJ	\$21,200
JLG	\$17,168

Facilities and the Library are requesting for the Commission to approve the contract with JLG to provide professional project management services. The Agreement between the City and JLG is attached.

**Recommended Motion:**

Approve the Contract with JLG to provide Architectural and Contract Administration Services for the Downtown Library Window Shade Replacement Project.

 **AIA**® Document B105® – 2017

**Standard Short Form of Agreement Between Owner and Architect**

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

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

City of Fargo  
225 N. 4<sup>th</sup> St.  
Fargo, ND 58102

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

JLG Architects  
214 N. Broadway  
Fargo, ND 58102

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

23085 – Fargo Public Libraries Sunshades Replacement  
101 N. 4<sup>th</sup> St.  
Fargo, ND 58102  
Replace sunshades, electrical wiring, and controls at identified windows. The project includes sunshade material and installation, electrical scope, and allowance for removing/replacing ceiling tiles and other miscellaneous items.

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.

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**ARTICLE 1 ARCHITECT'S RESPONSIBILITIES**

The Architect shall provide architectural services for the Project as described in this Agreement. 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. 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. The Architect's services include the following consulting services, if any:

Electrical Engineering for electrical design and coordination of automatic shade function, by:  
MBN Engineering  
503 N. 7<sup>th</sup> St.  
Suite 200  
Fargo, ND 58102  
Telephone: 701-478-6336

During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, and design scope, the Architect shall prepare Bid Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining bids or proposals, and in awarding contracts for construction.

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™-2017, Standard Short Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A105-2017, those modifications shall not affect the Architect's services under this Agreement, unless the Owner and Architect amend this Agreement.

**ARTICLE 2 OWNER'S RESPONSIBILITIES**

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information as expeditiously as necessary for the orderly progress of the Project. The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information. The Owner shall furnish consulting services not provided by the Architect, but required for the Project. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

**ARTICLE 3 USE OF DOCUMENTS**

Drawings, specifications and other documents prepared by the Architect are the Architect's Instruments of Service, and are for the Owner's use solely with respect to constructing the Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the construction of the Project, provided that the Owner substantially performs its obligations under this Agreement, the Architect grants to the Owner a license to use the Architect's Instruments of Service as a reference for maintaining, altering and adding to the Project. The Owner agrees to indemnify the Architect from all costs and expenses related to claims arising from the Owner's use of the Instruments of Service without retaining the Architect. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information, or has permission from the copyright owner to transmit the information for its use on the Project.

**ARTICLE 4 TERMINATION, SUSPENSION OR ABANDONMENT**

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days, or if the other party substantially fails to perform in

Init.

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

**ARTICLE 5 MISCELLANEOUS PROVISIONS**

This Agreement shall be governed by the law of the place where the Project is located. Terms in this Agreement shall have the same meaning as those in AIA Document A105-2017, Standard Short Form of Agreement Between Owner and Contractor. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

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 the Architect.

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.

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 2; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner acknowledges that the contingency allowance is to cover funding of unpredictable changes in the work or items of work during the construction phase, serving three core purposes:

- (1) To account for coordination issues in the Construction Documents, including errors and omissions,
- (2) to modify or change the scope of the project,
- (3) to accommodate unknown conditions.

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."

**ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT**

The Architect's Compensation shall be:

Compensation shall be hourly per attached Exhibit C: JLG Schedule of Hourly Compensation & Reimbursable Expenses.

The Owner shall pay the Architect an initial payment of Zero ( \$ 0 ) as a minimum payment under this Agreement. The initial payment shall be credited to the final invoice.

The Owner shall reimburse the Architect for expenses incurred in the interest of the Project, plus Ten percent ( 10 %).

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest from the date payment is due at the rate of One point Five percent ( 1.5 %) monthly, or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

At the request of the Owner, the Architect shall provide additional services not included in Article 1 for additional compensation. Such additional services may include, but not be limited to, providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the Project scope, quality or budget, or due to Owner-requested changes in the approved design; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; providing services necessitated by the Contractor's failure to perform; and the extension of the Architect's Article 1 services beyond Six ( 6 ) months of the date of this Agreement through no fault of the Architect.

**ARTICLE 7 OTHER PROVISIONS**

*(Insert descriptions of other services and modifications to the terms of this Agreement.)*

Init.



**Limitation of Liability**

To the maximum extent permitted by law, the Owner agrees to limit the Architect's liability for any and all claims, losses, costs, damages, of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed the Architect's total compensation for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

**Claims and disputes:**

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. Any such claim, dispute or matter in question shall be subject to Informal Negotiation as first course of resolution. Either party may initiate informal negotiation of its claim, assuming the claim has been asserted within the time limits set forth in this Agreement by giving the other party written notice of such demand. Within ten (10) days of receipt of demand for informal negotiations, representatives of the parties with authority to settle the claim will meet to determine if the claim can be resolved informally. If informal negotiation fails to resolve the claim, mediation as a condition precedent to binding dispute resolution. If the parties do not resolve a claim, dispute, or matter in question through mediation, the method of binding dispute resolution shall be the following: Litigation in a court of competent jurisdiction.

**Exhibits:**

- Exhibit A: Proposal of Scope and Services
- Exhibit B: JLG Image Release
- Exhibit C: JLG Schedule of Hourly Compensation & Reimbursable Expenses
- Exhibit D: MBN Engineering 2023 Hourly Rate Schedule

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

\_\_\_\_\_  
**OWNER (Signature)**

Dr. Timothy Mahoney,  
*(Printed name and title)*



\_\_\_\_\_  
**ARCHITECT (Signature)**

Rob Remark, AIA, Principal  
*(Printed name, title, and license number, if required)*

Init.

## **Additions and Deletions Report for AIA® Document B105® – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:42:13 ET on 03/23/2023.

### **PAGE 1**

**AGREEMENT** made as of the Twenty Third day of March in the year Two Thousand and Twenty Three

...

City of Fargo  
225 N. 4<sup>th</sup> St.  
Fargo, ND 58102

...

JLG Architects  
214 N. Broadway  
Fargo, ND 58102

...

23085 – Fargo Public Libraries Sunshades Replacement  
101 N. 4<sup>th</sup> St.  
Fargo, ND 58102

Replace sunshades, electrical wiring, and controls at identified windows. The project includes sunshade material and installation, electrical scope, and allowance for removing/replacing ceiling tiles and other miscellaneous items.

### **PAGE 2**

The Architect shall provide architectural services for the Project as described in this Agreement. 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. The Architect shall ~~assist the Owner in determining consulting services required for the Project. 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. The Architect's services include the following consulting services, if any:

...

Electrical Engineering for electrical design and coordination of automatic shade function, by:  
MBN Engineering  
503 N. 7<sup>th</sup> St.

Suite 200  
Fargo, ND 58102  
Telephone: 701-478-6336

...

During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, ~~the Architect shall develop a design, which shall be set forth in drawings and other documents appropriate for the Project. Upon the Owner's approval of the design, the Architect shall prepare Construction and design scope, the Architect shall prepare Bid Documents~~ indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining bids or proposals, and in awarding contracts for construction.

...

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information as expeditiously as necessary for the orderly progress of the Project. The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information. The Owner shall furnish consulting services not provided by the Architect, but required for the ~~Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services.~~ Project. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

**PAGE 3**

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 2; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner acknowledges that the contingency allowance is to cover funding of unpredictable changes in the work or items of work during the construction phase, serving three core purposes:

...

(1) To account for coordination issues in the Construction Documents, including errors and omissions,

...

(2) to modify or change the scope of the project,

...

(3) to accommodate unknown conditions.

...

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."

...

Compensation shall be hourly per attached Exhibit C: JLG Schedule of Hourly Compensation & Reimbursable Expenses.

...

The Owner shall pay the Architect an initial payment of Zero (\$ 0 ) as a minimum payment under this Agreement. The initial payment shall be credited to the final invoice.

...

The Owner shall reimburse the Architect for expenses incurred in the interest of the Project, plus Ten percent ( 10 %).

...

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest from the date payment is due at the rate of One point Five percent ( 1.5 %) monthly , or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

...

At the request of the Owner, the Architect shall provide additional services not included in Article 1 for additional compensation. Such additional services may include, but not be limited to, providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the Project scope, quality or budget, or due to Owner-requested changes in the approved design; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; providing services necessitated by the Contractor's failure to perform; and the extension of the Architect's Article 1 services beyond Six ( 6 ) months of the date of this Agreement through no fault of the Architect.

**PAGE 4**

**Limitation of Liability**

...

To the maximum extent permitted by law, the Owner agrees to limit the Architect's liability for any and all claims, losses, costs, damages, of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed the Architect's total compensation for services rendered on this Project. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

...

**Claims and disputes:**

...

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. Any such claim, dispute or matter in question shall be subject to Informal Negotiation as first course of resolution. Either party may initiate informal negotiation of its claim, assuming the claim has been asserted within the time limits set forth in this Agreement by giving the other party written notice of such demand. Within ten (10) days of receipt of demand for informal negotiations, representatives of the parties with authority to settle the claim will meet to

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User Notes:

determine if the claim can be resolved informally. If informal negotiation fails to resolve the claim, mediation as a condition precedent to binding dispute resolution. If the parties do not resolve a claim, dispute, or matter in question through mediation, the method of binding dispute resolution shall be the following: Litigation in a court of competent jurisdiction.

...

Exhibits:

...

Exhibit A: Proposal of Sope and Services

...

Exhibit B: JLG Image Release

...

Exhibit C: JLG Schedule of Hourly Compensation & Reimbursable Expenses

...

Exhibit D: MBN Engineering 2023 Hourly Rate Schedule

...

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*(Printed (Printed name and title)title)*

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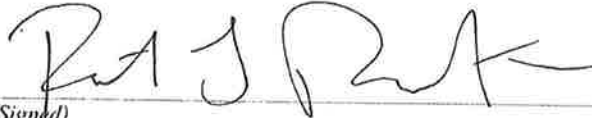
Rob Remark, AIA, Principal

*(Printed name, title, and license number, if required)required)*

**Certification of Document's Authenticity**

AIA® Document D401™ - 2003

I, Rob Remark, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:42:13 ET on 03/23/2023 under Order No. 4104237673 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B105™ - 2017, Standard Short Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.



(Signed)

Principal

(Title)

3/30/23

(Dated)



## EXHIBIT A



March 3, 2023

Bekki Majerus  
Director of Facilities Management  
The City of Fargo

Dear Bekki Majerus:

Thank you for considering JLG Architects for this opportunity. We are excited to propose on the Fargo Public Library Sunshade Replacement project. Together with MBN Engineering (electrical engineering) we have put together the attached proposal highlighting our team's understanding of the project scope, approach to the work, suggested schedule, and compensation.

At JLG, project management is a core tenant and a critical component of our client services. For this specific project we have created an intentional approach that we believe efficiently utilizes the resources already available by the City and leverages our design team's project management structure to execute a well-organized, clear, complete delivery from project kick-off through completion.

When you review the attached proposal you will see that we have proposed compensation as time and material, and that we have outlined our current anticipated time of service, and thus cost if following the provided plan. In your review, if you see any time or scope of service out of alignment, we are happy to adjust and realign as needed. If you need our approach, or scope of services adjusted, please do not hesitate to let us know.

We are very excited by the opportunity to begin to live into the library's masterplan vision in a tactical way with the City and Library team.

Sincerely,

A handwritten signature in black ink that reads "Rob Remark".

Rob Remark, AIA  
JLG Architects





**PROPOSAL**

JLG 23085 Fargo Public Library Sunshades Replacement

RE: Professional Services Proposal

March 3, 2023

**PROJECT DESCRIPTION**

Replace sunshades, electrical wiring, and controls at identified windows. The estimated construction cost including sunshade material and installation, electrical scope, and allowance for removing/replacing ceiling tiles and other miscellaneous items is \$205,000.

- To:  CC:
- Bekki Majerus, Director of Facilities Management  
City of Fargo
  - Rob Remark, Principal Architect  
JLG Architects
  - Deb Wendel Daub, Project Manager  
JLG Architects

**PROJECT TEAM**

- OWNER: City of Fargo, Fargo Public Library
- ARCHITECT: JLG Architects
- CONSULTANTS: MBN Engineering (Electrical)

**PROGRAM**

Existing building with no known programmatic changes. Scope includes replacing sunshades and modifying electrical wiring controls in specified locations within existing spaces.

**BUDGET**

Preliminary budget provided by Owner in RFQ. Document attached from Owner.

**SCOPE OF WORK**

As defined by Phases below.

**Design & Specification Phase**

*Proposed Scope/Services: Evaluate the design criteria and coordinate with electrical engineer for the creation of construction specification and scope reference documentation.*

- Review existing sunshade and electrical construction documents.
- Confirm project goals/objectives.
- Establish project schedule.
- Create project plans and specifications for replacement sunshade locations and electrical system design including wiring and controls.

*Meetings (three proposed)*

- Pre-design kick-off meeting at Fargo Public Library with Owner and Team.
- Internal coordination with Project Team (JLG Architects & MBN Engineering).
- Design confirmation meeting with Owner.

*Deliverables*

- Drawings in .PDF format.
- Specification in .PDF format.

**Bidding Phase**

*Proposed Scope/Services: Bid advertisement, respond to bid inquiries, bid opening, and recommend bid award.*

- Advertisement for bid.
- Pre-bid site walk through.
- Answering of inquiries/RFIs regarding interpretation of the Construction Documents.
- Bid opening and bid award recommendation.

*Meetings (two proposed)*

- Pre-bid site walk meeting at Fargo Public Library with Owner and Team.
- Bid opening.

*Deliverables*

- Contractor bids.
- Written bid award recommendation letter.

**Contract Administration Phase**

*Description of work:* Construction Phase services shall be limited to the services noted below:

- Maximum of two reviews of shop drawings – shop drawing schedule to be submitted by Contractor and approved by Architect and Owner.
- Review and certification of Contractor’s applications for payment.
- Review Work during construction.
- Generate punch list.

*Site Walks (four proposed)*

- Up to two site visits during construction, if required.
- Substantial completion site visit with Owner.
- Final completion review with Owner.

*Deliverables*

- Substantial Completion documentation.
- Contractor pay applications.
- Project Manual.

**OWNER RESPONSIBILITIES**

Provide necessary information in a timely manner, including, but not limited to:

- Existing floor, finish plans/details and electrical drawings in .dwg format
- Existing specifications in .pdf format
- Design feedback and direction
- Sign-off at each phase of work

**SCHEDULE**

Anticipated Project Award: 03.24.2023

Design & Specification Phase (4 weeks): 03.27 - 4.21.2023

Bidding Phase (4 weeks): 4.24 - 5.23.2023

Contract Administration Phase (9 weeks): 5.26 - 7.26.2023 *pending availability of materials, and contractor timing.*

**COMPENSATION**

Architectural and Electrical Design and CA Services as outlined above as time and material cost. The estimated hours, and cost as listed below, are proposed in alignment with the scope and meetings outlined. Time is subject to change based off of Owner’s level of service desired/required.

	Estimated Hours Design, Bid and CA	Hourly Rate	Estimated Cost
<b>JLG Architects</b>			
Rob Remark, Principal Architect	4 hours	\$265/hr	\$1,060
Deb Daub, Project Manager	44 hours	\$190/hr	\$8,360
Mark Eskildsen, Specification Writer	8 hours	\$190/hr	\$1,520
<b>MBN Engineering</b>			
Mike Berger, Electrical Engineer	36	\$173/hr	\$6,228

**REIMBURSABLE EXPENSES**

None anticipated, coordination with client before any anticipated charges.

