

Page 1  
FARGO CITY COMMISSION AGENDA  
Monday, August 5, 2024 - 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, July 22, 2024).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Resolution Establishing the Wildlife Management Program for the 2024-2025 season.
- 2. Receive and file an Ordinance Amending Section 23-0211 of Article 23-02 of Chapter 23 of the Fargo Municipal Code Relating to the Electrical Code.
- 3. Second Amendment to the Findings of Fact, Conclusions and Order regarding 1710 1st Avenue South, Fargo, North Dakota.
- 4. Direct the City Attorney to amend Fargo Municipal Code 25-1512(D) waiving compliance failure penalty if licensee agrees to use ID Scanner.
- 5. Extension of a Class “F” Alcoholic Beverage License for Mango’s, Inc. d/b/a/ Mango’s until building repairs are made.
- 6. Applications for Games of Chance:
  - a. HERO Healthcare Equipment Recycling Organization for a raffle and raffle board on 9/27/24.
  - b. Legacy Children’s Foundation for a raffle on 8/19/24.
  - c. Nativity Church of Fargo for bingo and a raffle on 11/3/24.
  - d. North Dakota Long Term Care Association for a raffle on 9/26/24.
  - e. United Republican Committee of Cass County for a raffle on 8/14/24.
- 7. Change Order No. 1 in the amount of \$66,647.96 for Improvement District No. PR-24-G1.
- 8. Utility Relocation Reimbursement in the amount of \$12,816.95 for Improvement District No. BN-23-A1.
- 9. Developer Agreement with 202 Flats, LLC for Cityside Addition.
- 10. Developer Agreement with ProCore Development, LLC for Legacy 1 Eighth Addition.
- 11. Memorandum of Understanding Regarding Storm Sewer and Street Maintenance, Repairs and Reconstruction with the City of Horace (Deer Creek Addition).

12. Easement (Temporary Construction Easement) with Global Development, LLC (Improvement District No. BR-25-F1).
13. Memorandum of Offer to Landowner for Permanent Easement (Street and Utility) and Permanent Easement (Utility) with JLB South, Inc. (Improvement District No. PR-24-A1).
14. Contract and bond for Improvement District No. BN-24-C1.
15. Change Order No. 4 in the amount of \$20,800.00 and time extensions to interim completion date 3 and interim completion date 4 for Project No. NR-23-A2.
16. Change Order No. 1 in the amount of \$4,085.00 for Project No. UR-24-H1.
17. Final Balancing Change Order No. 1 in the amount of \$0.00 for Project No. ER-24-A1.
18. Final Balancing Change Order No. 1 in the amount of \$0.00 for Project No. ER-24-B1.
19. Bid award to Industrial Builders Inc. in the amount of \$169,060.00 for Project No. DR-21-A1.
20. Bid award to Key Contracting Inc. in the amount of \$393,470.00 for Project No. UR-24-A1.
21. Contract and bond for Project No. PR-24-F2.
22. Contract and bond for Project No. WA2451 (ITB24209).
23. Master Service Agreements for HVAC and Plumbing Services, as presented (RFP24229).
24. Items from the FAHR Staff meeting:
  - a. Sales tax update.
  - b. NP Avenue/Red River tree removal.
25. Taxable Annual Appropriation Bond (NP Parking), Series 2024E (Infrastructure Revolving Loan Fund) Term Bond, Closing Certificate, Loan Agreement (Infrastructure Revolving Loan Fund) and Financing Resolution.
26. Agreement between Fargo Cass Public Health Department and Doyle's Yellow Checker Cab (RFP24232).
27. Application for Title V/Maternal and Child Health Program.
28. Addendum C to Cass Human Service Zone Agreement with Fargo Cass Public Health.
29. Purchase of the Phosphorus Unified xIoT Security Management Platform from Doosan Digital Innovation America, LLC.
30. Resolution approving Plat of University South Fifth Addition.
31. Bid award to RDO Equipment in the amount of \$25,000.00 for the 2024 rental wheel loader contract (RFP24268).
32. Bid award to RDO Equipment in the amount of \$65,000.00 for the 2024 rental wheel loaders contract (RFP24267).

33. Bid award to Butler Machinery Company in the amount of \$42,500.00 for the 2024 rental motor grader contract (RFP24266).
34. Bid award to Sanitation Products in the amount of \$612,298.00 for the purchase of two auto side load refuse trucks (RFP24269).
35. Joint Powers Agreement for School Resource Officers Amendment Number One.
36. Agreement for Transit Services and 2024-2025 Amendment to Joint Powers Agreement for Transit Support with North Dakota State University.
37. Change Order No. 4 from PKG Contracting, Inc. in the amount of \$127,486.00 for emergency repairs to West Side Interceptor Project WW1701 (Phase II B Improvements).
38. Bills.

**REGULAR AGENDA:**

39. Recommendation to adopt the Resolution Authorizing Sale of Property west of the landfill.

**PUBLIC HEARINGS - 5:15 pm:**

40. **PUBLIC HEARING** - Hearing to consider a Renewal Plan and Developer Agreement with JS2L Partners, LLP for the Tax Increment Financing District No. 2024-01 (600 Block of 4th Street North); continued from the 6/10/24, 6/24/24, 7/8/24 and 7/22/24 Regular Meetings.
41. **PUBLIC HEARING** – YWCA Addition and Presentation Addition (3000 University Drive South; 3014 12th Street South; 3000, 3001, 3003 and 3004 11th Street South; 1120 30th Avenue South; 1001 and 1101 32nd Avenue South); approval recommended by the Planning Commission on 7/2/24:
  - a. Zoning Change from MR-1, Multi-Dwelling Residential, MR-2, Multi-Dwelling Residential and SR-2, Single-Dwelling Residential to P/I, Public and Institutional.
  - b. 1st reading of rezoning Ordinance (YWCA Addition).
  - c. 1st reading of rezoning Ordinance (Presentation Addition).
42. FARGODOME Remodeling Project:
  - a. Letter of recommendation from the Fargo Dome Authority.
  - b. Recommendation to adopt a Resolution (Amendment of Home Rule Charter for Sales, Use and Gross Receipts Tax) and to approve ballot language for the November 5th election.
43. Recommendation to adopt a Resolution amending the Home Rule Charter to place a measure on the November 5th ballot to allow for an additional 3% City lodging tax.
44. Construction update.
45. Receive and file an Ordinance Enacting Article 10-14 of Chapter 10 of the Fargo Municipal Code Relating to Camping on Public Property.
46. Recommendation to approve the Mayor’s 2025 Preliminary Budget and set the Public Hearing date for Monday, September 16, 2024 at 5:15 p.m.

47. Recommendation for appointments to the Human Rights Commission.
48. Liaison Commissioner Assignment Updates.
49. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at [FargoND.gov/VirtualCommission](http://FargoND.gov/VirtualCommission)).**

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).

**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

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

August 1, 2024

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

①

**RE: Wildlife Management Program Resolution 2024-2025**

Dear Mayor and Commissioners,

Presented for your approval is the Resolution for the Wildlife Management Program in accordance with Fargo Municipal Code Article 12-04. The program will be conducted similar to last year, including participation by the Fargo Park District and Sandhills Archery Club.

**Suggested Motion:** I move to approve the Resolution establishing the Wildlife Management Program for 2024-2025, as presented.

Please feel free to contact me if you have any questions, comments, or concerns.