**OTHER**

- Drawings, specifications and other documents prepared by the Architect are instruments of the Architect’s service and are for the Owner’s use solely with respect to this Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the Project, or termination of this Agreement by either party, the Owner’s right to use the instruments of service shall cease.

- The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project and aptly credit any/all drawings, renderings and other documents by including JLG's logo or otherwise crediting JLG Architects by name in writing
- Payment Terms: JLG Architects processes its invoices monthly. If payment is not received within thirty (30) days from the date of the invoice, finance charges in the amount of 1.5% per month shall be applied.

**ATTACHMENTS**

Owner estimate of construction costs generated by Solutions Floors, Blinds and More.

**END OF PROPOSAL**

Thank you for the opportunity to submit this proposal. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Rob Remark, JLG Architects

*Please sign and date below to acknowledge your acceptance of this proposal.*

\_\_\_\_\_  
Client:

\_\_\_\_\_  
Date

# SOLUTIONS

FLOORS, BLINDS AND MORE

Fargo Library Window Treatment Replacement and Additional  
Windows Proposal

Based off Draper products with Smart motors

Just the Window Treatments \$146,000

Electrician's Portion \$49,000

Allowance added for Removing and Replacing Ceiling Tile as  
well as some other misc items \$10,000

Call Elizabeth Blatchford with questions 701-212-6814 or  
Elizabeth@Solutionswf.net

## **Fargo Public Library Blind Overview 12.21**

### **Tech Services:**

- Current Openness Factor
- Local Control

### **Director's Office**

- Local Control
- Current Openness Factor

### **Deputy Director's Office**

- Local Control
- Current Openness Factor

### **Primary Office Associate**

- Local Control
- Current Openness Factor

### **Children's Library:**

- Wiggle Room Separate Control
- Current Openness Factor
- Separate Controls for North, South, East, West

### **Community Room**

- Local Control
- Current Openness Factor

### **Second Floor Staff Area**

- Openness Factor to be determined
- North Facing Windows (Local Control)
- West Facing Windows (Local Control)

### **Second Floor Public Service Floor**

- Current Openness Factor
- Computer Lab Separate Control
- Computer Lab Remove Inner Blinds
- Separate Controls for North, South, East, West





**JLG IMAGERY RELEASE POLICY**

**All JLG Architects Instruments of Service, including photographic, 3-D, and line drawings images created (using any medium, including but not limited to models) during the course of JLG Project Number [Project Number], named “[Project Name]” and related are owned and protected as the sole property of JLG Architects.**

**Any use or expression of these images or objects, including a modification or interpretation of a JLG Architects work product and including but not limited to:**

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- Distributing, hosting, emailing, or redistributing electronically;
- Remote linking;
- Video recreations;
- Use in artistic recreations or any collage-based art;
- Models, either in full or in part;

**is not permitted without express consent by a Principal of JLG Architects. Credit must be given to the Architect via placement of the JLG Logo or the name “JLG Architects” in any printed, online, or other use of any images, models or other expressions (including but not limited to awards, media, or other representations) for perpetuity.**

A Royalty in the amount of 1% of the total Architectural Fee, or \$5,000, based on which is more, will be charged for each image use that does not meet the above specifications. Payment of this royalty **does not limit** any other rights JLG Architects has regarding use of their intellectual property.

EXHIBIT C

**Schedule of Hourly Compensation (As of 1/1/2023)**

**\$390/hour**  
 Principal Architect-Senior  
 Principal Practice Leader-Senior

**\$290/hour**  
 Principal Practice Leader

**\$265/hour**  
 Principal Architect  
 Principal Project Designer  
 Project Assistant Senior  
 Technical Assistant Senior

**\$245/hour**  
 Construction Services-Senior  
 Practice Studio Specialist-Senior  
 Project Architect-Senior  
 Project Designer-Senior  
 Project Manager-Senior

**\$190/hour**  
 Construction Services III  
 Interior Designer-Senior  
 Project Architect II  
 Project Assistant III  
 Project Designer III  
 Project Manager  
 Studio Architect II  
 Technical Assistant III

**\$160/hour**  
 Construction Services II  
 Interior Designer III  
 Project Architect  
 Project Assistant II  
 Project Designer II  
 Project Technician III  
 Studio Architect I  
 Technical Assistant II

**\$130/hour**  
 Interior Designer II  
 Job Captain  
 Project Designer I  
 Project Technician II

**\$110/hour**  
 Construction Services I  
 Interior Designer I  
 Project Assistant I  
 Project Associate I  
 Project Associate II  
 Project Technician I  
 Technical Assistant I

**\$75/hour**  
 Student Intern

**Reimbursable Expense Charges Cost Per Sheet**

Standard P Size (Inches)		Standard	Glossy	Marketing Cardstock	
B & W	8.5 x 11	\$ 0.20	\$ 1.30	\$ 0.40	\$ 0.45
B & W	11 x 17	\$ 0.40	\$ 2.60	\$ 0.80	\$ 0.90
B & W	12 x 18	\$ 0.45	\$ 3.00		

Color	8.5 x 11	\$ 1.00	\$ 4.00	\$ 1.55	\$ 1.65
Color	11 x 17	\$ 2.00	\$ 8.00	\$ 3.10	\$ 3.30
Color	12 x 18	\$ 2.30	\$ 9.20	\$ 3.57	

Plotted Prii Size (inches)		Standard	Glossy
B & W	18 x 24	\$ 1.35	\$ 5.40
B & W	15 x 31	\$ 1.45	\$ 5.80
B & W	22 x 34	\$ 2.35	\$ 9.40
B & W	24 x 36	\$ 2.70	\$ 10.80
B & W	30 x 42	\$ 3.95	\$ 15.80
B & W	34 x 44	\$ 4.70	\$ 18.80
B & W	36 x 48	\$ 5.40	\$ 21.60

Color	18 x 24	\$ 13.50	\$ 18.90
Color	15 x 31	\$ 14.50	\$ 20.30
Color	22 x 34	\$ 23.50	\$ 32.90
Color	24 x 36	\$ 27.00	\$ 37.80
Color	30 x 42	\$ 39.50	\$ 55.30
Color	34 x 44	\$ 47.00	\$ 65.80
Color	36 x 48	\$ 54.00	\$ 75.60

**Mounted Gator Board**

3/16" Thickness \$ .045/Sq. in.

Mileage	Current Federal Rate
Photos	At Cost plus 10%
Postage/Shipping	At Cost plus 10%
Other reimbursables	At Cost plus 10%

**NOTE:**

This schedule is subject to adjustment by JLG Architects annually.  
 Does not include sales tax where applicable.

## EXHIBIT D



# 2023 Hourly Rate Schedule

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



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April 3, 2023

Honorable Board of City Commissioners  
City Hall  
225 4<sup>th</sup> St N  
Fargo ND 58102

Commissioners:

Two RFP's were received March 1, 2023, to provide contract assistance for the Residential Brush Chipping Program.

<u>Contractor</u>	<u>Cost per hour for 2023</u>
Carr's Tree Service, Inc.	\$129.95 (approximately \$101,300 - \$135,100 for the 26-week agreement)
Northland Tree & Stump Removal	\$147.50

Funding has been included in the annual forestry budget.

**Recommended motion:**

**Move to approve the Residential Brush Chipping Program assistance contract (RFP23047), with up to a five (5) year negotiated extension, to Carr's Tree Service, Inc.**

Your approval of this request is appreciated.

Sincerely,



Scott Liudahl  
City Forester

Cc: Ben Dow

Commission 2023 contract chipping.doc

**Residential Curbside Brush Chipping Operations - 2023**

**I. Agreement**

This agreement is between the City of Fargo (City) and Carr's Tree Service, Inc. (Contractor) to provide brush-chipping services for the City. This agreement shall commence upon signing by both parties and expire on December 31, 2023. The terms of this agreement may be extended, if accepted and signed by the Contractor and City, for five (5) additional one (1) year extensions, provided the negotiated extension is signed by parties on or around February 15<sup>th</sup> of the contract year.

**II. Scope of Services Summary**

Work shall include all labor, materials, equipment, supplies and services required for brush chipping operations in accordance with forestry department specifications. Contractor must comply with all State, Federal and Local laws, regulations and ordinances applicable to the operation of Contractor's equipment.

**III. Responsibility of the City**

City shall oversee the execution of this agreement and disbursing of funds.

**IV. Contractor's Compensation and Method of Payment**

Partial billing is acceptable at any time. City will compensate Contractor per proposal price.

**V. Termination of the Agreement**

This contract may be terminable at will by either party after giving ten (10) days written notice to the other party.

**VI. Assignability**

This agreement will not be assigned or transferred by Contractor to another party without the prior written consent of the City.

**VII. Hold Harmless and Insurance**

Contractor agrees to indemnify and hold City harmless from any and all claims, demands or causes of action resulting from the provision of services as described in this contract. Contractor's employees must be covered by North Dakota's Workers Compensation. Contractor shall carry appropriate liability insurance coverage, including but not limited to Commercial General Liability Insurance in the amount of \$1,000,000 per person, \$500,000 per accident, and property damage in the amount of \$300,000 per accident. Contractor shall provide City a Certificate of Insurance naming the City of Fargo as an additional insured, and such insurance must be maintained during the term of this Agreement and any extension agreed to thereafter.

**VIII. Contractor Records**

Contractor shall maintain accurate and updated records of all reimbursable services provided to City under the terms of this agreement, and shall record the date such services are provided. Such records shall conform to generally recognized accounting principles. The City, or its authorized representatives, shall have access to any records of Contractor pertinent to the agreement.

**IX. Monitoring and Evaluation**

City may monitor and evaluate Contractor progress and performance to assure that the terms of this agreement are being satisfactorily met. Contractor shall cooperate with City relating to such monitoring and evaluation.

**X. Independence of Recipient**

Contractor is not the agent or employee of City. Contractor is solely responsible for its acts and the acts of its agents, employees and subcontractors.

**XI. Conflict of Interest**

Contractor agrees that it does not have any undisclosed influence or relationship with City staff regarding the award or performance of this contract.

**XII. Entire Agreement**

This agreement constitutes the entire agreement between the parties.

**XIII. Law**

This Agreement shall be construed under and in accordance with the laws of the State of North Dakota.

**XIV. Time of the Essence**

Time is of the essence of all provisions of this Agreement except as may be otherwise specifically stated herein.

**XV. Third Parties**

There are no third-party beneficiaries of this Agreement and except by way of assignment, no third party may acquire any rights or incur any liabilities hereunder.


**XVI. Headings**

The subject headings of the paragraphs of this agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

IN WITNESS WHEREOF, the undersigned enter into this agreement.

Date: 3-9-2023

CONTRACTOR: Carr's Tree Service, Inc.

(signature) 

By (printed name): EVAN AMUNDSON

Its (title): C.O.O.

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

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

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

ATTEST:

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



**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

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March 27, 2023

The Honorable Board of City Commissioners  
City of Fargo  
225 N 4<sup>th</sup> St  
Fargo, ND 58102

RE: RFP23056, Award Contract for Lawn Maintenance Services with JT Lawn Services

Commissioners:

On March 15, 2023, a total of five (5) proposals were received for the Request for Proposal for Lawn Maintenance Services (RFP23056). The contracted service will perform mowing and lawn maintenance at various city lots for the 2023 mowing season.

The proposals were evaluated on the following criteria outlined in the in RFP: Work Performance (35%), Previous Work Experience (50%) and Price (35%). JT Lawn Services provided the lowest overall cost and most favorable proposal for the City of Fargo. The bid tabulation is attached.

Public Works staff suggests to award contract to JT Lawn Services at a weekly mowing price of \$3,743.00 for Mowing List #1 according to RFP23056, Lawn Maintenance Services.

**RECOMMENDATION:**

RFP23056: I/we suggest motion to award contract for Lawn Maintenance Services with JT Lawn Services for the 2023 mowing season under the terms and conditions of RFP23056.

Respectfully submitted,

Paul Fiechtner  
Services Manager  
Fargo Public Works

**LAWN MAINTENANCE SERVICES (RFP23056)**  
**Bids Received 3/15/2023**

CONTRACTOR	EXHIBIT A - Mowing List #1	
	Lawn Maintenance	Weed Control
JT Lawn Services	\$3,743.00	\$8,705.00
Turf Tamers LLC	\$5,225.00	\$6,879.00
Glacier Snow Management	\$3,867.56	\$10,333.53
Valley Green and Associates	\$3,905.85	\$10,400.61
Veteran Holding LLC	\$300 (Partial)	\$300 (Partial)

## SERVICES AGREEMENT

### LAWN MAINTENANCE SERVICES

#### I. Agreement

This agreement is between the City of Fargo (City) and JT Lawn Services (Contractor) to provide lawn maintenance services for the City. This agreement shall commence upon signing by both parties and expire on October 31, 2024. The term of this agreement may be extended, if accepted and signed by the Contractor and City, for (2) additional one (1) year extensions.

#### II. Scope of Services

The contractor will perform the lawn maintenance services as set forth within this agreement. It will be up to the individual contractor's discretion to perform the services as weather conditions permit.

Lawn Maintenance Services: All grass shall be mowed on a weekly basis, or as directed. Grass will be maintained at a height of approximately three and one-half (3 ½) inches. Upon completion a mowed area shall be free of clumped grass, tire tracks or ruts from contractor's mowing equipment. Turf shall be cut in a professional manner as not to scalp turf or leave any areas of uncut grass. Care shall be taken to prevent discharge of grass clippings onto any adjacent private properties or onto any paved surface such as streets, jogging trails, sidewalks or storm drain system. These surfaces should be swept/blown clean by the Contractor immediately after each mowing. Contractor shall pick up all litter before each mowing, which is subsidiary to the mowing bid, and remove same from site. If in the course of mowing, trash is overlooked and shredded by mowers, it should immediately be collected and disposed of properly by the contractor. If mowing is interrupted by inclement weather, the Contractor shall continue mowing at the same location on the next available mowing day. The Director of Operations has the authority to cancel or schedule mowing cycles on a week-to-week basis. Any cancellations will be based upon need, prevailing weather conditions and available funding.

Trimming: Contractor will trim all turf areas on a weekly basis or as directed in association with mowing cycle. All trimming shall be accomplished maintaining the three and one-half inches (3 ½") cutting height. All trimming must be performed concurrently with mowing operations. Turf shall be trimmed in a professional manner as not to scalp the grass or leave areas of uncut grass. All amenities (trees, poles, signs, etc.) shall be trimmed around. Special care shall be given in trimming around small trees. Care should be taken to prevent discharge of grass clippings onto any paved surface such as streets, parking lots, sidewalks, driveways or adjacent properties. Any material so discharged shall be removed immediately after trimming.

Weed Control: Contractor will perform two weed control applications of all properties during each season's term. The Contractor shall perform weed control spraying on City properties as designated (Spring, Pre-emergent Herbicide & Midsummer, Post-emergent Herbicide) Soil Sterilant may not be used unless directed by the City. It shall be the Contractor's responsibility to determine the most appropriate times of year to apply treatment within the confines of the general guidance provided above. The Contractor shall use the necessary equipment in order to accomplish the work in a satisfactory manner. The Contractor shall arrange operations so that the herbicides will not be distributed beyond the limit of property sprayed. The Contractor shall apply the herbicides using nozzles and pressure necessary for a proper application. The Contractor shall supply water for any chemical mixes developed for the purpose of spraying weed treatment. The materials used by the Contractor must be of such composition and of sufficient strength to kill weeds, but may not sterilize the soil. The chemicals used shall not be toxic or harmful in any manner to animals or human beings when used in prescribed manner. The materials used shall not harm desirable vegetation such as trees or turf. The materials used shall not be flammable or leave an oily residue that will discolor or leave a slippery film on sidewalks and curbs. The City may at any time during the spraying operation take samples to check materials being used. Upon request, the Contractor shall provide the City with information regarding chemicals applied to specified locations. In addition, the Contractor shall upon request provide the City with specimen labels of chemicals applied. Contractor shall furnish all labor, materials, equipment, permits, fees and insurance coverage for weed control applications.

Property Damage: Contractors will be notified by the Director of Operations of any property damage that occurs as a result of lawn maintenance services. Notification will be within 48 hours of Director of Operations becoming aware of such property damage. The contractor will be solely and wholly financially liable for any damaged property, as a result of negligence on the part of the Contractor.

**III. Responsibility of the City**

City shall oversee the execution of this agreement and disbursing of funds.

**IV. Contractor's Compensation and Method of Payment**

City will reimburse Contractor for services render per mowing event as shown in the attached Exhibit A. All final invoices shall be submitted no later than December 1 of the contract year.

**V. Termination of the Agreement**

This contract may be terminable at will by either party after giving ten (10) days written notice to the other party.

**VI. Assignability**

This agreement will not be assigned or transferred by Contractor to another party without the prior written consent of the City.



**VII. Hold Harmless and Insurance**

Contractor agrees to indemnify and hold City harmless from any and all claims, demands or causes of action resulting from the provision of services as described in this contract. All insurance (Worker's Compensation, Comprehensive General Liability, and/or Automobile) shall be maintained at the expense of the contractor during the term of this contract.

**VIII. Contractor Records**

Contractor shall maintain accurate and updated records of all reimbursable services provided to City under the terms of this agreement, and shall record the date such services are provided. Such records shall conform to generally recognized accounting principles. The City, or their authorized representatives, shall have access to any records of Contractor pertinent to the agreement.

**IX. Monitoring and Evaluation**

City may monitor and evaluate Contractor progress and performance to assure that the terms of this agreement are being satisfactorily met. Contractor shall cooperate with City relating to such monitoring and evaluation.

**X. Independence of Recipient**

Contractor is not the agent or employee of City. Contractor is solely responsible for its acts and the acts of its agents, employees and subcontractors.

**XI. Conflict of Interest**

Contractor agrees that it does not have any undisclosed influence or relationship with City staff regarding the award or performance of this contract.

**XII. Entire Agreement**

The provisions as set forth in Items I, and all attachments of this agreement constitute the entire agreement between the parties.

IN WITNESS WHEREOF, the undersigned enter into this agreement.

Date: 03/26/2023

JT Lawn Services

By: Chris VanderLinden

Its: Manager

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

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

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

ATTEST:

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

EXHIBIT A

**Mowing List #1**

	<b>Location</b>	<b>Lawn Maintenance Unit Price \$</b>	<b>Weed Control Unit Price \$</b>
<b>Riverwood Addition</b>			
1	4633 Riverwood Drive North	24	54
2	4525 Riverwood Drive North	24	54
3	4477 Riverwood Drive North	24	54
4	901 41st Avenue North	24	54
5	902 41st Avenue North	24	54
6	906 41st Avenue North	24	54
7	901 42nd Avenue North	24	54
8	902 42nd Avenue North	24	54
9	906 42nd Avenue North	24	54
		<b>\$192</b>	<b>\$486</b>
<b>Red River Addition</b>			
10	3953 10th Street N.	10	27
11	3913 10th Street N.	10	27
12	3845 10th Street N.	10	27
13	3753 10th Street N.	10	27
14	3733 10th Street N.	10	27
15	3731 10th Street N.	10	27
16	3729 10th Street N.	10	27
17	3727 10th Street N.	10	27
18	3725 10th Street N.	10	27
19	3715P 10th Street N.	10	27
		<b>\$100</b>	<b>\$270</b>
<b>Broadway North 1st Addition</b>			
20	665 Royal Oaks Drive North	20	50
21	683 Royal Oaks Drive North	20	50
22	701 Royal Oaks Drive North	20	50
23	709 Royal Oaks Drive North	20	50
24	739 Royal Oaks Drive North	20	50
25	741 Royal Oaks Drive North	20	50
26	747 Royal Oaks Drive North	20	50
27	749 Royal Oaks Drive North	20	50
28	763 Royal Oaks Drive North	20	50
29	767 Royal Oaks Drive North	20	50
30	771 Royal Oaks Drive North	20	50
31	775 Royal Oaks Drive North	20	50
		<b>\$240</b>	<b>\$600</b>
<b>40th Avenue N.</b>			
32	10th Street N.	60	120
33	University Drive	60	120
		<b>\$120</b>	<b>\$240</b>
<b>Edgewood Estates</b>			
34	3467 Grandwood Drive N.	55	125
		<b>\$55</b>	<b>\$125</b>
<b>Golf Course 5th</b>			
35	32nd Avenue NE/Eagle Street	36	90
		<b>\$36</b>	<b>\$90</b>

**Edgewood 1st Addition**

36	2921 2nd Street North	25	60
37	2922 2nd Street North	25	60
38	2925 2nd Street North	25	60
39	2926 2nd Street North	25	60

**\$100                      \$240**

**Woodcrest Addition**

40	160 North Woodcrest Drive N.	20	58
41	166 North Woodcrest Drive N.	20	58
42	173 South Woodcrest Drive N.	20	58
43	179 South Woodcrest Drive N.	20	58
44	192 North Woodcrest Drive North	20	58
45	198 North Woodcrest Drive North	20	58
46	204 North Woodcrest Drive North	20	58

**\$140                      \$406**

**Ridgewood Addition**

47	101 Woodland Drive North	11	20
48	97 Woodland Drive North	11	20
49	93 Woodland Drive North	11	20
50	89 Woodland Drive North	11	20
51	85 Woodland Drive North	11	20
52	81 Woodland Drive North	11	20
53	75 Woodland Drive North	11	20
54	69 Woodland Drive North	11	20
55	63 Woodland Drive North	11	20
56	55 Woodland Drive North	11	20
57	51 Woodland Drive North	11	20
58	45 Woodland Drive North	11	20
59	41 Woodland Drive North	11	20
60	37 Woodland Drive North	11	20
61	31 Woodland Drive North	11	20
62	25 Woodland Drive North	11	20
63	19 Woodland Drive North	11	20
64	15 Woodland Drive North	11	20
65	7 Woodland Drive North	11	20
66	1625 Elm Street	11	20
67	1619 Elm Street	11	20
68	1613 Elm Street	11	20
69	1607 Elm Street	11	20
70	1601 Elm Street (Boulevard Only)	11	20
71	1519 Elm Street (Boulevard Only)	11	20
72	1501 Elm Street (Boulevard Only)	11	20

**\$286                      \$520**

**Bernard Holes 2nd**

73	1330 Elm Street	20	40
74	1326 Elm Street	20	40
75	1322 Elm Street	20	40
76	1318 Elm Street	20	40
77	1314 Elm Street	20	40
78	1313 Elm Street	20	40
79	1341 Oak Street	20	40
80	1333 Oak Street	20	40

**\$160                      \$320**

**Oak Grove Addition**

81	723 North River Road	6	14
82	724 North River Road	6	14
83	12 North Terrace	6	14
84	16 North Terrace	6	14
85	18 North Terrace	6	14
86	24 North Terrace	6	14
87	26 North Terrace	6	14
88	40 North Terrace	6	14
89	42 North Terrace	6	14
90	44 North Terrace	6	14
91	46 North Terrace	6	14
92	60 North Terrace	6	14
93	62 North Terrace	6	14
94	64 North Terrace	6	14
95	66 North Terrace	6	14
96	68 North Terrace	6	14
97	70 North Terrace	6	14
98	139 South Terrace	6	14
99	135 South Terrace	6	14
100	129 South Terrace	6	14
101	125 South Terrace	6	14
102	99 South Terrace	6	14
103	95 South Terrace	6	14
104	93 South Terrace	6	14
105	87 South Terrace	6	14
106	83 South Terrace	6	14
107	79 South Terrace	6	14
108	75 South Terrace	6	14
109	65 Sout Terrace	6	14
110	63 South Terrace	6	14
111	53 South Terrace	6	14
112	49 South Terrace	6	14
113	45 South Terrace	6	14
114	41 South Terrace	6	14
115	37 South Terrace	6	14
116	33 South Terrace	6	14
117	31 South Terrace	6	14
118	27 South Terrace	6	14
119	23 South Terrace	6	14
120	17 South Terrace	6	14
121	9 Lower Terrace	6	14
122	6th Avenue N. & Elm Street (Island)	6	14

**Goldberg 2nd**

**\$252                      \$588**

123	40th Street N./15th Avenue (Islands)	40	80
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**Sheyenne Industrial**

**\$40                      \$80**

124	4630 15th Avenue N.	40	80
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**MNPF Addition**

**\$40                      \$80**

125	1600 7th Avenue N. (North)	10	40
126	1600 7th Avenue N. (South)	10	40
127	2109 3rd Avenue N.	10	40
128	20th Street N./19th Street N.	10	40

**Arnesons Addition**

**\$40                      \$160**

129	319 18th Street S.	20	40
130	321 18th Street S.	20	40

**\$40                      \$80**

**Woodruffs Addition**

131	321 10th Avenue South	6	20
132	1114 4th Street South	6	20
133	1118 4th Street South	6	20
134	1124 4th Street South	6	20

**\$30                      \$80**

**Westfield 1st**

135	4680 10th Avenue S. /1004 47th Street S.	128	300
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**\$128                      \$300**

**Scheel's All Sport**

136	4755 16th Avenue S.	113	275
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**\$113                      \$275**

**Dakota Land 2nd**

137	1837 35th Street S.	75	150
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**\$75                      \$150**

**Dakota West 2nd Addition**

138	1703 52nd Street South	80	175
139	1705 52nd Street South	80	175

**\$160                      \$350**

**West 29th 1st**

140	4120 30th Avenue S.	90	200
141	2948 41st St S.	90	200

**\$180                      \$400**

**Belmont Park Addition**

142	1330 South River Road	16	40
143	1334 South River Road	16	40
144	1342 South River Road	16	40
145	1348 South River Road	16	40
146	1408 South River Road	16	40
147	1414 South River Road	16	40
147	1422 South River Road	16	40
148	1430 South River Road	16	40
149	1436 South River Road	16	40
150	1442 South River Road	16	40
151	1450 South River Road	16	40
152	1454 South River Road	16	40
153	1462 South River Road	16	40
154	1510 South River Road	16	40
155	1518 South River Road	16	40
156	1522 South River Road	16	40
157	1525 South River Road	16	40
158	1527 South River Road	16	40
159	1528 South River Road	16	40
160	1529 South River Road	16	40
161	201 Lindenwood Drive South	16	40
162	202 Lindenwood Drive South	16	40
163	233 Lindenwood Drive South	16	40
164	245 Lindenwood Drive South	16	40
165	305 Lindenwood Drive South	16	40

**\$400                      \$1,000**

<b>Bohnsacks</b>			
166	1900 Blk 25th Street S. (Median)	80	175
167	20 1/2 Avenue S.	80	175
168	20th Avenue S.	80	175
169	21st Avenue S.	80	175
		<b>\$320</b>	<b>\$700</b>
<b>Southwood Addition</b>			
170	814 Southwood Drive	16	40
171	810 Southwood Drive	16	40
172	806 Southwood Drive	16	40
173	718 Southwood Drive	16	40
174	714 Southwood Drive	16	40
175	710 Southwood Drive	16	40
176	706 Southwood Drive	16	40
177	618 Southwood Drive	16	40
178	614 Southwood Drive	16	40
179	610 Southwood Drive	16	40
180	606 Southwood Drive	16	40
181	602 Southwood Drive	16	40
182	517 Southwood Drive	16	40
183	510 Southwood Drive	16	40
184	Southwood Drive Islands (S Total)	16	40
185	1100 Block 28th Avenue S. (Island)	16	40
		<b>\$256</b>	<b>\$640</b>
<b>University Drive</b>			
186	University Drive 21st Ave - 24th Ave	80	175
187	I-94 Tunnel North/South	80	175
188	32nd Avenue and University	80	175
		<b>\$240</b>	<b>\$525</b>
<b>Mowing List #1 Total:</b>		<b>\$3,743</b>	<b>\$8,705</b>



**PUBLIC WORKS**

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**FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMAINS & HYDRANTS**  
402 23rd Street North  
Fargo, ND 58102  
Phone: 701.241.1453 | Fax: 701.241.8100  
FargoND.gov

March 29, 2023

The Honorable Board of City Commissioners  
City of Fargo  
Fargo, ND 58102

RE: Aerial Mosquito Control Spraying Contract

Commissioners:

Proposals were received on Wednesday, March 1, 2023, in response to a Request for Proposal (RFP23049) issued by Cass County Vector Control for "Aerial Mosquito Control Services". A total of one (1) sealed proposal was received.

The proposal received was evaluated on:

- Experience,
- Product Cost,
- Past Performance.

Based on the RFP pricing and the previous vendor experience the selection committee is making a recommendation to award the 2023-2025 Aerial Mosquito Control Services contract to Airborne Vector Control, LLC.

Pricing as Follows:

Fee based on spraying over 15,000 acres	\$2.25	per acre
Fee based on 5,001 – 15,000 acres	\$2.65	per acre
Fee based on 0 – 5,000 acres	\$3.10	per acre
Ferry Fee	\$500	per application
City of Fargo Retainer Fee	\$58,500	per year

RECOMMENDED MOTION: I/we hereby move based on the request for proposal (RFP23049) to award the 2023-2025 Aerial Mosquito Control Services contract to Airborne Vector Control, LLC.

Respectfully submitted,

Benjamin Dow  
Public Works Operations Director



CITY OF FARGO - AIRBORNE VECTOR CONTROL, LLC.  
MOSQUITO SPRAYING AGREEMENT  
2023 - 2025

This Mosquito Spraying Agreement ("Agreement") is made between Airborne Vector Control, LLC., a Minnesota Limited Liability Company, of Halstad, MN ("Contractor"), and the City of Fargo, North Dakota, a municipal corporation ("City"), who agree as follows:

RECITAL

The Contractor and the City hereby agree that Contractor will be retained by City for aerial spraying of pesticides over Fargo, North Dakota. In order to be retained by City, City requires the following from Contractor and its Pilot in Command:

- Minimum of 2,000 hours flight experience;
- Minimum of 50 hours night flight time with a twin-engine aircraft;
- Minimum of 200 hours flight time with a twin-engine aircraft;
- Minimum of 50 hours flight time for the make, model, and series that will be used to complete the spray mission for the City;
- Minimum of 100 hours flight time applying pesticides to a city;
- Minimum of 20 hours flight time applying pesticides to a city at night;
- Minimum of 100 takeoffs/landings at altitude typical of project area with loads similar to an average load;
- Minimum of 2 years' experience in aerial mosquito control;
- Twin engine aircraft with a spray system meeting all specifications in FAR137 and authorized by the FAA and which is based within one hundred (100) miles of the City;
- Spray system nozzles shall be equal to the rotary atomizer-Micronair, 30 micron droplet spectrum;
- Swath Guidance GPS equipment with downloading capabilities. Upon request from the City, Contractor must provide printed reports within 24 hours of application.