Sincerely,

*Nancy J. Morris*  
Nancy J. Morris

NJM/lmw

Enclosure

cc: Michael Redlinger  
Chief David Zibolski

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

**RESOLUTION**

**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 purpose; and

**WHEREAS**, Article 3(G) of the Home Rule Charter of the City of Fargo, North Dakota grants the City of Fargo power to provide for the adoption, amendment, and repeal of ordinances and resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof; and

**WHEREAS**, the Board of City Commissioners, Fargo, North Dakota, pursuant to authority granted to it under Home Rule, has adopted and approved City of Fargo Ordinance 12-04, Chapter 12 to establish a City Wildlife Management Program, including such rules and regulations as are necessary to carry out the City Wildlife Management Program; and

**WHEREAS**, the Board of City Commissioners desires to designate a season for the City's Wildlife Management Program for 2024-2025, to designate areas for inclusion within the 2024-2025 season, and to decide the number of deer which may be taken by each permit holder for the 2024-2025 season.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of City Commissioners hereby designates the numbered Regions as identified in Exhibit A for the City Wildlife Management Program for 2024-2025. The City Wildlife Management Program deer season shall run from September 1, 2024 (upon receipt of permit(s) from the City Auditor) through ½ hour after sunset January 31, 2025. Legal shooting hours shall run concurrent with ND Game & Fish Department regulations (½ hour before sunrise to ½ hour after sunset).

**BE IT FURTHER RESOLVED** that the Board of City Commissioners hereby authorizes issuance of no more than fifty (50) permits to participate in the 2024-2025 City Wildlife Management season. Each permit holder may secure the maximum number of ND Game and Fish limit of Deer-Bow Herd Reduction licenses available, as determined by the ND Game and Fish Department.

**BE IT FURTHER RESOLVED** that the Board of City Commissioners hereby requires that all participants in the City Wildlife Management Season secure a Proficiency Certificate or other indicia of the completion of proficiency training, including a written exam pertaining to the

rules and regulations of participation, to be offered by the Fargo Park District in conjunction with Sandhills Archery Club. The Fargo Park District or Sandhills Archery Club shall provide evidence of completion of the required Proficiency examination to the city of Fargo Auditor’s Office in advance of permit issuance. The city of Fargo Auditor shall secure a copy of the hunter’s North Dakota Game and Fish License, a North Dakota identification, and record all permits issued at the time of application approval.

**BE IT FURTHER RESOLVED** that the Board of City Commissioners that all minors (under 18 years of age) permitted to participate in the City Wildlife Management Season **MUST** be accompanied by an adult who has successfully completed the written portion of the Proficiency program conducted by the Sandhills Archery Club. The adult need not be a permit holder, provided the minor has all necessary licenses and permits required to participate in the City Wildlife Management Program.

**BE IT FURTHER RESOLVED** that the Board of City Commissioners hereby designates the Regions identified on Exhibit A within the city limits of Fargo to be included within the 2024-2025 City Wildlife Management Program and hereby also approves fifty (50) permits for the designated areas (Fargo Park District Property and City of Fargo property under the control and direction of the Fargo Park District).

The map attached as Exhibits A more specifically identifies the areas where participation in the City Wildlife Management Program may occur. Permits received by the participants are specific to the location designated Region. Hunting is not permitted except in the permit designated locations.

Dated this \_\_\_\_ day of August, 2024.

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

Attest:

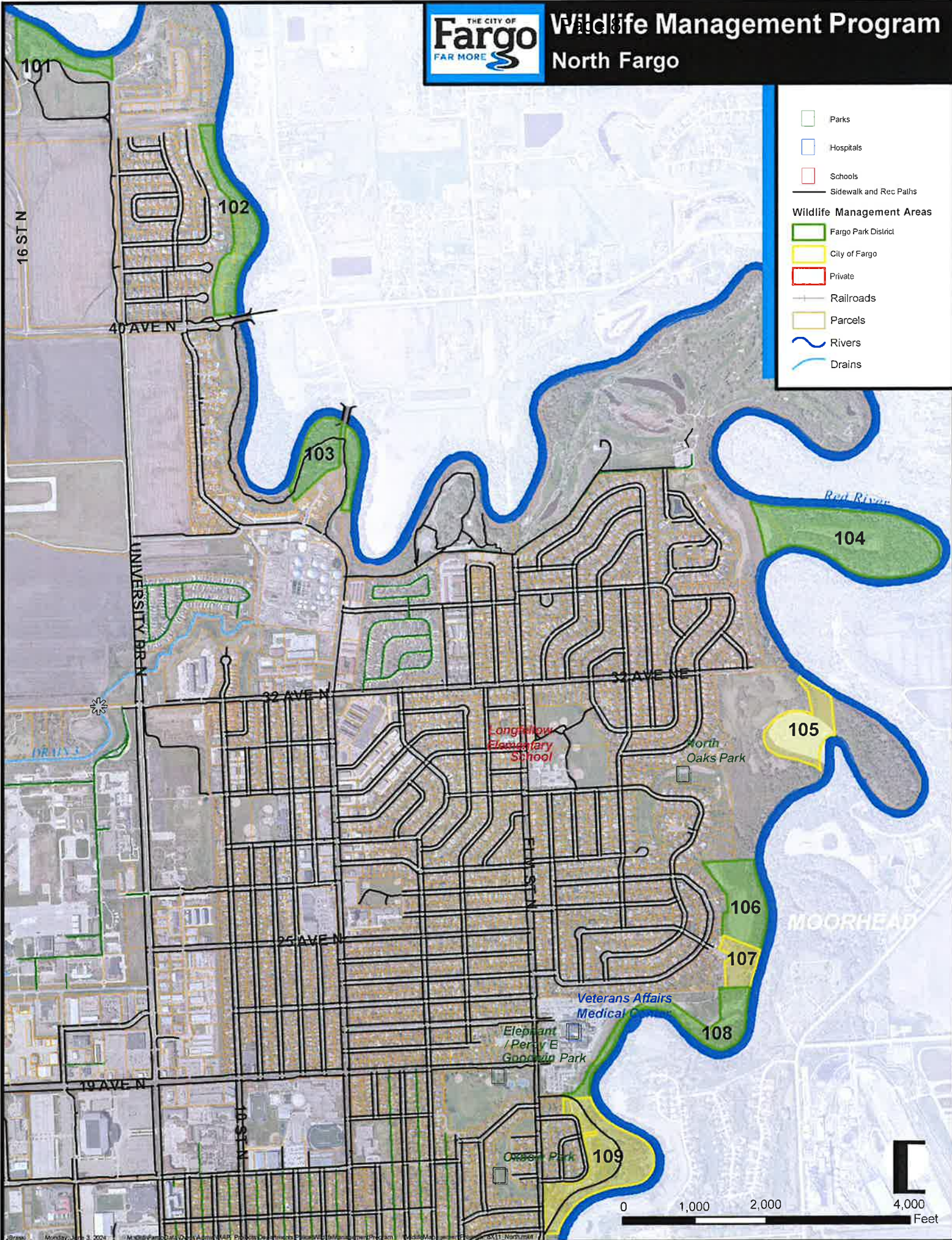
\_\_\_\_\_  
Steven Sprague, City Auditor

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

- Parks
- Hospitals
- Schools
- Sidewalk and Rec Paths

**Wildlife Management Areas**

- Fargo Park District
- City of Fargo
- Private
- Railroads
- Parcels
- Rivers
- Drains

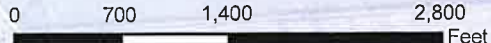
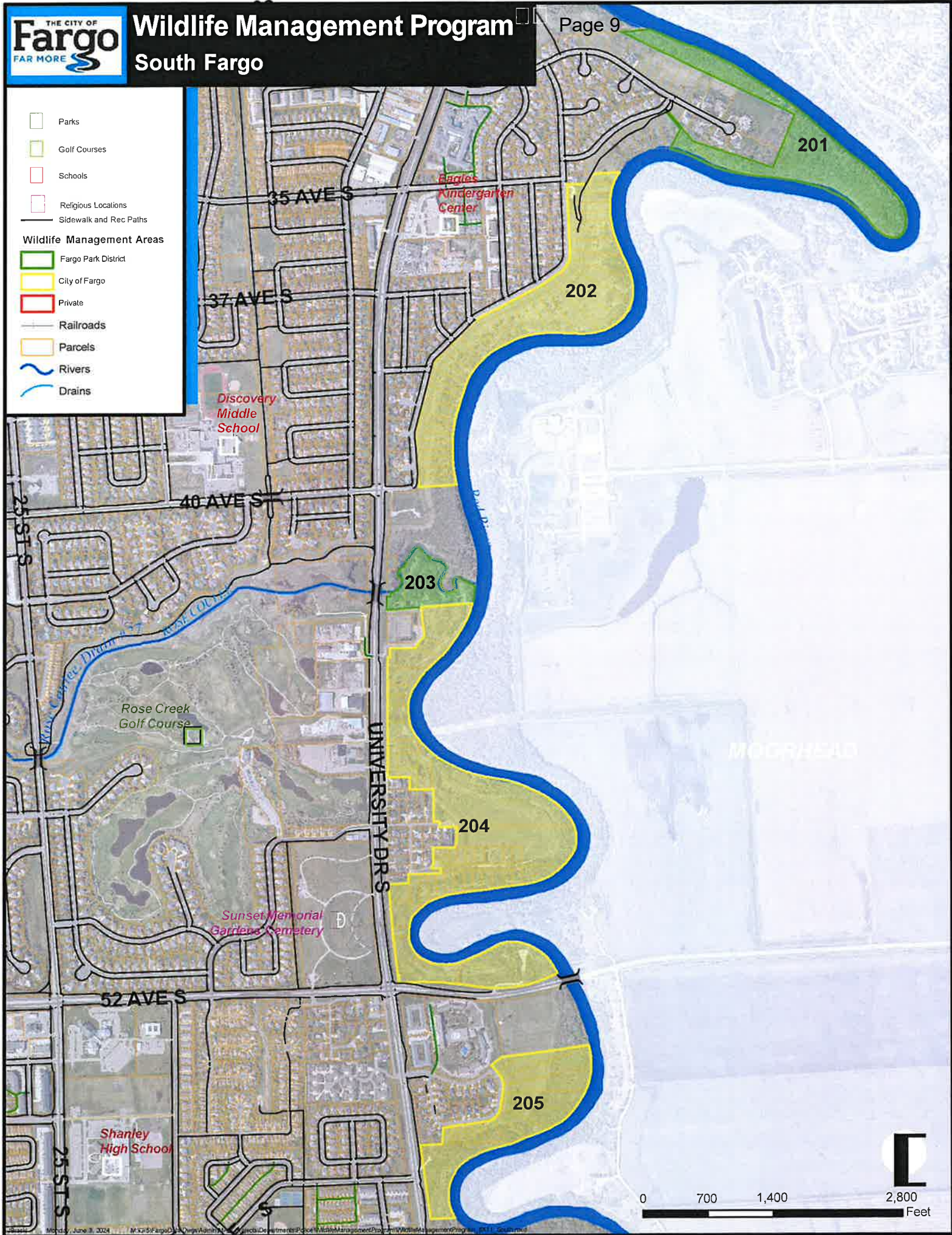




- Parks
- Golf Courses
- Schools
- Religious Locations
- Sidewalk and Rec Paths

**Wildlife Management Areas**

- Fargo Park District
- City of Fargo
- Private
- Railroads
- Parcels
- Rivers
- Drains



**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

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

August 1, 2024

2

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

**RE: An Ordinance Amending Section 23-0211 Regarding the Electrical Code**

Dear Commissioners,

Enclosed for your approval is an Ordinance amending Section 23-0211 of the Fargo Municipal Code relating to the Electrical Code. As you are aware, the Inspections Department is responsible for the implementation and oversight of the North Dakota State Electrical Board laws, Article 24.1-06 of the North Dakota Administrative Code regarding North Dakota State Wiring Standards, and NFPA 70 of the National Electrical Code within the city of Fargo.

At its July 22, 2024, meeting, the Board of City Commissioners directed the City Attorney's Office to review and update Chapter 23 of the Fargo Municipal Code to align with the most current version of the codes. As such, I am remitting to you for your approval an ordinance that accomplishes this update.

**Suggested Motion:** I move to receive and file an Ordinance amending Section 23-0211 of Article 23-02 of Chapter 23 of the Fargo Municipal Code relating to the Electrical Code and to place the ordinance on for first reading at the next regularly scheduled city commission meeting.

Please feel free to contact Shawn or me if you have any questions or concerns.

Sincerely,



Alissa R. Farol Czapiewski  
Assistant City Attorney

Enclosure

cc: Shawn Ouradnik, Inspections Department  
Christine Rose, Inspections Department

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

AN ORDINANCE AMENDING SECTION 23-0211  
OF ARTICLE 23-02 OF CHAPTER 23 OF THE FARGO MUNICIPAL CODE  
RELATING TO THE ELECTRICAL CODE

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

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

6 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said  
7 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,

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

10 WHEREAS, N.D.C.C. §43-09-21 authorizes cities to make wiring standards more  
11 stringent than those established by the state; and

12 NOW, THEREFORE,

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

14 Section 1. Amendment.

15 Section 23-0211 of Article 23-02 of Chapter 23 of the Fargo Municipal Code is hereby  
16 amended to read as follows:

17 23-0211. Installations must conform to certain regulations before certificate issued.-- No  
18 certificate of approval shall be issued for electric light, power, and heating installations unless such  
19 installations are in strict conformity with the provisions of this chapter, the statutes of the state of  
20 North Dakota, the North Dakota State Wiring Standards, Article 24.1-06 of the North Dakota  
21 Administrative Code, as amended herein, the ordinances, rules and regulations issued by the board of  
22 city commissioners of the city of Fargo, under authority of the state statutes, and unless they are in  
23 conformity with approved methods of construction for safety to life and property. The regulations as  
laid down in the 2020 2023 edition of the National Electrical Code as currently adopted by the State  
of North Dakota, as approved by the American Standards Association and in the National Electrical

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1 Safety Code, as approved by the American Standards Association, and other installation and safety  
2 regulations approved by the American Standards Association, together with the current standards as  
3 published by the National Fire Protection Association, shall be prima facie evidence of such approved  
4 methods.

5 Section 2. Amendment.

6 With respect to the North Dakota State Wiring Standards, Article 24.1-06 of the North  
7 Dakota Administrative Code, as the same are adopted by reference, Subsections 10 and 11 of  
8 Section 24.1-06-02-10, are hereby amended to read:

- 9
- 10 10. Exception: 2023 edition, National Electrical Code (first version, printed in  
11 2022), article 210.12(B): AFCI protection is ~~not~~ required for the following:
- 12 a. Refrigeration appliances if a single receptable on a dedicated circuit is  
13 installed;
  - 14 b. Furnaces used for main heating source.
- 15
- 16 11. Exception: 2023 edition, National Electrical Code (first version, printed in  
17 2022), article 210.8(A): GFCI protection shall ~~not~~ be required for  
18 refrigeration appliances in dwelling units if a single receptable on an  
19 individual branch circuit is installed.  
20  
21  
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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

Section 3. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading:  
Final Passage:  
Publication:

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**OFFICE OF THE  
CITY ATTORNEY**

**SERKLAND LAW FIRM**

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

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

August 1, 2024

3

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

**RE: Dangerous Building located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota**

Dear Commissioners,

Enclosed for your review and approval is the proposed Second Amendment to the Findings of Fact and Conclusions and Order regarding the dangerous building located at 1710 1<sup>st</sup> Avenue South. At its July 22, 2024, meeting, the Board moved and approved a 90-day extension request so that the property owner may perform all remaining necessary repairs to the dangerous building so that it is code-compliant and no longer considered a “dangerous building” by the opinion of the Building Official or demolish the dangerous building by that date.