- Reloading equipment capable of thirty (30) minute turns; and,
- Licensed and permitted to conduct business as an aerial applicator in North Dakota by April 1, 2023.

Contractor declares it has sufficient personnel and equipment to satisfy the requirements of the above paragraph to effectively spray all areas of the City with chemical pesticides approved for residential spraying. Contractor has provided to the City a written emergency response action plan identifying action steps in the event of an accident or a chemical release/dump, which plan is in form and substance satisfactory to the City.

#### SECTION I.

City hereby engages Contractor as an independent contractor, and not as an employee, to conduct aerial spraying of pesticides of approximately 26,000 acres over the City when directed to do so by City and Cass County Vector Control (CCVC), and Contractor hereby accepts and agrees to such engagement.

#### SECTION II.

The term of this Agreement shall commence May 1, 2023, subject to Section III of Agreement and shall terminate November 1, 2025(the "Term"), subject, however, to prior termination as hereinafter provided.

#### SECTION III.

City shall pay Contractor, and Contractor shall accept from City, in full payment of Contractor's services hereunder, compensation at a rate as follows:

- \$58,500.00 Retainer Fee paid on or before April 1<sup>st</sup> of 2023 and before April 1<sup>st</sup> on each renewal year thereafter.

- The quoted rate per acre (see Appendix A) is based on the use of the chemical Permethrin 30 + 30 applied at .007 lbs. per acre and mixed with mineral oil for a finished rate of 1 oz. per acre.
- If the City determines that a different application rate of Permethrin or a chemical other than Permethrin should be used, then the rate per acre shall be renegotiated and both the City and Contractor agree to negotiate in good faith.
- City shall pay Contractor a \$500.00 Ferry Fee for each application and assessed to every release of the aircraft by the City.

The Retainer Fee will be subtracted from the billing cycles until 100% of the Retainer Fee has been assessed against Contractor by the City, therefore reducing the cost of the initial billings by \$58,500.00. If at the end of the spray season there remains any unused Retainer Fee, then the unused Retainer Fee shall be retained by and become the sole property of Contractor.

#### SECTION IV.

Contractor shall provide all chemicals and shall be responsible for any and all licenses, permits, fees, and all other items required of aerial applicators of pesticides. The chemical usage rates will be determined by CCVC and City and shall be subject to Section III of this Agreement.

#### SECTION V.

All chemicals used by Contractor must be a chemical which has been previously approved by the Environmental Protection Agency, the North Dakota State Department of Health and the Fargo Public Health Department prior to application. Further, all chemicals must be applied according to the manufacturers' label, terms and specifications.

SECTION VI.

Contractor shall comply with all applicable statutes, ordinances, rules, regulations, and orders of all public agencies and authorities relating to the aerial application of pesticides over residential areas.

SECTION VII.

No waiver or modification of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith and no evidence of any proceeding, arbitration, or litigation between the parties hereto arising out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing, duly executed as aforesaid and the parties further agree that the provisions of this section may not be waived as herein set forth.

SECTION VIII.

Contractor will secure public liability insurance in the minimum amounts as follows:

- Non-Chemical:
  - \$5,000,000 Public Liability (bodily injury and property damage) combined single limit.
- Chemical:
  - \$500,000 each person bodily;
  - \$500,000 each occurrence bodily; and,
  - \$500,000 each occurrence property.
- Chemical coverage includes "all labeled products for mosquito control"
- Chemical coverage includes "cities and towns and residential areas"

- Coverage includes the City as a fully insured additional insured

Contractor shall pay the premium on such insurance policy, and the City shall be designated as a "named insured" on such policy. Contractor shall maintain such policy in force for all months in which it performs services for the City under the provisions of this Agreement.

SECTION IX.

Contractor agrees to indemnify the City from any and all liability, loss or damage the City may suffer as a result of claims, demands, costs, or judgments arising from or arising against it from Contractor's negligence in services performed by the Contractor relative to this Agreement.

SECTION X.

Contractor agrees that, upon receiving written authorization from CCVC and City, aerial application of pesticides over the City shall be completed within a reasonable time from notification by CCVC and City, not to exceed seventy-two (72) hours, unless such performance is prevented by an act of God (such as high winds, rain or cold temperature) or unforeseen circumstances beyond the control of the Contractor pertaining to the aerial application of the City or aerial application of other clients of Contractor. However, the City reserves the right to cancel or withdraw said notice in writing delivered to Contractor prior to the scheduled application. No aerial spraying shall occur without prior written notification to Contractor by and with the approval of CCVC and City.

SECTION XI.

Contractor agrees that performance under this Agreement shall be completed in a satisfactory and workman-like manner, subject to prior review and approval by the City, and/or state, and/or federal agencies.

SECTION XII.

Contractor shall remain in contact with CCVC for purposes of exchanging information and receiving directives related to the performance of this Agreement. Such contacts should be made and initiated by the Contractor with the designated representatives of CCVC at the time and place agreed upon by the parties hereto.

SECTION XIII.

With respect to termination of this Agreement:

- In the event of any violation by Contractor of any of the terms of this Agreement, and after failure by Contractor to remedy such violation within fifteen (15) days after written notice of such violation by City, City therein may terminate this Agreement with written notice to Contractor and with pay for services rendered only to the time of such termination.
- In the event Contractor is not paid by the City in full within thirty (30) days after the delivery of an invoice by Contractor to the City, then Contractor may terminate this Agreement without notice and shall not be further obligated to the City for further aerial spraying.
- If the City and Contractor cannot agree on a renegotiated rate based on the change of the chemical used for spraying, as discussed under Section III of this Agreement, then Contractor may terminate this agreement with thirty (30) days written notice and shall not be further obligated to the City for further aerial spraying.
- In the event that the City terminates this Agreement prior to the end of the Term and there is no unremedied violation by Contractor, then City shall be obligated to pay the remaining unpaid Retainer Fees through the end of the existing Term of this Agreement payable as a lump sum within thirty (30) days of termination. In the event that the Contractor terminates this Agreement prior to the end of the Term, then City shall not be obligated to pay remaining unpaid Retainer Fees.

SECTION XIV.

Prior to the spraying season, CCVC and City will provide an updated map detailing the spray boundaries with the corresponding updates regarding acreage changes.

CCVC and City shall also assist in the application process for approval with the North Dakota Department of Health. City shall supply an FAA authorization application signed by the Mayor. City shall be responsible for providing this information before April 15<sup>th</sup>, 2023. There shall be a \$100 processing fee after that date.


CCVC shall be responsible for making public announcements via radio, television and newspaper at least 48 hours in advance of each spray application. Contractor and CCVC shall edit the announcements in cooperation.

CCVC and City make the "go, no go decision" for the release of aircraft. The ultimate decision to spray shall be that of Contractor and shall depend upon the weather conditions at the time of arrival. Should the weather conditions become unfavorable for spraying while the aircraft is in route or while spraying, then Contractor shall coordinate with CCVC the decision to postpone the application. The Ferry Fee shall be applied to City for the release of the aircraft. CCVC and City shall then be responsible for rescheduling the application and to make further public announcements. Contractor is not responsible for changes in weather or unforeseen mechanical difficulties that may hinder the application.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fargo, North Dakota, on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

AIRBORNE VECTOR CONTROL, LLC.

By:   
Robert Aslesen,  
Manager

CITY OF FARGO

By: \_\_\_\_\_  
Dr. Tim Mahoney, M.D.  
Mayor

ATTEST: Steven Sprague, Auditor  
\_\_\_\_\_  
Steven Sprague



## APPENDIX A

### PRICING STRUCTURE

(1) Price per Acre

Combined Acres per Application	Unit Price *
Fee based on spraying over 15,000 acres	\$2.25 per acre
Fee based on 5,001- 15,000 acres	\$2.65 per acre
Fee based on 0-5,000 acres	\$3.10 per acre
Retainer Fee +	<i>See Schedule Below</i>

\* Unit Price includes Permethrin mosquitocide at .007 pounds ai per acre.

(2) Ferry Fee per Application

Ferry Fee of \$500 per jurisdiction per application.

(3) Retainer Fee per Season

City of Fargo, ND	\$58,500.00
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*+ The retainer fee will be applied as a credit to the beginning of the billing cycle each spray season until 100% of the retainer has been assessed, therefore reducing the cost of the initial billings by the amount of the retainer fee per season. If at the end of the season there remains any unused retainer fee, then the unused retainer fee shall be retained by and become the sole property of Airborne Vector Control.*



**PUBLIC  
WORKS**

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**FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMANS & HYDRANTS**  
402 23rd Street North  
Fargo, ND 58102  
Phone: 701.241.1453 | Fax: 701.241.8100  
FargoND.gov

March 29, 2023

The Honorable Board of City Commissioners  
City of Fargo  
Fargo, ND 58102

RE: FAA Aerial Mosquito Spraying Authorization for Airborne Vector Control

Commissioners:

Enclosed please find the necessary authorization paperwork needed in order to comply with FAA and the North Dakota State Health Department NPDES permit for Airborne Custom Spraying to perform aerial mosquito control over the City of Fargo.

In 2009, the Sixth Circuit Court of Appeals determined that pesticide applications for both ground and aerial applications must be covered by an NPDES permit. As the contracted agent for aerial mosquito control applications for the City of Fargo, Airborne Custom Spraying is required to file a notice of intent for any possible aerial applications over the City of Fargo. The enclosed Authorization Application allows Airborne Custom Spraying to file the necessary paperwork needed in order to perform aerial spraying within the City of Fargo

RECOMMENDED MOTION: I/we hereby move to approve the execution of the enclosed Authorization Application for Airborne Custom Spraying.

Please return signed original.

Respectfully submitted,

Benjamin Dow  
Public Works Operations Director



## AUTHORIZATION APPLICATION

I understand that Airborne Vector Control is required to obtain the approval for aerial spraying over the city of Fargo, ND by an authorized representative.

By the powers granted to me, I hereby give my approval for the low flying aircraft waivers required by the Federal Aviation Administration to Airborne Vector Control (This application must be signed by the Mayor of this city.)

---

City Mayor's Authorized Signature

Dr. Tim Mahoney, M.D., Mayor

---

Printed Name

---

Date

Please complete application as soon as possible and return to Airborne Vector Control for processing and filing.

Expiration Date: *October 31, 2023*

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**M E M O R A N D U M**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: GRANT LARSON**  
*GL*  
**DIRECTOR OF ENVIRONMENTAL HEALTH**

**DATE: MARCH 30, 2023**

**RE: CITY OF FARGO ND CARES VETERANS PROGRAM,  
APPROVAL OF A \$2,500 COLLABORATIVE FUNDING FROM  
THE BOB WOODRUFF FOUNDATION**

On behalf of the City of Fargo ND Cares Veteran's Program, I would like to request Commission approval to receive \$2,500 in collaborative funding from the Bob Woodruff Foundation.

These funds were awarded to the Fargo ND Cares Program based on a Community Survey that I completed to be eligible for the grant funding.

These funds do not have a matching requirement from the City of Fargo.

**No budget adjustment is required for this request.**

As the Chairman for the COF ND Cares Program, please contact me directly if you have any questions 701.241.1388.

**Suggested Motion:**

Move to approve the \$2,500 collaborative funding awarded by the Bob Woodruff Foundation.

GL/lls



(30)

**M E M O R A N D U M**

**TO: BOARD OF CITY COMMISSIONERS**

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

**DATE: MARCH 29, 2023**

**RE: NOTICE OF GRANT AWARD AMENDMENT FROM ND**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR**  
**PHEP EPR ALL HAZARDS**  
**NO: G21.873A CFDA: 93.069**  
**FUNDS: \$ NO CHANGE**  
**EXPIRES: 12/31/2023**

The attached notice of grant award amendment from North Dakota Department of Health and Human Services is for extending the expiration of the original grant from June 30, 2023 to December 31, 2023

**No budget adjustment is required for this grant.**

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

**Suggested Motion:**  
Move to approve the grant amendment for EPR All Hazards.

DF/lls  
Attachment



**NOTICE OF GRANT AWARD**  
 NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 SFN 53771 (09-2022)

Grant Number G21.873A		CFDA Name Public Health Emergency Preparedness (PHEP)		CFDA Number 93.069	
FAIN Number NU90TP922054		Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D		Grant Start Date 7/1/2022	
Grant End Date 12/31/2023		Federal Awarding Agency Department of Health and Human Services			
Federal Award Date 5/20/2022					
This award is not effective, and expenditures related to this award should not be incurred until all parties have signed this document.					
Title of Project/Program PHEP – EPR All Hazards Allocation			North Dakota Department of Health and Human Services (NDDHHS) Project Code 6611HLH5273-11		
Grantee 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		Grantee Cost Share	
Amount Awarded		\$0		\$0	
Previous Funds Awarded		\$17,232		\$0	
Total Funds Awarded		\$0		\$0	
Indirect Rate (Check One)		<input checked="" type="checkbox"/> Subrecipient waived indirect costs		<input type="checkbox"/> De minimus rate of 10%	
				<input type="checkbox"/> Negotiated/Approved rate of %	
Scope of Service					
This amendment extends the end date from June 30, 2023, to December 31, 2023. All other scope of service elements of the original agreement remains the same.					
Reporting Requirements					
A year-end progress report, as prescribed by the NDDHHS, must be submitted by January 31, 2024. All other reporting requirements of the original agreement remain the same.					
Special Conditions					
All special conditions of the original agreement remain the same.					
This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2021, to June 30, 2023 [Finance Use Only: <input type="checkbox"/> Requirements Received; <input type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations.					
Evidence of Grantee's Acceptance			Evidence of NDDHHS Acceptance		
Date	Signature		Date	Signature	
03/29/2023	<i>Desi Fleming</i>				
Typed Name/Title of Authorized Representative			Typed Name/Title of Authorized Representative		
Desi Fleming, Director of Public Health			Tim Wiedrich, Director Health Response and Licensure Section		
Date	Signature		Date	Signature	
Typed Name/Title of Authorized Representative			Typed Name/Title of Authorized Representative		
Timothy J. Mahoney, Mayor, City of Fargo			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.					




**Fargo Cass  
Public Health**  
Prevent. Promote. Protect.

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

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

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

**DATE: MARCH 29, 2023**

**RE: NOTICE OF GRANT AWARD FROM ND DEPARTMENT OF  
HEALTH AND HUMAN SERVICES FOR TITLE X FAMILY  
PLANNING PROGRAM**  
**NO: G21.1255 CFDA: 93.217**  
**FUNDS: \$202,584.00**  
**EXPIRES: 03/31/2024**

The attached notice of grant award from North Dakota Department of Health and Human Services is for funding the Title X Family Planning Program. This will assist FCPH Family Planning Clinic to continue to provide voluntary family planning which consists of education, comprehensive medical and social services.

**No budget adjustment is required for this grant.**

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

**Suggested Motion:**

Move to approve the grant for Title X Family Planning funding.