As such, the City Attorney’s Office was directed to prepare the appropriate Second Amendment to the Findings of Fact and Conclusions and Order.

**Suggested Motion:** I move to approve the Second Amendment to the Findings of Fact and Conclusions and Order, as presented.

Sincerely,

Alissa R. Farol Czapiewski  
Assistant City Attorney

Enclosure

cc: Shawn Ouradnik, Inspections Department

**SECOND AMENDMENT TO**  
**THE FINDINGS OF FACT, CONCLUSIONS AND ORDER**

This **SECOND AMENDMENT**, by Agreement by and between the CITY OF FARGO (hereinafter “City”), a North Dakota municipal corporation, whose address is 225 4<sup>th</sup> Street North, Fargo, North Dakota, 58102, and Jamie S. Swenson (hereinafter “Swenson”), whose address is 8922 North Shore Drive, Spicer, Minnesota, 56288, hereby amends the **FINDINGS OF FACT AND CONCLUSIONS AND ORDER** of the Board of City Commissioners of the City of Fargo (hereinafter “Board”) approved November 13, 2023, a copy of which is attached hereto and made a part hereof, as *Exhibit 1*, for the property located at 1710 1<sup>st</sup> Avenue South, Fargo, ND 58103 (hereinafter “Subject Property”); and

**WHEREAS**, on January 2, 2024, City and Swenson entered into an Agreement, amending the Findings of Fact and Conclusions and Order, attached hereto as *Exhibit 2*, which would allow Swenson additional time to complete all repairs and rehabilitate the Subject Property no later than June 28, 2024; and

**WHEREAS**, after the June 28, 2024, extension deadline had passed, Swenson requested an additional 90-day extension to complete the repairs; and

**WHEREAS**, on July 22, 2024, a hearing was held before the Board regarding the extension request, and the Inspections Director recommend denial of that request due to Swenson’s failure to show progress during the first extension period; and

**WHEREAS**, the Board granted Swenson’s 90-day extension request at that hearing, thereby extending the repair or demolition deadline of June 28, 2024, to September 26, 2024, so that Swenson may perform all necessary work on Subject Property so that it is code-compliant and no longer

considered a “dangerous building” by the opinion of the Building Official or demolish the building on Subject Property by said date; and

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

1. Swenson agrees and understands that the dangerous building designation shall remain until such time as the Inspections Director determines such designation is no longer necessary, based on the amount of rehabilitation completed.

2. Swenson understands and agrees that he may demolish the Subject Property with proper permits, at his own cost, if he ultimately decides the Subject Property cannot be rehabilitated and made code compliant, in the opinion of the Building Official, any time before September 26, 2024.

3. Swenson waives any and all claims, known or unknown, against the City, in exchange for the extension and opportunity to rehabilitate the Subject Property which has legally been determined to be a dangerous building by the Board.

4. City agrees and understands it shall forego any further enforcement actions related to the dangerous building designation in accordance with the terms of this Agreement and Amendment.

5. All other terms and amendments of the Findings of Fact and Conclusion and Order shall remain in full force and effect.

*[Signature Pages to Follow.]*



DATED this 1<sup>st</sup> day of August, 2024.

**PROPERTY OWNER**

  
\_\_\_\_\_  
Jamie S. Swenson

DATED this \_\_\_\_\_ day of August, 2024.

**BOARD of CITY COMMISSIONERS to the  
CITY OF FARGO,**  
a North Dakota municipal corporation

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

ATTEST:

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



**OFFICE OF THE  
CITY ATTORNEY**

**SERKLAND LAW FIRM**  
10 Roberts Street North  
P.O. Box 6017  
Fargo, ND 58108  
Phone: 701.232.8957 | Fax: 701.237.4049

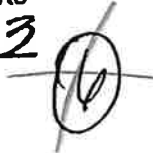
**CITY ATTORNEY**  
Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**  
Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

APPROVED BY THE BOARD  
OF CITY COMMISSIONERS

11-13-23

November 9, 2023



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

**RE: Dangerous Building located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota**

Dear Commissioners,

Enclosed for your review and approval are proposed Findings of Fact, Conclusions and Order, and Notice regarding the dangerous building proceeding for the property at 1710 1<sup>st</sup> Avenue South. At its October 30, 2023 meeting, the report presented by Shawn Ouradnik, city of Fargo Building Inspections Director, was approved by the Board. As such, the City Attorney's Office was directed to prepare the appropriate Findings of Fact, Conclusions and Order, and Notice.

**Suggested Motion:** I move to approve the Findings of Fact, Conclusions and Order, and Notice as presented.

Sincerely,

Alissa R. Farol Czapiewski  
Assistant City Attorney

Enclosure

cc: Shawn Ouradnik, Inspections Department

**FINDINGS OF FACT, CONCLUSIONS AND ORDER**  
**of the**  
**BOARD OF CITY COMMISSIONERS**  
**OF THE CITY OF FARGO**

Property Address: 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota

Property Owner: Jamie S. Swenson

A hearing was held before the Board of City Commissioners of the City of Fargo on the 30<sup>th</sup> day of October, 2023 regarding the property located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota. Shawn Ouradnik, city of Fargo Building Inspections Director, appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property.

The Board heard the testimony offered by the Inspections Director, considered the reports, evidence and other information presented, and hereby makes the following Findings of Fact:

**FINDINGS OF FACT**

1. That Jamie S. Swenson is the owner of the following described real property located in the City of Fargo, County of Cass, and State of North Dakota:

East Thirty (30) Feet of Lot Three (3) and West Thirty (30) Feet of Lot Four (4),  
Block Four (4), of Arnesons Addition to the city of Fargo.

Street address: 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota, 58103

[hereinafter "Subject Property"]

2. That on March 29, 2023, Lynne Olson, Rental Housing Inspector for the city of Fargo, inspected the Subject Property and found the building, consisting of a two-story, wood-framed, structure to be a dangerous building within the standards set forth in Article 21-04 of the Fargo Municipal Code and Section 111.1.5 of the International Property Maintenance Code concerning dangerous structures.

3. That the building is unsafe and dangerous in the following respects: (a) horizontal cracking of foundation on the entire east side and foundation caving into basement indicating foundation failure; (b) lower level has significant water damage that would require removal and replacement of electrical wiring and fixtures; (c) main level has damage from animal and garbage hoarding; (d) roof damage has caused water damage on the ceiling and in the bathroom on upper level; (e) south wall in the upper level is pushing into the structure causing movement of the floor and bathtub; (f) water damage has caused soft flooring between the bathtub and toilet in upper level; (g) exterior door is missing trim allowing a view of the interior from the outside; (h) interior water damage from exterior siding damage; and (i) excessive junk and garbage accumulation on the property making it unsafe to be both inside the interior of the structure and also on the exterior yard of the structure.