DF/lls  
Attachment



**NOTICE OF GRANT AWARD**

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
SFN 53771 (09-2022)

Grant Number G21.1255	CFDA Name Family Planning Services	CFDA Number 93.217	
FAIN Number FPHA006519	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 4/1/2023	Grant End Date 3/31/2024
Federal Award Date 3/18/2023	Federal Awarding Agency Department of Health and Human Services		

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

Title of Project/Program Title X Family Planning Program	North Dakota Department of Health and Human Services (NDDHHS) Project Code: 4551 HLH 5114 01		
Grantee Name Fargo Cass Public Health	Project Director Cora Rabenberg		
Address 1240 25 <sup>th</sup> Street S	Address 600 E. Boulevard Ave., Dept. 325		
City/State/ZIP Code Fargo, ND 58103	City/State/ZIP Code Bismarck, ND 58505-0250		
Contact Name Desi Fleming	Contact Name Cora Rabenberg		
Telephone Number 701-241-1362	Telephone Number 701-328-4535		
Email Address dfleming@fargond.gov	Email Address crabenberg@nd.gov		

	NDDHHS Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$202,584	\$0	\$202,584
Previous Funds Awarded	\$0	\$0	\$0
Total Funds Awarded	\$202,584	\$0	\$202,584
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %

**Scope of Service**

Grantee will provide voluntary family planning which consists of educational, comprehensive medical and social services necessary to aid individuals to determine freely the number and spacing of their children. Grantee must follow Sections 1001, 1007 and 1008 of the Title X Public Health Service Act: 42 CFR Part 59, subpart A. Grantee must follow the North Dakota Family Planning Program's Policy and Procedure and Protocol manuals as provided. Grantee must follow the approved FY2023-2024 application.

**Reporting Requirements**

Monthly, quarterly, semi-annual and annual reports are to be submitted to the Family Planning Program state office as outlined by the North Dakota Family Planning Program Policy Procedure manual and Subrecipient Reporting Schedule. Failure to submit the required reports and attend subrecipient director meetings will result in reevaluation of services and funding. Reimbursement will be processed upon Department approval of expenditures and reports. Request for reimbursement must be submitted using the Program Reporting System (PRS). Expenditure report for the period ending June 30, 2023, must be received by July 14, 2023. Expenditure report for the period ending March 31, 2024, must be received by April 15, 2024.

**Special Conditions**

Not applicable.

This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2021 to June 30, 2023 [Finance Use Only:  Requirements Received;  Questionnaire received] and (2) applicable State and Federal regulations.

Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 03/29/2023	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 Deanna Askew, Unit Director Family Health and Wellness	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Christopher D. Jones, Executive Director	

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.





(32)

**M E M O R A N D U M**

**TO: BOARD OF CITY COMMISSIONERS**

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

**DATE: MARCH 29, 2023**

**RE: NOTICE OF GRANT AWARD AMENDMENT FROM ND**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR**  
**PHEP EPR STATEWIDE RESPONSE TEAM**  
**NO: G21.911A CFDA: 93.069**  
**FUNDS: \$ NO CHANGE**  
**EXPIRES: 12/31/2023**

The attached notice of grant award amendment from North Dakota Department of Health and Human Services is for extending the expiration of the original grant from June 30, 2023 to December 31, 2023

**No budget adjustment is required for this grant.**

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

**Suggested Motion:**

Move to approve the grant amendment for EPR Statewide Response Team.

DF/lls  
Attachment

**NOTICE OF GRANT AWARD**

NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
SFN 53771 (09-2022)

Grant Number G21.911A	CFDA Name Public Health Emergency Preparedness (PHEP)		CFDA Number 93.069
FAIN Number NU90TP922054	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 7/1/2022	Grant End Date 12/31/2023
Federal Award Date 5/20/2022	Federal Awarding Agency Department of Health and Human Services		
This award is not effective, and expenditures related to this award should not be incurred until all parties have signed this document.			
Title of Project/Program PHEP – EPR Statewide Response Team	North Dakota Department of Health and Human Services (NDDHHS) Project Code 6611HLH5273-11		
Grantee 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	Grantee Cost Share	Total Costs
Amount Awarded	\$0	\$0	\$0
Previous Funds Awarded	\$220,105	\$0	\$220,105
Total Funds Awarded	\$0	\$0	\$0
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %
Scope of Service			
This amendment extends the end date from June 30, 2023, to December 31, 2023. All other scope of service elements of the original agreement remains the same,			
Reporting Requirements			
A year-end progress report, as prescribed by the NDDHHS, must be submitted by January 31, 2024. All other reporting requirements of the original agreement remain the same.			
Special Conditions			
All special conditions of the original agreement remain the same.			
This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2021, to June 30, 2023 [Finance Use Only: <input type="checkbox"/> Requirements Received; <input type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations.			
Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 03/29/2023	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 Section	
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.			



**INSPECTIONS**



**INSPECTIONS DEPARTMENT**  
Fargo City Hall  
225 Fourth Street North  
Fargo, ND 58102  
Phone: 701.241.1561 | Fax: 701.476.6779  
[FargoND.gov](http://FargoND.gov)

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## Memorandum

**TO: Mayor Mahoney, Board of City Commissioners**

**FROM: Shawn Ouradnik, Inspections Director**

**SUBJECT: International Residential Code (IRC) radon requirements**

**DATE: April 3 2023**

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During the three year code adoption process the Inspections Department had discussions with the Fargo Moorhead Home Builders Association (HBA). During those discussions the HBA asked the department to consider adding a passive radon mitigation system to the requirements for a new residential structures that mirror the requirements in Minnesota. The requirements were brought to the Board of Appeals during the process and they voted unanimously to support the addition of the requirements to the IRC. A draft copy has been attached.

### Recommended Motion:

**Direct the City Attorney's office to prepare and make changes to the City of Fargo Municipal Code to include in the passive radon mitigation requirements.**

## **SECTION R331 SCOPE**

**R331.1 General.** This section contains requirements for new construction in jurisdictions where radon-resistant construction is required.

### **SECTION R331.1 DEFINITIONS**

**R331.1.1 General.** For the purpose of these requirements, the terms used shall be defined as follows:

**DRAIN TILE LOOP.** A continuous length of drain tile or perforated pipe extending around all or part of the internal or external perimeter of a basement or crawl space footing.

**RADON GAS.** A naturally occurring, chemically inert, radioactive gas that is not detectable by human senses. As a gas, it can move readily through particles of soil and rock, and can accumulate under the slabs and foundations of homes where it can easily enter into the living space through construction cracks and openings.

**SOIL-GAS-RETARDER.** A continuous membrane of 6-mil (0.15 mm) polyethylene or other equivalent material used to retard the flow of soil gases into a building.

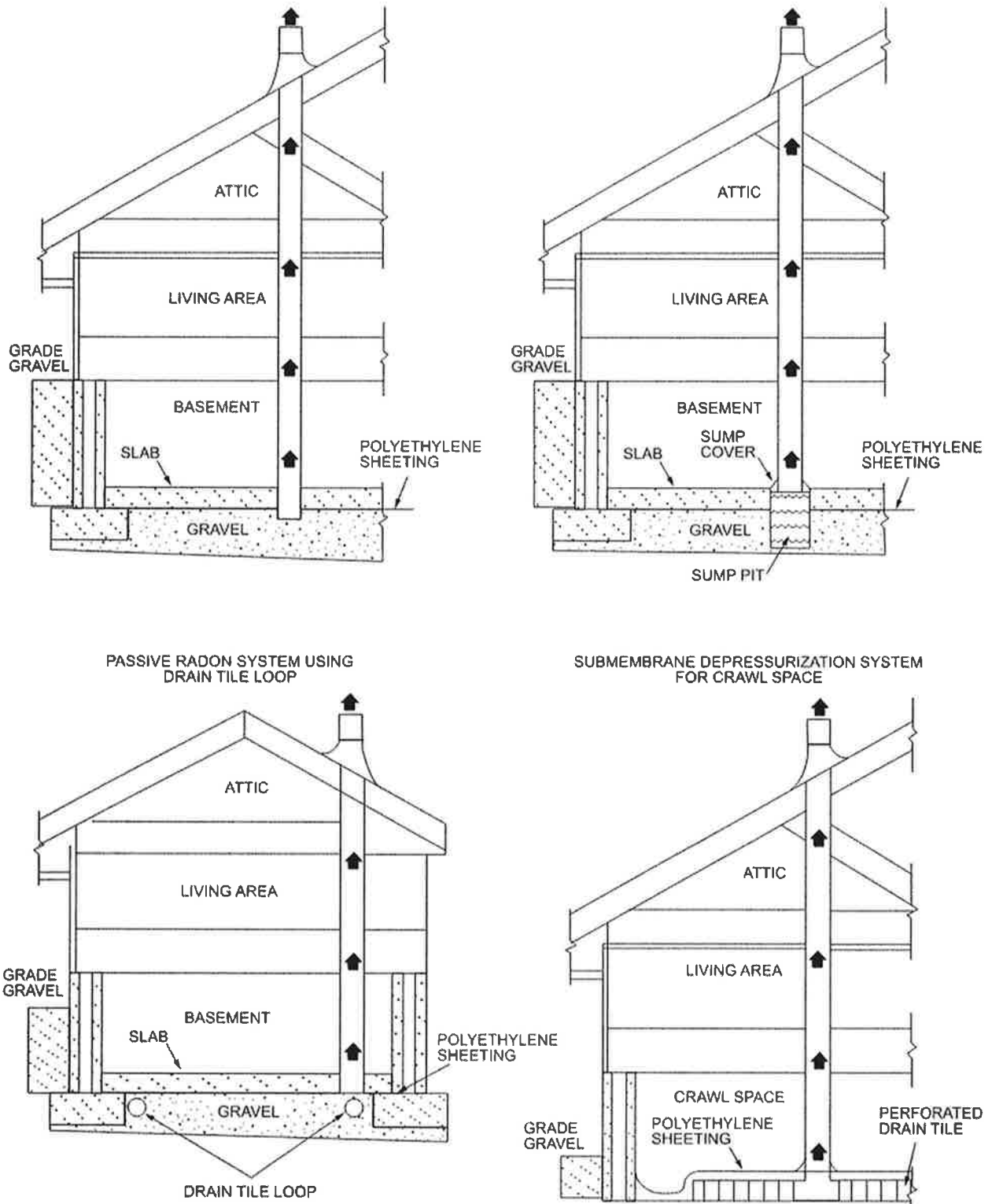
**SUBMEMBRANE DEPRESSURIZATION SYSTEM.** A system designed to achieve lower submembrane air pressure relative to crawl space air pressure by use of a vent drawing air from beneath the soil-gas-retarder membrane.

**SUBSLAB DEPRESSURIZATION SYSTEM (Active).** A system designed to achieve lower subslab air pressure relative to indoor air pressure by use of a fan-powered vent drawing air from beneath the slab.

**SUBSLAB DEPRESSURIZATION SYSTEM (Passive).** A system designed to achieve lower subslab air pressure relative to indoor air pressure by use of a vent pipe routed through the conditioned space of a building and connecting the subslab area with outdoor air, thereby relying on the convective flow of air upward in the vent to draw air from beneath the slab.

### **SECTION R331.2 REQUIREMENTS**

**R331.2.1 General.** The following construction techniques are intended to resist radon entry and prepare the building for post-construction radon mitigation, if necessary (see Figure R331.2.1). These techniques are required in areas where designated by the jurisdiction. All potential entry routes, including but not limited to joints, penetrations, gaps, cracks, and openings, shall be cleared of debris and sealed.



**FIGURE R331.2.1**  
**RADON-RESISTANT CONSTRUCTION DETAILS FOR FOUR FOUNDATION TYPES**

**R331.2.2 Subfloor preparation.** A layer of gas-permeable material shall be placed under all concrete slabs and other floor systems that directly contact the ground and are within the walls of the living spaces of the building, to facilitate future installation of a subslab depressurization system, if needed. The gas-permeable layer shall consist of one of the following:

1. A uniform layer of clean aggregate, not less than 4 inches (102 mm) thick. The aggregate shall consist of material that will pass through a 2-inch (51 mm) sieve and be retained by a ¼-inch (6.4 mm) sieve.
2. A uniform layer of sand (native or fill), not less than 4 inches (102 mm) thick, overlain by a layer or strips of geotextile drainage matting designed to allow the lateral flow of soil gases.
3. Other materials, systems or floor designs with demonstrated capability to permit depressurization across the entire subfloor area.

**R331.2.3 Passive submembrane depressurization system.** In buildings with crawl space foundations, the following components of a passive submembrane depressurization system shall be installed during construction.

**Exception:** Buildings in which an approved mechanical crawl space ventilation system or other equivalent system is installed.

**R331.2.3.1 Ventilation.** Crawl spaces shall be provided with vents to the exterior of the building. The minimum net area of ventilation openings shall comply with Section R408.1.

**R331.2.3.2 Soil-gas-retarder.** The soil in crawl spaces shall be covered with a continuous layer of polyethylene soil-gas-retarder that meets the requirements of Section R506.2.3. The ground cover shall be lapped not less than 12 inches (305 mm) at joints and shall extend to all foundation walls enclosing the crawl space area.

**R331.2.3.3 Vent pipe.** A plumbing tee or other approved connection shall be inserted horizontally beneath the sheeting and connected to a 3- or 4-inch-diameter (76 or 102 mm) fitting with a vertical vent pipe installed through the sheeting. The vent pipe shall be extended up through the building floors, and terminate not less than 12 inches (305 mm) above the roof in a location not less than 10 feet (3048 mm) away from any window or other opening into the conditioned spaces of the building that is less than 2 feet (610 mm) below the exhaust point, and 10 feet (3048 mm) from any window or other opening in adjoining or adjacent buildings.

**R331.2.4 Passive subslab depressurization system.** In basement or slab-on-grade buildings, the following components of a passive subslab depressurization system shall be installed during construction.

**R331.2.4.1 Vent pipe.** A minimum 3-inch-diameter (76 mm) ABS, PVC or equivalent gastight pipe shall be embedded vertically into the subslab aggregate or other permeable material before the slab is cast. A "T" fitting or equivalent method shall be used to ensure that the

pipe opening remains within the subslab permeable material. Alternatively, the 3-inch (76 mm) pipe shall be inserted directly into an interior perimeter drain tile loop or through a sealed sump cover where the sump is exposed to the subslab aggregate or connected to it through a drainage system.

The pipe shall be extended up through the building floors, and terminate not less than 12 inches (305 mm) above the surface of the roof in a location not less than 10 feet (3048 mm) away from any window or other opening into the conditioned spaces of the building that is less than 2 feet (610 mm) below the exhaust point, and 10 feet (3048 mm) from any window or other opening in adjoining or adjacent buildings.

**R331.2.4.2 Multiple vent pipes.** In buildings where interior footings or other barriers separate the subslab aggregate or other gas-permeable material, each area shall be fitted with an individual vent pipe. Vent pipes shall connect to a single vent that terminates above the roof or each individual vent pipe shall terminate separately above the roof.

**R331.2.5 Vent pipe drainage.** Components of the radon vent pipe system shall be installed to provide positive drain-age to the ground beneath the slab or soil-gas-retarder.

**R331.2.6 Vent pipe accessibility.** Radon vent pipes shall be accessible for future fan installation through an attic or other area outside the habitable space.

**Exception:** The radon vent pipe need not be accessible in an attic space where an approved roof-top electrical supply is provided for future use.

**R331.2.7 Vent pipe identification.** Exposed and visible interior radon vent pipes shall be identified with not less than one label on each floor and in accessible attics. The label shall read: "Radon Reduction System."

**R331.2.8 Combination foundations.** Combination basement/crawl space or slab-on-grade/crawl space foundations shall have separate radon vent pipes installed in each type of foundation area. Each radon vent pipe shall terminate above the roof or shall be connected to a single vent that terminates above the roof.

**R331.2.9 Building depressurization.** Joints in air ducts and plenums in unconditioned spaces shall meet the requirements of Section M1601. Thermal envelope air infiltration requirements shall comply with the energy conservation provisions in Chapter 11. Fireblocking shall meet the requirements contained in Section R302.11.