4. That the following conditions exist with respect to the Subject Property:

- a. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation; and
- b. The building is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

5. That the information in the files of the Inspections Department stemming from the inspection of the property on or before March 29, 2023 and all subsequent inspections, with respect to the Subject Property, is hereby accepted as true and correct.

6. That Notice of Dangerous Building was posted on the property on or about June 1, 2023, and re-posted on August 16, 2023, in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informed the owner and all occupants, if any, that the “dangerous building” must be vacated and secured, and the building must be demolished, or any necessary and valid permits be obtained within thirty (30) days from the date of the notice.

7. That the City secured the Subject Property on September 8, 2023 and September 14, 2023, due to squatter activity.

8. That the City has responded to the Subject Property for a variety of complaints since 2008, including but not limited to, junk, broken windows, deterioration of the building, excessive water usage and damage due to squatters, and animal hoarding and damage within the building.

**CONCLUSIONS AND ORDER**

Based on the foregoing Findings of Fact, the Board of City Commissioners hereby makes the following Conclusions:

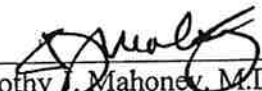
1. That the building located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota 58103, is hereby found to be a “dangerous building.”
2. That the owner or anyone claiming to have an ownership interest in said building has not sufficiently presented cause why the “dangerous building” should not be demolished.
3. That despite being ordered that the building on the Subject Property should be demolished, or necessary and valid permits be obtained within thirty (30) days of the notice, the owner or anyone else claiming to have an ownership interest in said building has failed to do so.

**IT IS HEREBY ORDERED** that Jamie S. Swenson or anyone else claiming an ownership interest, shall demolish the “dangerous building” and remove all building debris located at 1710 1<sup>st</sup> Avenue South, Fargo, North Dakota by December 29, 2023.

It is further ordered that if the owner fails to demolish said “dangerous building,” the City Auditor, Building Inspector, and City Attorney are directed to act on behalf of the city of Fargo to cause the “dangerous building” to be demolished, and the cost of said demolition to be assessed against the Subject Property as provided in Section 21-0405 of the Fargo Municipal Code.

DATED this 13 day of November, 2023.

BOARD of CITY COMMISSIONERS of the CITY OF FARGO,  
a North Dakota Municipal Corporation

By   
Timothy L. Mahoney, M.D., Mayor

ATTEST:

  
Steven Sprague, City Auditor

NOTICE OF ENTRY OF ORDER

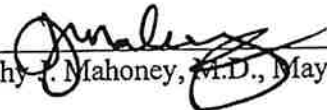
TO: JAMIE S. SWENSON AND ALL OTHER PERSONS HAVING INTEREST IN THIS PROPERTY

RE: PROPERTY AT 1710 1<sup>ST</sup> AVENUE SOUTH, FARGO, NORTH DAKOTA 58103

YOU ARE HEREBY GIVEN NOTICE that you shall have thirty (30) days from the date of service of Findings of Fact and Conclusions and Order of the Board of City Commissioners of the City of Fargo ("Order") upon you in which to appeal the Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all-in accordance with the appeal procedure set forth in Fargo Municipal Code § 21-0412. You are further given notice that the "dangerous building" on the Subject Property may be demolished by the city of Fargo at any time on or after December 29, 2023.

DATED this 13 day of November, 2023.

BOARD OF CITY COMMISSIONERS  
CITY OF FARGO, a North Dakota Municipal Corporation

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

ATTEST:

  
Steven Sprague, City Auditor





**AMENDMENT TO**  
**THE FINDINGS OF FACT, CONCLUSIONS AND ORDER**

This **AMENDMENT**, by Agreement by and between the **CITY OF FARGO** (hereinafter “City”), a North Dakota municipal corporation, whose address is 225 4<sup>th</sup> Street North, Fargo, North Dakota, 58102, and Jamie S. Swenson (hereinafter “Swenson”), whose address is 8922 North Shore Drive, Spicer, Minnesota, 56288, hereby amends the **FINDINGS OF FACT AND CONCLUSIONS AND ORDER** of the Board of City Commissioners of the City of Fargo approved November 13, 2023, a copy of which is attached hereto and made a part hereof, as Exhibit 1, for the property located at 1710 1<sup>st</sup> Avenue South, Fargo, ND 58103 (hereinafter “Subject Property”).

**WHEREAS**, on October 30, 2023, a hearing was held before the Board regarding Subject Property, and at said hearing the Board declared the building on Subject Property to be a “dangerous building” and ordered its demolition on or before December 29, 2023; and

**WHEREAS**, since the Board’s declaration, Swenson has been diligently working to repair the dangerous building by being issued an exploratory demolition permit to assess the structure, contracting with Ram Jack to fix the foundation, which has been completed, and is working with a local engineer to assess the rest of the structure; and

**WHEREAS**, since Swenson has been ambitiously repairing the structure and pursuant to a recommended motion from the Inspections Director, the Board approved extending the original demolition deadline of December 29, 2023, to June 28, 2024, so that Swenson may perform all necessary work on Subject Property so that it is code-compliant and no longer considered a “dangerous building” by the opinion of the Building Official or demolish the building on Subject Property by said date; and



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

1. That on October 30, 2023, the Board found that the building located on Subject Property was a “dangerous building” and ordered its rehabilitation or demolition on or before December 29, 2023.
2. Swenson has acknowledged this finding and waives any right to appeal.
3. Swenson had requested an extension of time to obtain all required permits and perform the necessary repairs to the dangerous building on Subject Property so that it is code-compliant and no longer a dangerous building by the opinion of the Building Official or demolish the building Subject Property on or before June 28, 2024.
4. The Board considered and approved this request on December 26, 2023.
5. City agrees and understands it shall forego any further enforcement actions related to the dangerous building designation in accordance with the terms of this Agreement and Amendment.
6. All other terms and amendments of the Findings of Fact and Conclusion and Order shall remain in full force and effect.

*[Signature Pages to Follow.]*



DATED this 2<sup>nd</sup> day of January, 2024.

**PROPERTY OWNER**

  
\_\_\_\_\_  
Jamie S. Swenson



DATED this 8 day of January, 2024.

**BOARD of CITY COMMISSIONERS to the  
CITY OF FARGO,**  
a North Dakota municipal corporation

By  \_\_\_\_\_  
Timothy J. Mahoney, M.P., Mayor

ATTEST:

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

4

Date: August 5, 2024

To: Fargo City Commission

From: Steven Sprague, City Auditor

Re: Ordinance Amendment - Recommendation to modify compliance failure penalty

After considerable discussion, the Liquor Control Board would like to recommend modifying the penalty for compliance check failure where a licensee could have the first failure \$500 administrative penalty waived if they agree to use an ID scanner for the next 6 months.

**RECOMMENDED MOTION**

**DIRECT THE CITY ATTORNEY TO AMEND FARGO MUNICIPAL CODE 25-1512 (D) WAIVING COMPLIANCE FAILURE PENALTY IF LICENSEE AGREES TO USE ID SCANNER**

**MEMORANDUM**

---

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Extension – Mango's

DATE: July 26, 2024

5

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from Mango's, Inc. d/b/a Mango's until they have recovered from the fire.

Mango's sustained heavy damage from a fire at their facility. They plan to re-open as soon as repairs are made, they anticipate 3 months. The owners are requesting an extension of ordinance 25-1512 to make repairs to their facility.

Please see the attached letter from the company.

Please approve an extension of 25-1512 for Mango's, Inc. d/b/a Mango's until building repairs are made.

**Recommended Motion:**

**Move an extension of the requirements of 25-1512 to Mango's, Inc. d/b/a Mango's until building repairs are made.**

Re: Mangos Inc  
2901 Main Ave  
Fargo, ND 58103

July 26, 2024

To whom it may concern:

Mangos Restaurant sustained damage due to a fire on July 25<sup>th</sup>, the destruction from this unfortunate occurrence has incapacitated our ability to conduct business. Clean up and rebuild will take approximately three months. Mangos will remain closed until reconstruction is finished. During this time, we would like to request an exemption from Fargo Municipal Code 25-1512.

We will keep the city apprised of the situation.

Thank you for your support.

  
Mangos Team



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

6a ✓

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>HERO; Healthcare Equipment Recycling Organization</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>9/27/24</b>	
Organization or Group Contact Person <b>Stephanie Ressler</b>	E-mail <b>stephanie@herofargo.org</b>	Telephone Number <b>701-212-1921</b>	
Business Address <b>5012 53rd St S Suite C</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>Holiday Inn</b>	County <b>Cass</b>
Site Physical Address <b>3803 13th Ave S</b>	City <b>Fargo</b>
	State <b>ND</b>
	ZIP Code <b>58103</b>

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)  
**9/27/24**

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

Game Type	Description of Prize	Exact Retail Value of Prize
<b>Raffle Tickets</b>		<b>850</b>
<b>50/50 Raffle</b>	<b>Random ticket is chosen - half of all ticket sales will go to the winner</b>	<b>1000<sup>00</sup></b>
<b>(raffle board)</b>	<b>2 TBD donated prizes for 2 boards</b>	<b>800</b>
Total (limit \$40,000 per year)		<b>\$ 2650<sup>00</sup></b>

**Intended Uses of Gaming Proceeds**

**HERO Expansion**

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>Stephanie Ressler</b>	Title <b>Development Coordinator</b>	Telephone Number <b>70121219121</b>	E-mail Address <b>stephanie@herofargo.org</b>
Signature of Organization or Group's Top Official <i>[Signature]</i>		Title <i>[Signature]</i>	Date <b>9/10/2024</b>





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

# 3720  
 # 251- (6b)

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>Legacy Children's Foundation</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>August 19, 2024</b>	
Organization or Group Contact Person <b>Mary Jean Dehne</b>	E-mail <b>mj@legacychildrensfoundation.com</b>	Telephone Number <b>701 793 7600</b>	
Business Address <b>725 28th St N</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>Edgewood Golf Course</b>	County <b>Cass</b>
Site Physical Address <b>19 Golf Course Rd</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.)  
**Raffle: August 19, 2024**

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	Yeti cooler, specialty golf club, 50/50	300.00
	Specialty Golf Club	250.00
	50/50	200.00
Total (limit \$40,000 per year)		\$ 750.00

**ADDITIONAL REQUIRED INFORMATION**

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

Printed Name of Organization Group's Permit Organizer <b>Mary Jean Dehne</b>	Telephone Number <b>701 793 7600</b>	E-mail Address <b>mj@legacychildrensfoundation.com</b>
Signature of Organization Group's Permit Organizer <i>Mary Jean Dehne</i>	Title <b>Executive Director</b>	Date <b>July 30, 2024</b>



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

loc



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 <i>Nativity Church of Fargo</i>		Dates of Activity (Does not include dates for the sales of tickets) <i>11-3-2024</i>	
Organization or Group Contact Person <i>Karen Donahue</i>		E-mail <i>office@nativity</i>	Telephone Number <i>701-332-2414</i>
Business Address <i>1825 11th Street S.</i>		City <i>Fargo</i>	State <i>ND</i> ZIP Code <i>58103</i>
Mailing Address (if different)		City	State      ZIP Code

**SITE INFO**

Site Name <i>Nativity Church</i>		County <i>Cass</i>	
Site Physical Address <i>1825 11th Street S.</i>		City <i>Fargo</i>	State <i>ND</i> ZIP Code <i>58103</i>

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.)

*11-3-2023*

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

Game Type	Description of Prize	Exact Retail Value of Prize
	<i>See Back</i>	
Total (limit \$40,000 per year)		\$ <i>2050.00</i>

**ADDITIONAL REQUIRED INFORMATION**

Intended Uses of Gaming Proceeds  
*Charitable Causes & Facility Needs*

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

Yes       No

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

Yes       No

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

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

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

Yes       No

Printed Name of Organization Group's Permit Organizer <i>Karen Donahue</i>	Telephone Number <i>701-361-4263</i>	E-mail Address <i>k.l.donahue@gmail.com</i>
Signature of Organization Group's Permit Organizer <i>Karen Donahue</i>	Title <i>Fall Festival Treasurer</i>	Date <i>7-27-2024</i>



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

66

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

**ORGANIZATION INFO**

Name of Organization or Group <b>North Dakota Long Term Care Association</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>September 26/2024</b>	
Organization or Group Contact Person <b>Casidie Fladeland</b>	E-mail <b>casidie@ndltca.org</b>	Telephone Number <b>701-354-9775</b>	
Business Address <b>1900 N 11th St.</b>	City <b>Bismarck</b>	State <b>ND</b>	ZIP Code <b>58501</b>
Mailing Address (if different) <b>Same</b>	City	State	ZIP Code

**SITE INFO**

Site Name <b>Holiday Inn</b>		County <b>Cass</b>	
Site Physical Address <b>3803 13 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.)

**September 26, 2024**

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

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	15 Gift Baskets valued at \$100 each	\$1,500.00
Total (limit \$40,000 per year)		\$ 1,500.00

**ADDITIONAL REQUIRED INFORMATION**

Intended Uses of Gaming Proceeds **Cherished Hopes Program**

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

Yes     No

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

Yes     No

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

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

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

Yes     No

Printed Name of Organization Group's Permit Organizer <b>Casidie Fladeland</b>	Telephone Number <b>701-354-9775</b>	E-mail Address <b>casidie@ndltca.org</b>
Signature of Organization Group's Permit Organizer 	Title <b>President.</b>	Date <b>7-1-24</b>



# APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

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

6e

Applying for (check one)

Local Permit       Restricted Event Permit\*

Games to be conducted

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

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

### ORGANIZATION INFO

Name of Organization or Group <b>United Republican Committee of Cass County</b>		Dates of Activity (Does not include dates for the sales of tickets) <b>August 14, 2024</b>	
Organization or Group Contact Person <b>Melissa Paulik</b>	E-mail <b>paulik.melissa@gmail.com</b>	Telephone Number <b>701-367-5556</b>	
Business Address <b>2904 32nd Street South</b>	City <b>Fargo</b>	State <b>ND</b>	ZIP Code <b>58103</b>
Mailing Address (if different)	City	State	ZIP Code

### SITE INFO

Site Name <b>Urban Plains Park</b>	County <b>Cass</b>
Site Physical Address <b>3020 51st Street South</b>	City <b>Fargo</b>
	State <b>ND</b>
	ZIP Code <b>58104</b>

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

**Raffle to be held at our annual Summer Picnic on 08/14**

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

Game Type	Description of Prize	Exact Retail Value of Prize
<b>50/50 raffle</b>	<b>Cash prize</b>	<b>1000</b>
Total (limit \$40,000 per year)		<b>\$ 1000.00</b>

### ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds  
*Get out the vote efforts in primary*

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

Yes     No

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

Yes     No

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

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

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

Yes     No

Printed Name of Organization Group's Permit Organizer <b>Melissa Paulik</b>	Telephone Number <b>701-367-5556</b>	E-mail Address <b>paulik.melissa@gmail.com</b>
Signature of Organization Group's Permit Organizer <i>Melissa J. Paulik</i>	Title <b>Chair</b>	Date <b>July 22, 2024</b>

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

7

Improvement District No. PR-24-G1

Type: Change Order #1

Location: Citywide

Date of Hearing: 7/29/2024

<u>Routing</u>	<u>Date</u>
City Commission	8/5/2024
PWPEC File	X
Project File	Jason Hoogland

The Committee reviewed the accompanying correspondence from Project Manager, Jason Hoogland, regarding Change Order #1 in the amount of \$66,647.96 for additional work.