**R331.2.10 Power source.** To provide for future installation of an active submembrane or subslab depressurization system, an electrical circuit terminated in an approved box shall be installed during construction in the attic or other anticipated location of vent pipe fans. An electrical supply shall be accessible in anticipated locations of system failure alarms.



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# FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

*OFFICE OF THE CHIEF*

## MEMORANDUM

**To:** Kember Anderson  
**From:** Chief David B. Zibolski *DZ*  
**Date:** March 30, 2023  
**RE:** Items for consent agenda

Kember,

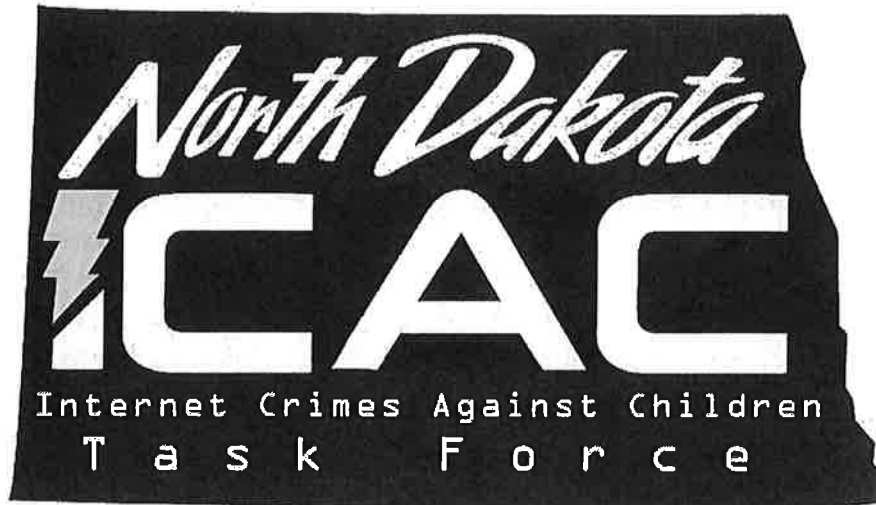
I would like to add the following to the consent agenda for the April 3, 2023 City Commission Meeting:

- Grant the Fargo Police Department permission to continue the Multi-agency Law Enforcement Agreement with the North Dakota BCI Crimes Against Children Task Force Program.

Please contact my office if you have questions or need any additional information.

Thank you.





## Multi-Agency Law Enforcement Agreement

This Multi-Agency Law Enforcement Agreement, and amendments and supplements thereto, (hereinafter "Agreement") is between the North Dakota Bureau of Criminal Investigation (NDBCI) (Grantee) and Fargo Police Department hereinafter "Undersigned Law Enforcement Agency") both which are authorized to enter into this Agreement.

**Whereas**, the above subscribed parties have joined together in a multi-agency task force intended to investigate and prosecute crimes committed against children and the criminal exploitation of children that is committed and/or facilitated by or through the use of computers, and to disrupt and dismantle organizations and/or individual(s) engaging in such activity; and

**Whereas**, the undersigned agencies agree to utilize applicable state and federal laws to prosecute criminal, civil, and forfeiture actions against identified violators, as appropriate, and

**Whereas**, the OJJDP Internet Crimes Against Children ("ICAC") a Board of Directors has been established representing each of the existing ICAC Task Forces to oversee the operation of the grant and sub-grant recipients.

**Now Therefore**, the parties agree as follows:

1. The Undersigned Law Enforcement Agency approves, authorizes, and enters into this Memorandum of Understanding with the purpose of implementing a three-pronged approach to combat Internet Crimes Against Children: **prevention, education, and enforcement**; and

12. The Undersigned Law Enforcement Agency shall be solely responsible for forwarding information relative to investigative targets to the Child Pornography Pointer System (CPPS) pursuant to the OJJDP guidelines.

**Term of this agreement:**

This agreement shall be effective upon signatures of both parties. Nothing in this agreement shall otherwise limit jurisdiction, powers, and responsibilities normally possessed by an employee as a member of the Law Enforcement Agency. Law Enforcement Agencies may withdraw from this Agreement with a 30-day written notice to NDBC.

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Lonnie Grabowska  
Director, Bureau of Criminal Investigation

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Date

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Chief David Zibolski  
Fargo Police Department

---

Date

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# Internet Crimes Against Children Task Force Program

## OPERATIONAL AND INVESTIGATIVE STANDARDS

*ICAC Task Force Program Operational and Investigative Standards*  
**FOR ICAC PURPOSES ONLY**  
Revised: October 1, 2018

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**Definitions of Terms**

**Applicability of Terms**

Although some of the definitions below may be generally applicable to law enforcement, they are intended for use in the interpretation of these *Standards*. As such, where any term defined below is capitalized in these *Standards*, the *Standards* are referring to that term as defined below. By contrast, where any term defined below is not capitalized in these *Standards*, the *Standards* are referring to that term as it is used generally in the field of law enforcement. Additionally, the capitalized terms have been italicized to ease their recognition.

“**Affiliate**” or **Affiliate Agency**” is an agency that is working with a *Lead Agency* as part of a regional or state ICAC *Task Force*. An *Affiliate* has agreed in writing to adhere to these *Standards*.

“**Authorized Personnel**” are *Members* who themselves lack powers of arrest but have been authorized by their respective agency to participate in *Investigations* and are being supervised by *Sworn Personnel*.

“**Commander**” is the *Member* of a *Lead Agency* who has been designated by that *Lead Agency* and recognized by *OJJDP* as the leader of the corresponding *Task Force*.

“**CEOS**” is the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice.

“**Contraband Image**” is a visual depiction in any form (including printed/digital or video) of child sexual exploitation as defined by federal and/or state statute.

“**Crime**” is any offense (or group thereof) that involves (or involve) the exploitation/victimization of children facilitated by technology.

“**CVIP**” is the Child Victim Identification Project operated by NCMEC.

“**CyberTipline**” is a reporting mechanism operated by NCMEC that allows for the reporting of suspected *Crimes*.

“**Deconfliction**” is a process whereby *Members* are able to submit *Investigative* information to each other and/or to ICAC-related databases in order to determine whether other *Members* or other law enforcement agencies have information concerning the same targets or *Crimes*.

“**DOJ**” is the United States Department of Justice.

“**Employee**” is a sworn or compensated individual, or any individual working under the direction and control of a law enforcement agency.

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“**Equipment**” is any article, device or resource, including but not limited to computers, phones, online accounts and internet services which are purchased or obtained for use in ICAC-related matters.

“**ICAC Program**” is the Internet Crimes Against Children Task Force Program, a national program composed of state and regional *Task Forces* administered by *OJJDP*.

“**Investigation**” is an investigation into a *Crime*. Likewise, “*Investigate*” “*Investigating*” and “*Investigative*” are used within the same context.

“**Investigative Persona**” – any identity established or created by an *Employee* to aid an *Investigation*.

“**Investigator**” is a *Member* who is a part of the *Sworn Personnel* of a *Task Force*.

“**Lead**” or “**Lead Agency**” is the law enforcement agency that receives the ICAC grant and is designated by *OJJDP* to act as the *Lead Agency* for the corresponding *Task Force*.

“**Member**” is a *Lead* or *Affiliate Agency’s Employee* who is either *Sworn Personnel* or *Authorized Personnel* and who has been designated to work on ICAC-related matters for his/her respective agency and *Task Force*.

“**National Initiative**” is any proposal that relies on the cooperation and resources of a significant number of *Task Forces* and, accordingly, has been approved by *OJJDP*.

“**NCMEC**” is the National Center for Missing and Exploited Children.

“**OJJDP**” is the Office of Juvenile Justice and Delinquency Prevention within the *DOJ*.

“**Supervisor**” is a *Member* who has been designated by his/her respective agency to supervise *Investigations* and other ICAC-related matters.

“**Standards**” are all of the provisions of these, the ICAC Operational and Investigative Standards.

“**Sworn Personnel**” are *Members* with powers of arrest.

“**Task Force**” is the *Lead Agency* and their *Affiliate(s)* (combined) as designated by *OJJDP* for a particular state or region.

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**1. Purpose of the ICAC Standards**

These *Standards* are established by *OJJDP* to guide the administration and operation of the *ICAC Program* and its *Members* when working on ICAC-related *Investigations* and matters.

*Members* should make every reasonable effort to comply with these *Standards*. However, since many aspects of *Investigations* are dynamic and because laws vary widely between jurisdictions, it is difficult to anticipate every circumstance that might present itself. Thus, reasonable deviations from these *Standards* may occur depending upon various factors (e.g., emergency situations; timing constraints; accessibility constraints; resource constraints; technology constraints; perceived conflicts between the *Standards* and statutes, decisional law, and court orders; etcetera).

*Commanders* may supplement, but not contradict, these *Standards* in the written agreements they establish with their *Affiliates* to promote the effective operation of their *Task Forces*. Should questions regarding the interpretation of these *Standards* arise or conflicts occur between these *Standards* and agency policies or law, the *Commander* faced with the issue shall seek the guidance of an *OJJDP* Program Manager. However, nothing in these *Standards* is meant to interfere with a *Commander's* or *Supervisor's* lawful tactical decision-making.

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**2. ICAC National Program**

2.1 Mission of the ICAC Program

The Internet Crimes Against Children (ICAC) Task Force Program helps state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and internet crimes against children. This support encompasses forensic and *Investigative* components, training and technical assistance, victim services, prevention and community education.

2.2 ICAC Background

The Internet Crimes Against Children (ICAC) Task Force Program was developed in 1998 in response to the increasing number of children and teenagers using the internet and other technology, the proliferation of child sexual abuse images available electronically, and the heightened online activity by predators seeking unsupervised contact with potential underage victims.

The *ICAC Program* is a national network of 61 coordinated task forces representing more than 4,500 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in both proactive and reactive investigations, forensic examinations, and criminal prosecutions. By helping state and local agencies develop effective, sustainable responses to online child victimization – including responses to child sexual abuse images (*Contraband Images*), the *ICAC Program* has increased law enforcement's capacity to combat technology-facilitated crimes against children at every level.

Because arrests alone cannot resolve the problem of technology-facilitated child sexual exploitation, the *ICAC Program* is also dedicated to training law enforcement personnel, prosecutors and other professionals working in the ICAC field, as well as educating parents, youth, and the community about the potential dangers of online activity including online child victimization.



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**3. Oversight of the ICAC Program**

3.1 The oversight of the *ICAC Program* and the administration of ICAC grants are the responsibility of *OJJDP*. The oversight of each *Task Force* falls to its *Commander*. The oversight of each agency, both *Lead* and *Affiliate*, falls to its designated *Supervisor*.

3.2 *Commanders* shall ensure there are supervisory systems and protocols in place that provide for observation, documentation, and review of ICAC activity. Said systems shall comply with the principles of quality case management and shall ensure that ICAC activities comply with agency policies and these *Standards*.

3.3 *Commanders* shall ensure that each *Member* in his/her *Lead Agency* and each *Supervisor* of an *Affiliate Agency* receives a copy of the *Standards*.

3.3.1 *Supervisors* shall have the discretion to provide *Members* with only the sections of the *Standards* applicable to their job functions.

3.4 *Commanders* shall submit all proposed *National Initiatives* to *OJJDP* prior to the start of the project.

3.4.1 *OJJDP* may suggest amendments to the original proposal following consultation with the presenting *Commander* and, as appropriate, other federal, state, and local entities.

3.5 *Supervisors* shall inform their *Members* about departmental employee assistance programs and *Task Force* resources available to them.

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**4. Selection and Retention of Task Force Members**

4.1 When practicable during the selection process of *Members*, *Commanders* and *Supervisors* shall evaluate prospective candidates for work histories that indicate prior *Investigative* experience, courtroom testimony skills, technical knowledge and ability, an ability to prudently handle sensitive information, a genuine interest in the protection of children, and an understanding of the effects that *Members* may experience when exposed to *Contraband Images*.

4.2 *Commanders* and *Supervisors* shall acknowledge the potential effects of *Investigations* of and exposure to *Contraband Images* and recognize that the viewing of *Contraband Images* should be restricted. When practicable, the following techniques may help mitigate some of the potential negative effects of this work may aid with the retention of *Members*:

- **Work flexibility** - *Commanders* and *Supervisors* are encouraged to allow flexibility for *Investigators* and others who are exposed to *Contraband Images* (e.g., frequent breaks, having an open-door policy, etc.).
- **Exposure to *Contraband Images*** - *Commanders* and *Supervisors* are encouraged to implement best practices which minimize the exposure to *Contraband Images* by *Members*.
- **Mental Health Providers (MHP)** - In compliance with their agency guidelines, *Commanders* and *Supervisors* are encouraged to work with MHP to make recommendations for care of *Members* and to provide education and training designed to minimize the impact of exposure to *Contraband Images*.
- **Impact of *Contraband Images*** - *Commanders* and *Supervisors* are encouraged to share or pursue best practices for minimization of the impact of *Contraband Images* and to promote attendance at trainings regarding methods used to minimize said impact.

4.3 *Commanders* and *Supervisors* shall recognize that ICAC *Investigations* typically focus on child sex offenders who have committed serious state or federal crimes and due to this life-changing event, the impact on these offenders can result in a violent response to authorities.<sup>1</sup>

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<sup>1</sup> FBI's Investigation Behavioral Analysis Unit's *Operational Safety Considerations While Investigating Child Sex Offenders. A Handbook for Law Enforcement*, Volume 1, March 2012.

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**5. Training**

Ensuring that personnel are well-trained in conducting effective *Investigations* in a manner consistent with applicable laws is integral to the *ICAC Program*.

5.1 All national training curricula supported by *ICAC Program* resources shall be conducted consistent with the *Standards* and shall be approved by *OJJDP*.

5.2 Commanders shall ensure that nominees to attend any *ICAC Program*-sponsored national in-person training event are current *Members*.

5.3 Individual *Task Forces* may develop and deliver *Task Force* specific training. This training shall comply with the *Standards* and shall be approved by the *Commander*. All costs to develop and deliver the training shall be the responsibility of the *Task Force* or *Affiliate* providing the training.

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**6. Case Management**

6.1 *Commanders and Supervisors* are responsible for determining *Investigative* priorities and selecting cases for *Investigation* in their respective agencies. Those determinations shall include an assessment of victim risk, jurisdiction, known offender behavioral characteristics, and the likelihood of securing the information necessary to pursue each *Investigation*.

6.2 Conventional boundaries often are meaningless in today's digital world where the usual constraints of time, place, and distance lose their relevance. These factors increase the possibility of *Lead* and/or *Affiliate Agencies* targeting other law enforcement personnel, *Investigating* the same target, or inadvertently disrupting an ongoing *Investigation*. To foster effective case coordination, collaboration, and communication, each *Member* shall make every effort to *Deconflict* all active *Investigations*.

6.3 *Lead* and *Affiliate Agencies* shall be subject to their respective agency's incident reporting procedures and case supervision systems. At a minimum, a unique identifier shall be assigned to each case.

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**7. Task Force Reporting Requirements to OJJDP**

7.1 The reports described below do not replace the semi-annual progress report required by the Office of Justice Programs' Financial Guide.

7.2 *Commanders* shall compile and submit a Task Force Monthly Performance Measures Report to the *OJJDP*-designated location before the end of the following calendar month.

7.2.1 *Affiliates* shall report their activity to their respective *Commander* by the 10th of each month using the ICAC Monthly Performance Measures Report.