Staff is recommending approval of Change Order #1 in the amount of \$66,647.96, bringing the total contract amount to \$2,980,624.43.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Change Order #1 to Border States Paving.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve Change Order #1 in the amount of \$66,647.96, bringing the total contract amount to \$2,980,624.43 to Border States Paving.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: State, Utility Funds & Special Assessments


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

COMMITTEE

	<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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
Tom Knakmuhs, P.E.  
City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Jason Hoogland, Project Manager  
**Date:** July 24, 2024  
**Re:** Improvement Dist. No. PR-24-G1 – Change Order #1

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## **Background:**

Improvement District No. PR-24-G1 is an asphalt mill and overlay preventative maintenance project to enhance the street infrastructure within the City of Fargo. This work is taking place in seven areas of the City.

Border States Paving is the Prime Contractor.

Change Order #1 involves the removal of the median on 44th Avenue South at 55th Street South, the installation of new sidewalk/ADA ramps, and the construction of a new median between the new ADA ramps on 44th Avenue South. This modification aims to improve traffic flow, allowing easier eastbound turns from 55th Street South and the school driveway onto 44th Avenue South. Additionally, the new ADA ramps and median will provide a safer crossing for pedestrians on 44th Avenue South. The cost of this change order is \$66,647.96. The original contract amount was \$2,913,976.48, bringing the new total to \$2,980,624.43. Funding for this project is sourced 50% from Special Assessments and 50% from City Sales Tax Funds.

## **Recommended Motion:**

Staff recommends approval of Change Order #1 in the amount of \$66,647.96 for Improvement Dist. No. PR-24-G1.

JMH/klb  
Attachments



**CHANGE ORDER REPORT**  
**ASPHALT MILL & OVERLAY**  
**IMPROVEMENT DISTRICT NO. PR-24-G1**

SECTION 1 - 13TH AVE S TO 17TH AVE S BETWEEN 45TH ST S TO CITY LIMITS,  
 SECTION 2 - 35TH ST S, 34TH ST S, & PRAIRIEWOOD CIR. S, SECTION 3 - 20TH AVE  
 S & SUNDANCE CIR. S., SECTION 4 - 18TH ST. S & GOLD DR. S., SECTION 5 - 32 AVE  
 S TO 37 1/2 AVE S BETWEEN 32ND ST. S. AND 36TH ST. S., SECTION 6 - 44TH AVE  
 S., SECTION 7 - 25 AVE. N., 28TH AVE N AND 12TH ST. N

**Change Order No** 1 **Change Order Date** 7/22/2024  
**Contractor** Border States Paving 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

Install median on 44th Ave S and remove the old one. Add sidewalk and ramps.

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	23	Mobilization	LS	0	0	0	1	1	\$2,500.00	\$2,500.00
	24	Remove Pavement All Thicknesses All Types	SY	0	0	0	164.85	164.85	\$42.90	\$7,072.07
	27	F&I Class 5 Agg - 6" Thick	SY	0	0	0	61.53	61.53	\$20.27	\$1,247.21
	28	F&I Curb & Gutter Standard (Type II)	LF	0	0	0	156	156	\$74.80	\$11,668.80
	31	F&I Median Nose Conc	SY	0	0	0	13.33	13.33	\$247.56	\$3,299.97
	34	F&I Sidewalk 6" Thick Reinf Conc	SY	0	0	0	83.3	83.3	\$149.60	\$12,461.68
	38	Remove Sidewalk All Thicknesses All Types	SY	0	0	0	34.89	34.89	\$45.10	\$1,573.54
	40	F&I Impressioned 4" Thick Reinf Conc	SY	0	0	0	61.53	61.53	\$237.60	\$14,619.53
	43	F&I Det Warn Panels Cast Iron	SF	0	0	0	88	88	\$63.80	\$5,614.40

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
	46	Repair Pavement - Patch Asph	SY	0		0	47.52	47.52	\$88.00	\$4,181.76
	49	Traffic Control - Type 1	LS	0		0	1	1	\$2,409.00	\$2,409.00
									<b>Change Order 1 Sub Total</b>	<b>\$66,647.96</b>



Summary

Source Of Funding	Sales Tax funds & Special Assessments
Net Amount Change Order # 1 (\$)	\$66,647.96
Previous Change Orders (\$)	\$0.00
Original Contract Amount (\$)	\$2,913,976.48
Total Contract Amount (\$)	\$2,980,624.43

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

APPROVED *Joel Paur*  
For Contractor  
Title

Joel Paur  
Border States Paving Inc  
Fargo Area Manager

APPROVED DATE  
Department Head  
Mayor  
Attest





# Change Order

4101 32nd St. N  
Fargo, ND 58108-2586  
Phone: 701-237-4860 Fax: 701-237-0233  
www.borderstatespaving.com

Date: 6/10/2024  
Change Order: 1  
BSPI Job #: 43-24

**Change Order For:**  
PR-24-G1 CO#1

Prepared By: Joel Paur  
Office:701-237-4860 Cell:701-866-0410  
Email: jpaur@borderstatespaving.com

Section 6 - Median Addition

Discription	Unit	Quantity	Unit Price	Item Price
Mobilization	LS	1	\$2,500	\$2,500.00
Patching	SY	51	\$88.00	\$4,488.00
Concrete Work	LS	1	\$51,312.00	\$51,312.00
Prime Contractor Markup		10%		\$5,131.20
Traffic Control	LS	1	\$2,190.00	\$2,190.00
Prime Contractor Markup		10%		\$219.00
<del>24" Pavement Pavement Marking</del>	LF	108	\$25.00	\$2,700.00
<del>Prime Contractor Markup</del>		10%		\$270.00

Notes:

Total: \$68,810.20

Respectfully Submitted,

Joel Paur  
Fargo Area Manager

Acceptance:  
Date: \_\_\_\_\_  
Name/Title: \_\_\_\_\_  
Signature: \_\_\_\_\_





**NorthStar Safety, Inc.**

794 West Main Avenue  
West Fargo, ND 58078  
Tel: 701-282-2110  
Fax: 701-281-1400  
\*\*\*.northstarsafety.com

**6/10/24 CHANGE ORDER**

<u>Project</u>	<u>ID No.</u>	<u>Location</u>	<u>State</u>	<u>Bid Date</u>
Asphalt Mill & Overlay	PR-24-G1	Fargo	North Dakota	4/24/2024

NorthStar Safety, Inc. (NSI) will supply and place all signs, barricades and channelization devices listed below. All daily maintenance, relocating and/or resetting devices would be the contractor's responsibility. NSI would return once for relocating sidewalk closed barricades; and again upon completion of the project to remove all items supplied by us. Our quote is based on the completion date stated in the proposal and does NOT include flagging, providing notifications, removing and resetting existing permanent signs, no parking signs, temporary safety fence, brooming or other job site clean-up necessary to complete the pavement marking items, or any other incidentals. Our quote includes submitting traffic control plans, not designed or signed off on by an engineer, for approval.