7.3 *Commanders* shall compile and submit an annual report which details each of their *Affiliates*. This annual report shall be submitted within 30 days of the end of the calendar year. The report shall be submitted in a method determined by *OJJDP* and shall include the following information:

7.3.1 The name of each *Affiliate Agency*.

7.3.2 The staffing level of each *Affiliate Agency* including the number of *Investigators*, prosecutors, education specialists, and forensic specialists dedicated to *Investigating* and prosecuting *Crime*.

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**8. Investigations**

8.1 *Investigations* shall be conducted in a manner consistent with applicable laws and the ICAC *Standards*.

8.2 Only *Sworn Personnel* shall conduct *Investigations*.

8.2.1 *Authorized Personnel* acting under the direction and supervision of *Sworn Personnel* may participate in *Investigations*.

8.2.2 *Members* shall not approve, condone, encourage, or promote cyber-vigilantism by private citizens. As such, *Members* shall not use unauthorized private citizens to proactively seek out *Investigative* targets.

8.2.3 The above section (8.2.2) shall not preclude the use of information related to a *Crime* provided by victims or public citizens who discover evidence (e.g., CyberTip reports, mandated reports from professionals, computer repair shop complaints, parental complaints, et cetera). Nor does it preclude the use of authorized over-hears or other similar *Investigative* methods designed to further an *Investigation*.

8.3 *Investigations* shall be documented. Any departures from this provision due to unusual or exigent circumstances shall be documented in the relevant case file and reviewed by the *Supervisor*.

8.3.1 The access, retention, storage, security, and disposal of *Investigative* or case information shall be consistent with the subject agency's policies and federal and state law regarding same.

8.4 *Members* shall not electronically upload, transmit, or forward any *Contraband Images*.

8.4.1 **Exception to Section 8.4.** Section 8.4 shall not prohibit the transfer of evidence between *Investigators* as provided for by sections 8.9 and 8.10 of these *Standards* nor does it prohibit the submission of *Contraband Images* to CVIP as provided for by section 10.1 of these *Standards*.

8.5 *Members* shall not use any visual depiction of any type (including a manipulated or electronically generated visual depiction) of any person, purported person, or body part of a person or purported person, with the sole exception that a *Member* may use a visual depiction as a representation of an *Investigative Person*/person/purported person when the following **four** requirements are met:

- (1) The visual depiction is of an actual person;
- (2) That person is an *Employee*;

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(3) The *Employee* has given his or her written consent for the visual depiction to be used; and

(4) The *Employee* was at least 18 years old at the time when the *Employee* gave consent for such use. The visual depiction may be of the *Employee* that was produced when the *Employee* was under the age of 18. The visual depiction may also be modified to suit *Investigative* needs (*i.e.*, it may be an altered or age-regressed visual depiction of the *Employee*).

8.5.1 **Exception to Section 8.5.** Section 8.5 does not prohibit a federal or federally-approved *Member* (*e.g.*, an FBI/HSI agent, or an FBI/HSI Task Force Officer) from using a visual depiction that does not meet the four requirements of Section 8.5, so long as the visual depiction is one that has been authorized for use by the FBI or HSI in accordance with that respective federal agency's guidelines and the visual depiction is being used pursuant to those guidelines.

8.6 Absent prosecutorial input to the contrary, during online dialogue, *Investigators* shall allow the *Investigative* target to set the tone, pace, and subject matter of the online conversation.

8.6.1 Section (8.6) shall not be construed to prohibit *Investigators* from performing any of the following activities when initiating or conducting an *Investigation*: (a) posting information including visual depictions (image or video/printed or digital) to establish an online presence, (b) placing or posting advertisements, or (c) sending messages.

8.6.2 *Members* shall familiarize themselves with relevant state and federal law, including but not limited to those regarding the defense of entrapment, and shall confer with prosecutors, as needed.

8.6.3 Prior to conducting any large-scale (multi-target) operations, *Members* shall notify the *Commander* and shall consult relevant prosecutors about the operation.

8.7 The examination of digital storage devices shall be performed consistent with the subject agency's protocol.

8.8 *Contraband Images* shall be maintained pursuant to the subject agency's policy.

8.8.1 Absent a court order specifically ordering otherwise, evidence containing *Contraband Images* shall not be released to any defendant or representative thereof.

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8.9 Absent exigent circumstances, all *Members'* case referrals between *Task Forces* shall include:

- Notification to and acceptance by the *Commander(s)* of both *Task Forces* that are involved in the referral;
- A secure (i.e., digitally-protected) copy of the case file;
- An official *Investigative* report or affidavit containing case details; and,
- Documentation, preferably the original, of all legal process conducted and all compliance with same, especially those documents related to the issue of jurisdiction and identification of suspect(s).

8.10 Law enforcement transfers of evidence containing *Contraband Images* shall be done in a secure manner.



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**9. Work Environment and Equipment**

9.1 *Investigations* shall be conducted in an approved work environment, using approved *Equipment*, as designated by a *Commander* or *Supervisor*.

9.2 *Commanders* and *Supervisors* are encouraged to provide a work environment that provides for discreet and sensitive *Investigations* while simultaneously minimizing chances of inadvertent or unnecessary exposure to *Contraband Images*.

9.3 *ICAC Equipment* shall be reserved for the exclusive use of its *Members*, and shall be used in accordance with these *Standards* and with their respective agency's policies.

9.4 When practicable, *Equipment* which may be used in undercover aspects of an *Investigation* shall be purchased covertly.

9.5 No personally-owned equipment, accounts or networks shall be used in *Investigations*.

9.6 Software shall be properly acquired and licensed.

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**10. Victim Identification**

10.1 Identifying child victims of *Crime* is a critical element of the *ICAC Program*. *DOJ* and *OJJDP* require the *Lead* and *Affiliate Agencies* to submit *Contraband Images* to CVIP as a means to improve child victim identification. Absent exigent circumstances, *Contraband Images* shall be sent to CVIP pursuant to NCMEC's standards regarding same. In addition, *Lead* and *Affiliate Agencies* are encouraged to collaborate with NCMEC in their effort to identify children depicted in *Contraband Images*.

10.2 Absent exigent circumstances, victim-identifying information shall be protected from public disclosure pursuant to the protections set forth in federal and state law.

10.3 *Lead* and *Affiliate Agencies* shall adhere to local, state, and federal laws, as well as their agency's policies regarding mandated reporting, victim notification, and victim assistance.

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**11. Public Awareness and Community Outreach**

11.1 Public awareness activities and community outreach are a critical component of the *ICAC Program*. *Lead and Affiliate Agencies* shall foster awareness and shall provide practical relevant guidance to children, parents, educators, and others concerned with child safety.

11.1.1 Social media can be used to promote educational awareness as long as it is consistent with all agency policy and these *Standards*.

11.2 Presentations to school personnel, parents, and community groups are excellent ways to promote awareness. These presentations shall not include any visual depiction of a victim unless the victim has consented to its use and the victim is currently at least 18 years of age. No *Contraband Image* shall be used in these presentations nor shall a presenter discuss confidential *Investigative* tools and techniques.

11.3 No individual affiliated with *ICAC Program* may speak on behalf of the national *ICAC Program* without the express written consent of *OJJDP*. While making public presentations, *Members* may indicate a preference for a product or service, but, when done, shall avoid an implicit endorsement and shall include alternatives in the presentation.

11.4 Materials and presentations shall be consistent with the *ICAC Program's* mission and background, as enumerated in Section 2 of these *Standards*.

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**12. Media Relations and Media Releases**

12.1 Media releases relating to prosecutions, *Crime* alerts, or other matters concerning ICAC operations shall not include information regarding confidential *Investigative* techniques, and shall be coordinated, when applicable, with the law enforcement agencies involved with the subject *Investigations*, in a manner consistent with sound information management and sound media relations practices.

12.2 *Commanders* and *Supervisors* may speak to members of the media about their own agency's ICAC-related activities per the terms of their agency's policy on such media relations. No individual affiliated with *ICAC Program* may speak on behalf of the national *ICAC Program* without the express written consent of *OJJDP*.

12.3 *Commanders* shall inform their *OJJDP* Program Manager if approached by national media outlets about the national *ICAC Program* (as opposed to media seeking information from a particular *Task Force* about its local activities) so that a coordinated national response can be prepared by *OJJDP*.

12.4 Information provided by *Task Forces* to the media shall be consistent with *ICAC Program's* mission and background, as described in Section 2 of these *Standards*.

**End of ICAC Standards**



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**Water Treatment Plant**  
435 14th Avenue South  
Fargo, ND 58103  
Office: 701.241.1469 | Fax: 701.241.8110  
[www.FargoND.gov](http://www.FargoND.gov)

March 30, 2023

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

**Subject:** Sole Source for Reile's Transfer and Delivery

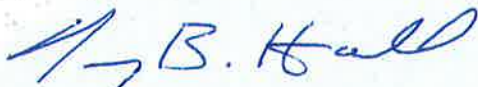
Dear Commissioners:

Water Utility staff is seeking sole source approval for Reile's Transfer and Delivery (Reile's) to store materials for construction of Project WA2255, Lime Softening Filter Rehabilitation. This sole source request was approved by the Finance Committee on March 27, 2023. Since the estimate cost with Reile's is over \$50,000, the sole source request needs to be approved by the City Commission according to policy.

For Project WA2255, the filter media and underdrain system needed to be ordered ahead of project bidding due to long lead times for materials. This allows construction to potentially begin in 2023. The project is being advertised for bidding at this time with bid opening schedule for April 26, 2023. Water Utility staff is also pursuing EPA grant funding for Project WA2255.

Your consideration is greatly appreciated in this matter.

Sincerely,



Troy B. Hall  
Water Utility Director

**SUGGESTED MOTION:**

Approve sole source request for Reile's Transfer and Delivery to store construction materials for Project WA2255.



## Sole Source and Piggyback Procurement Form

### Sole Source and Piggyback Justification for Procurement

The following information is offered for the sole source acquisition of goods or services described below. The purchase has been thoroughly researched and it has been determined that the vendor/brand is the only acceptable vendor/brand for the product or services that will fit the particular need.

Vendor Name:

Reile's Transfer and Delivery

Estimated Dollar Amount of Purchase:

70,000

Is this procurement funded by a federal grant?

no

If yes, you must attach a document from the grant agency approving this procurement as a sole source.

The project/service is required to:

Rent space to store the GAC/Sand media for Project WA2255. We need to store the media for approximately 1 year until the contractor can start work this coming winter. We do not currently have enough space to store all of the media for the project at the water treatment plant and the media cannot be stored outside due to the weather.

Project 2255 is to be loan funded under an approved SRF loan. The project is in the 2022 budget and in the Water Utility 20- year Capital Improvement Plan (CIP). The sole source documentation is also needed for our regulators under the project State Revolving Fund (SRF) loan program.

Description of features or capabilities unique to the vendor/brand being requested as related to project requirements:

The storage space is the only one that we found in town that has availability, we contacted several storage facilities.

**Provide a brief description of how your investigation was conducted.** (Internet, publications, consultations) List all sources identified and investigated to determine that no other source exists for similar products capable of meeting requirements (Must be exhaustive of all sources for the commodity being purchased. \*\*)

The storage space is the only one that we found that is available and in Fargo. We contacted other departments to see if there was space available and was unable to secure a large enough space. We found a storage space in Bismark that had availability but the rental/trucking cost would exceed the one we found in town. We contacted a commercial Realtor for storage space and the 2 that he had wouldn't work for what we need, one didn't have heat and the other had pending leases.

**\*\*If all sources are not investigated a competitive solicitation must be issued.**

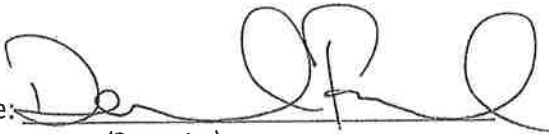
Provide a side-by-side comparison of the features/service of all other vendors/brands considered. (List the features or capabilities required for your project and how each vendor investigated does or does not meet those requirements. A table format is recommended)

The storage space is the only one that we found that is available and in Fargo. We contacted other departments to see if there was space available and was unable to secure a large enough space. We found a storage space in Bismark that had availability but the rental/trucking cost would exceed the one we found in town. We contacted a commercial Realtor for storage space and the 2 that he had wouldn't work for what we need, one didn't have heat and the other had pending leases.

If the piggyback procurement method is being used, please provide a copy of the piggyback contract.

N/A



Signature:   
(Requestor)

Printed Name: Dan Portlock

Department: Water Utility

Title: Water Utility Engineer

Date: 3/23/2023

I, hereby, certify that this justification for other than full and open competition is accurate and complete to the best of my knowledge and belief.

DLP (Requestor initials)

## REILE'S TRANSFER & DELIVERY INC. Distribution Center Agreement

This agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between City of Fargo – Water Treatment Plant; 435 14<sup>th</sup> Ave S; Fargo, ND 58103 (hereinafter referred to as "CUSTOMER") and Reile's Transfer & Delivery Inc., with Corporate offices located at 4007 33<sup>rd</sup> St N; Fargo, ND 58102 (hereinafter referred to as "DISTRIBUTION CENTER").

1. STORAGE FACILITY

- a. DISTRIBUTION CENTER agrees to store CUSTOMER product at the following location

Reiles Transfer & Delivery Inc – RE3U  
4001 32<sup>nd</sup> St N  
Fargo, ND 58102

2. RATES

- a. See Appendix "A"

3. PAYMENT

- a. CUSTOMER agrees that all amounts due under this agreement are payable to the following address:

Reiles Transfer & Delivery Inc  
PO Box 9161  
Fargo, ND 58106-9161

- b. CUSTOMER agrees that all invoices are to be paid in full within 30 (thirty) days from the invoice date. Late payments are subject to a service charge of 18% per annum which shall be added to the amount due.
- c. If services with DISTRIBUTION CENTER are terminated by either party for any reason, CUSTOMER agrees to pay all open invoices in full prior to the removal of all CUSTOMER goods from the DISTRIBUTION CENTER.
- d. CUSTOMER agrees that all amounts due and payable under this agreement must be paid in U.S. Funds.

4. ACCEPTANCE

- a. This Contract, including accessorial charges that may be attached hereto, must be accepted within 30 days from the proposal date by signature of CUSTOMER. In the absence of written acceptance, the act of tendering GOODS described herein for storage or other services by DISTRIBUTION CENTER within 30 days from the proposal date shall constitute acceptance by CUSTOMER. CUSTOMER has had the opportunity to review and inspect the warehouse facility ("FACILITY").

- b. If GOODS tendered for storage or other services do not conform to the description contained herein, or conforming GOODS are tendered after 30 days from the proposal date without prior written acceptance by CUSTOMER as provided in paragraph (a) of this section, DISTRIBUTION CENTER may refuse to accept such GOODS. If DISTRIBUTION CENTER accepts such GOODS, CUSTOMER agrees to rates and charges as may be assigned and invoiced by DISTRIBUTION CENTER and to all terms of this Contract.
- c. Any GOODS accepted by DISTRIBUTION CENTER shall constitute GOODS under this Contract.
- d. This Contract may be canceled by either party upon 60 days written notice and is canceled if no storage or other services are performed under this Contract for a period of 180 days.

5. SHIPMENTS TO AND FROM DISTRIBUTION CENTER

CUSTOMER agrees that all GOODS shipped to DISTRIBUTION CENTER shall identify CUSTOMER on the bill of lading or other contract of carriage as the named consignee, in care of DISTRIBUTION CENTER, and shall not identify DISTRIBUTION CENTER as the consignee. If, in violation of this Contract, GOODS are shipped to DISTRIBUTION CENTER as named consignee on the bill of lading or other contract of carriage, CUSTOMER agrees to immediately notify carrier in writing, with copy of such notice to DISTRIBUTION CENTER, that DISTRIBUTION CENTER named as consignee is the "in care of party" only and has no beneficial title or interest in the GOODS. Furthermore, DISTRIBUTION CENTER shall have the right to refuse such GOODS and shall not be liable for any loss, mis-consignment, or damage of any nature to, or related to, such GOODS. Whether DISTRIBUTION CENTER accepts or refuses GOODS shipped in violation of this Section 5, CUSTOMER agrees to indemnify and hold DISTRIBUTION CENTER harmless from all claims for transportation, storage, handling and other charges relating to such GOODS, including undercharges, rail demurrage, truck/intermodal detention and other charges of any nature whatsoever.

6. TENDER OF GOODS

All GOODS shall be delivered at the FACILITY properly marked and packaged for storage and handling. The CUSTOMER shall furnish at or prior to such delivery, a manifest showing marks, brands, or sizes to be kept and accounted for separately, and the class of storage and other services desired.

7. STORAGE PERIOD AND CHARGES

- a. Unless otherwise agreed in writing, all charges for storage are per package or other agreed unit per month.
- b. The storage month begins on the date that DISTRIBUTION CENTER accepts care, custody and control of the GOODS, regardless of unloading date or date of issue of warehouse receipt.
- c. Except as provided in paragraph (d) of this section, a full month's storage charge will apply on all GOODS received between the first and the 15th, inclusive, of a calendar month; one-half month's storage charge will apply on all GOODS received between the 16th and the last day, inclusive, of a calendar month, and a full month's storage charge will apply to all GOODS in storage on the first day of the next and succeeding calendar months. All

storage charges are due and payable on the first day of storage for the initial month and thereafter on the first day of the calendar month.

- d. When mutually agreed in writing by the DISTRIBUTION CENTER and the CUSTOMER, a storage month shall extend from a date in one calendar month to, but not including the same date of the next and all succeeding months. All storage charges are due and payable on the first day of the storage month.

## 8. TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS

- a. Instructions to transfer GOODS on the books of the DISTRIBUTION CENTER are not effective until delivered to and accepted by DISTRIBUTION CENTER, and all charges up to the time transfer is made are chargeable to the CUSTOMER. If a transfer involves re-handling the GOODS, such will be subject to a charge. When GOODS in storage are transferred from one party to another through issuance of a new warehouse receipt, a new storage date is established on the date of transfer.
- b. The DISTRIBUTION CENTER reserves the right to move, at its expense, 14 days after written notice is provided to the CUSTOMER, any GOODS in storage from the FACILITY in which they may be stored to any other of DISTRIBUTION CENTER's Facilities.
- c. The DISTRIBUTION CENTER may, upon written notice of not less than 30 days to the CUSTOMER and any other person known by the DISTRIBUTION CENTER to claim an interest in the GOODS, require the removal of any GOODS. Such notice shall be given to the last known place of business of the person to be notified. If GOODS are not removed before the end of the notice period, the DISTRIBUTION CENTER may sell them in accordance with applicable law.
- d. If DISTRIBUTION CENTER in good faith believes that the GOODS are about to deteriorate or decline in value to less than the amount of DISTRIBUTION CENTER's lien before the end of the 30-day notice period referred to in Section 5(c), the DISTRIBUTION CENTER may specify in the notification any reasonable shorter time for removal of the GOODS and if the GOODS are not removed, may sell them at public sale held one week after a single advertisement or posting as provided by law.
- e. If as a result of a quality or condition of the GOODS of which the DISTRIBUTION CENTER had no notice at the time of deposit the GOODS are a hazard to other property or to the FACILITY or to persons, the DISTRIBUTION CENTER may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, the DISTRIBUTION CENTER may remove the GOODS from the FACILITY and shall incur no liability by reason of such removal.

## 9. HANDLING

- a. The handling charge covers the ordinary labor involved in receiving GOODS at warehouse door, placing GOODS in storage, and returning GOODS to warehouse door. Handling charges are due and payable on receipt of GOODS.
- b. Unless otherwise agreed in writing, labor for unloading and loading GOODS will be subject to a charge. Additional expenses incurred by the DISTRIBUTION CENTER in receiving and handling damaged GOODS, and additional expense in unloading from or loading into cars or other vehicles not at warehouse door will be charged to the CUSTOMER.
- c. Labor and materials used in loading rail cars or other vehicles are chargeable to the CUSTOMER.

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- d. When GOODS are ordered out in quantities less than in which received, the DISTRIBUTION CENTER may make an additional charge for each order or each item of an order.
  - e. The DISTRIBUTION CENTER shall not be liable for any demurrage or detention, any delays in unloading inbound cars, trailers or other containers, or any delays in obtaining and loading cars, trailers or other containers for outbound shipment unless DISTRIBUTION CENTER has failed to exercise reasonable care.

**10. DELIVERY REQUIREMENTS**

- a. No GOODS shall be delivered or transferred except upon receipt by the DISTRIBUTION CENTER of CUSTOMER's complete written instructions. Written instructions shall include, but are not limited to, FAX, EDI, E-Mail or similar communication, provided DISTRIBUTION CENTER has no liability when relying on the information contained in the communication as received. GOODS may be delivered upon instruction by telephone in accordance with CUSTOMER's prior written authorization, but the DISTRIBUTION CENTER shall not be responsible for loss or error occasioned thereby.
- b. When GOODS are ordered out a reasonable time shall be given the DISTRIBUTION CENTER to carry out instructions, and if it is unable because of acts of God, war, public enemies, seizure under legal process, strikes, lockouts, riots or civil commotions, or any reason beyond the DISTRIBUTION CENTER's control, or because of loss of or damage to GOODS for which DISTRIBUTION CENTER is not liable, or because of any other excuse provided by law, the DISTRIBUTION CENTER shall not be liable for failure to carry out such instructions and GOODS remaining in storage will continue to be subject to regular storage charges.

**11. EXTRA SERVICES (SPECIAL SERVICES)**

- a. DISTRIBUTION CENTER labor required for services other than ordinary handling and storage will be charged to the CUSTOMER.
- b. Special services requested by CUSTOMER including but not limited to compiling of special stock statements; reporting marked weights, serial numbers or other data from packages; physical check of GOODS; and handling transit billing will be subject to a charge.
- c. Dunnage, bracing, packing materials or other special supplies, may be provided for the CUSTOMER at a charge in addition to the DISTRIBUTION CENTER's cost.
- d. By prior arrangement, GOODS may be received or delivered during other than usual business hours, subject to a charge.
- e. Communication expense including postage and overnight delivery may be charged to the CUSTOMER if such concern more than normal inventory reporting or if, at the request of the CUSTOMER, communications are made by other than regular United States Mail.

**12. MINIMUM CHARGES**

- a. See Appendix "A"

**13. LIABILITY AND LIMITATION OF DAMAGES**

- a. DISTRIBUTION CENTER shall not be liable for any loss or damage to GOODS tendered, stored or handled however caused unless such loss or damage resulted from the failure by DISTRIBUTION CENTER to exercise such care in regard to them as a reasonably careful

person would exercise under like circumstances and DISTRIBUTION CENTER is not liable for damages which could not have been avoided by the exercise of such care.

- b. GOODS are not insured by DISTRIBUTION CENTER against loss or damage however caused.
- c. The CUSTOMER declares that damages are limited to \$500 per pallet, provided, however, that such liability may at the time of acceptance of this contract as provided in Section 1 be increased upon CUSTOMER's written request on part or all of the GOODS hereunder in which event an additional monthly charge will be made based upon such increased valuation.
- d. Where loss or damage occurs to tendered, stored or handled GOODS, for which DISTRIBUTION CENTER is not liable, the CUSTOMER shall be responsible for the cost of removing and disposing of such GOODS and the cost of any environmental cleanup and site remediation resulting from the loss or damage to the GOODS.

**14. NOTICE OF CLAIM AND FILING OF SUIT**

- a. Claims by the CUSTOMER and all other persons must be presented in writing to the DISTRIBUTION CENTER within a reasonable time, and in no event any later than the earlier of: (i) 60 days after delivery of the GOODS by the DISTRIBUTION CENTER or (ii) 60 days after CUSTOMER is notified by the DISTRIBUTION CENTER that loss or damage to part or all of the GOODS has occurred.
- b. No lawsuit or other action may be maintained by the CUSTOMER or others against the DISTRIBUTION CENTER for loss or damage to the GOODS unless timely written claim has been given as provided in paragraph (a) of this section and unless such lawsuit or other action is commenced by no later than the earlier of: (i) nine months after date of delivery by DISTRIBUTION CENTER or (ii) nine months after CUSTOMER is notified that loss or damage to part or all of the GOODS has occurred.
- c. When GOODS have not been delivered, notice may be given of known loss or damage to the GOODS by mailing of a letter via certified mail or overnight delivery to the CUSTOMER. Time limitations for presentation of claim in writing and maintaining of action after notice begin on the date of mailing of such notice by DISTRIBUTION CENTER.

**15. LIABILITY FOR CONSEQUENTIAL DAMAGES**

DISTRIBUTION CENTER shall not be liable for any loss of profit or special, indirect, or consequential damages of any kind.

**16. LIABILITY FOR MISSHIPMENT**

If DISTRIBUTION CENTER negligently mis-ships GOODS, the DISTRIBUTION CENTER shall pay the reasonable transportation charges incurred to return the mis-shipped GOODS to the FACILITY. If the consignee fails to return the GOODS, DISTRIBUTION CENTER's maximum liability shall be for the lost or damaged GOODS as specified in Section 13 above, and DISTRIBUTION CENTER shall have no liability for damages due to the consignee's acceptance or use of the GOODS whether such GOODS be those of the CUSTOMER or another.

**17. MYSTERIOUS DISAPPEARANCE**

DISTRIBUTION CENTER shall be liable for loss of GOODS due to inventory shortage or unexplained or mysterious disappearance of GOODS only if CUSTOMER establishes such loss occurred because of DISTRIBUTION CENTER's failure to exercise the care required of DISTRIBUTION CENTER under Section 13 above. Any presumption of conversion imposed by law shall not apply to such loss and a claim by CUSTOMER of conversion must be established by affirmative evidence that the DISTRIBUTION CENTER converted the GOODS to the DISTRIBUTION CENTER's own use.

18. RIGHT TO STORE GOODS

CUSTOMER represents and warrants that CUSTOMER is lawfully possessed of the GOODS and has the right and authority to store them with DISTRIBUTION CENTER. CUSTOMER agrees to indemnify and hold harmless the DISTRIBUTION CENTER from all loss, cost and expense (including reasonable attorneys' fees) which DISTRIBUTION CENTER pays or incurs as a result of any dispute or litigation, whether instituted by DISTRIBUTION CENTER or others, respecting CUSTOMER's right, title or interest in the GOODS. Such amounts shall be charges in relation to the GOODS and subject to DISTRIBUTION CENTER's lien.

19. ACCURATE INFORMATION

CUSTOMER will provide DISTRIBUTION CENTER with information concerning the GOODS which is accurate, complete and sufficient to allow DISTRIBUTION CENTER to comply with all laws and regulations concerning the storage, handling and transporting of the GOODS. CUSTOMER will indemnify and hold DISTRIBUTION CENTER harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) which DISTRIBUTION CENTER pays or incurs as a result of CUSTOMER failing to fully discharge this obligation.

20. SEVERABILITY and WAIVER

- a. If any provision of this Contract, or any application thereof, should be construed or held to be void, invalid or unenforceable, by order, decree or judgment of a court of competent jurisdiction, the remaining provisions of this Contract shall not be affected thereby but shall remain in full force and effect.
- b. DISTRIBUTION CENTER's failure to require strict compliance with any provision of this Contract shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of this Contract.
- c. The provisions of this Contract shall be binding upon the heirs, executors, successors and assigns of both CUSTOMER and DISTRIBUTION CENTER; contain the sole agreement governing GOODS tendered to the DISTRIBUTION CENTER; and cannot be modified except by a writing signed by DISTRIBUTION CENTER and CUSTOMER.

21. LIEN

DISTRIBUTION CENTER shall have a general warehouse lien for all lawful charges for storage and preservation of the GOODS; also, for all lawful claims for money advanced, interest, insurance, transportation, labor, and other charges and expenses in relation to such GOODS, and for the balance on any other accounts that may be due. DISTRIBUTION CENTER further claims a general warehouse lien for all such charges,

advances and expenses with respect to any other GOODS stored by the CUSTOMER in any other facility owned or operated by DISTRIBUTION CENTER. In order to protect its lien, DISTRIBUTION CENTER reserves the right to require advance payment of all charges prior to shipment of GOODS.

22. GOVERNING LAW AND JURISDICTION

This Contract and the legal relationship between the parties hereto shall be governed by and construed in accordance with the substantive laws of the state where the FACILITY is located, including Article 7 of the Uniform Commercial Code as ratified in that state, notwithstanding its conflict of laws rules. Any lawsuit or other action involving any dispute, claim or controversy relating in any way to this Contract shall be brought only in the appropriate state or federal court in the state where the FACILITY is located.

The parties acknowledge the Limitation of Liability and Damages in Section 13.

Proposed by DISTRIBUTION CENTER

Company Name	Authorized Signature	Date
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Accepted for CUSTOMER

Company Name	Authorized Signature	Date
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## Appendix "A" Schedule of Fees

1. Long Term Storage. Storage prices listed are based on the expectation that product will turn on average once every 360 days. If the actual average turn rate exceeds 360 days DISTRIBUTION CENTER may in its sole discretion review and adjust the Storage pricing as it deems necessary. DISTRIBUTION CENTER must provide at least 15 days written notice to CUSTOMER before new pricing will be effective. CUSTOMER will be consulted on stack height for any products stored; however, final determination on stack height for any product stored will be made by DISTRIBUTION CENTER.

A. Day of Receipt Storage per Unit – 1<sup>st</sup> through 15<sup>th</sup> of the Month

Palletized Product 1 High	\$	18.00
Palletized Product 2 High	\$	9.00

B. Day of Receipt Storage per Unit – 16<sup>th</sup> through End of Month

Palletized Product 1 High	\$	9.00
Palletized Product 2 High	\$	4.50

C. Beginning of Month Storage Rate per Unit

Palletized Product 1 High	\$	18.00
Palletized Product 2 High	\$	9.00

2. Handling.

A. Handling rate shall be on a per pallet basis

Palletized Product Handling	\$	7.75
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3. Minimum Storage. There is no guarantee of space and no minimum storage charge.

4. Assessorial Charges.

A. Outbound Order Processing	\$4.00/order
B. Stretch Wrapping	\$5.00/pallet
C. Replacement Pallet	TBD/pallet
D. Stamping/Stenciling	\$0.25/unit
E. Placard/Label	\$0.50/unit
F. Slip Sheet – Standard      40x48	\$2.50/sheet
G. Pallet Banding	\$5.50/strap
H. Trailer Rework	\$95.00/Load
I. Pallet Cut from Load	\$20.00/pallet
J. Expedite Fee (Less than 24 Hour Notice)	\$50.00/load
K. After Hours Shipment	\$125.00/load

A. Straight Time – Labor	\$31.50/Hour
B. Straight Time – Labor & Machine	\$44.50/Hour
C. Over Time – Labor	\$47.25/Hour
D. Over Time – Labor & Machine	\$59.75/Hour