<u>Item No.</u>	<u>Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Bid Amount</u>
CO	Traffic Control - Type 1	LS	1	\$ 2,190.00	\$ 2,190.00

\* - Material Included in Change Order Traffic Control - Type 1:

- 1 - Set of Road Closed and Road Closed To Thru Traffic Signs and Barricades Required to Close 44th Ave S
- 1 - Set of Sidewalk Closed Barricades Required to Close the North or South Sidewalk on 44th Ave S

Payments are to be made by progress payments. If a bond is required, a bond fee will be added. Our quote does NOT include Railway Protection Insurance, TERO or any other contract charges. This proposal may be withdrawn if not accepted within 30 days.

Authorized  
Acceptance  
Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Authorized  
Signature

Stephan Lindemann  
Cell: 701-219-1731  
E-mail: slindemann@northstarsafety.com



P.O. Box 2871  
Fargo, ND 58108-2871  
Business - 701.281.1212  
Fax - 701.277.8005

## Proposal

Date: 6/10/2024

Re: PR-24-G1 Section 6 Crosswalks  
City of Fargo, ND

Opp Construction proposes the following prices on the aforementioned project.

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
1	Remove Pavement	174.00	SY	39.00	6,786.00
2	F&I Curb & Gutter	165.00	LF	68.00	11,220.00
3	Concrete Median Nose	2.00	EA	1,500.00	3,000.00
4	Remove Sidewalk	28.00	SY	41.00	1,148.00
5	F&I Sidewalk 6" Thick Reinf Conc	67.00	SY	136.00	9,112.00
6	F&I Det Warn Panels Cast Iron	84.00	SF	58.00	4,872.00
7	F&I 4" Impressioned Concrete	64.00	SY	216.00	13,824.00
8	Class 5 Aggregate Base	25.00	TN	54.00	1,350.00
				<b>TOTAL</b>	<b>51,312.00</b>

Notes:

- Payment based on actual quantities installed.
- Proposal assumes work is completed while we're working in section 6 on contract items.
- Proposal based on items and quantities listed above.
- Price reflects one mobilization only.
- All items are tied and will not be split unless we are contacted prior to doing so.

Excludes:

- Staking, Surveying, or Material Testing
- Traffic Control or Flagger(s).
- Erosion Control - Storm Water Management
- Pavement Markings
- ALL costs associated with cold weather or minimum load charges for weight restricted roads.
- Costs associated with modifications or supplementary insurance requirements.
- Private utility locates.
- Permits
- Bond - add 2% if required
- A copy of this proposal is to become part of the contract.
- Costs and/or delays out of our control including but not limited to acts of god, suspensions, pandemic, force majeure, etc.

Respectfully Submitted,

Lance Strum  
Sr. Project Manager  
Opp Construction

The above prices, specifications and conditions are satisfactory and are hereby accepted you are authorized to do the work as specified.  
Payment will be made as outlined above.

Signature

Date of Acceptance

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-23-A1 Type: Utility Relocation Reimbursement

Location: 52nd Ave S, 63rd St - Sheyenne Street Date of Hearing: 7/29/2024

Routing City Commission PWPEC File Project File Date 8/5/2024 X Matthew Jennings

8

The Committee reviewed the accompanying correspondence from Project Manager, Matthew Jennings, regarding a Utility Relocation Reimbursement with Midco and Sparklight.

Midco and Sparklight both currently have utilities placed within a dedicated utility easement that need to be relocated to avoid a conflict with our future sidewalk and boulevard grades and elevations. The estimated cost of the work is as follows:

- Midco - \$10,816.95 - Relocation of vault and power supply node cabinet
Sparklight - \$2,000 - Relocation of vault and pedestal.

On a motion by Susan Thompson, seconded by Brenda Derrig, the Committee voted to recommend approval of the Utility Relocation Reimbursement with Midco and Sparklight for Improvement District No. BN-23-A1.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve the Utility Relocation Reimbursement with Midco and Sparklight in the amounts of \$10,816.95 and \$2,000, respectively, for Improvement District No. BN-23-A1.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Per MOU with West Fargo and Cass County

Table with 2 columns: Question, Yes/No. Rows include 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).

COMMITTEE

Table with 4 columns: Name, Present, Yes, No, Unanimous. Lists committee members and their voting status.

ATTEST:

C: Kristi Olson

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

# Memorandum

**To:** Members of PWPEC  
**From:** Matthew Jennings, Project Manager  
**Date:** July 24, 2024  
**Re:** Improvement District No. BN-23-A1 – Utility Relocation Reimbursement

---

## Background:

Improvement District No. BN-23-A1 is for the reconstruction of 52<sup>nd</sup> Avenue South. This project consists of bridge, concrete pavement, hot material asphalt, storm sewer, water main improvements and incidentals on 52<sup>nd</sup> Avenue South from Sheyenne Street to west of 63<sup>rd</sup> Street South.

Industrial Builders Inc. is the Prime Contractor on this project.

This is a utility relocation reimbursement to compensate Midco and Sparklight whose utilities are currently placed within a dedicated utility easement. Based off our proposed project, these utilities needed to be raised and relocated to avoid a conflict with our future sidewalk and boulevard grades and elevations.

- Midco - \$10,816.95 – Relocation of vault and power supply node cabinet
- Sparklight - \$2,000 – Relocation of vault and pedestal

Within the initial Engineers Report we allocated \$150,000 for utility relocations. We expect Minnkota's relocations to cost \$132,000, leaving \$18,000 remaining to be used for additional relocations. We expect one additional utility relocation reimbursement for Dakota Carrier Network not to exceed \$4,500 to be paid at a future date. Therefore, at this time we are not requesting additional funds.

The attached utility relocation reimbursement is in the amount of **\$12,816.95**.

## Recommended Motion:

Approve the utility relocation reimbursement in the amount of **\$12,816.95** for Improvement District No. BN-23-A1.

MCJ/klb

Attachments



June 7, 2024

CITY OF FARGO  
ATTN ENGINEERING DEPT  
225 4TH ST N  
FARGO ND 58102

Account # 3765392-01  
Invoice # 02-24-005  
Project #: FG42524

This letter is to inform you of charges for raising a power supply on 52nd Ave S, Fargo, ND. We understand that accidents happen and want to work with you to resolve this situation. We have included an invoice for the completed work. You have options for payment:

- ***If you choose to pay in full by July 7, 2024, please mail your payment with your statement stub, name and account number to:***

Midco  
PO Box 5010  
Sioux Falls, SD 57117

- ***If you cannot pay in full by July 7, 2024, or would like to set up a payment schedule contact:***

Account Management, at 605.444.2151

If you have questions about this letter and enclosed invoice, or about the damage caused to the property owned by Midcontinent Communications, contact:

Midco Legal 888.258.0028

We thank you for your immediate attention to this matter.

Sincerely,

Midco  
Account Management Group

# Midcontinent Communications

PO BOX 5010  
 SIOUX FALLS SD 57117-5010  
**Contact:** Midco Legal  
**Phone:** (888) 258-0028



**INVOICE**

Customer			
CITY OF FARGO ENGINEERING DEPT			
225 4TH ST N			
FARGO	ND	58102	

Date:	6/7/2024
Invoice Number:	02-24-005
Account Number:	376539201
Project Number:	FG42524

**Description of Charges:**

At 52nd Ave S, charge for raising a power supply.

**Location:** 52nd Ave S, Fargo, ND

**Phone:** (701) 371-4754

*For billing questions, please contact: Midco Legal*

MATERIALS	Qty	Unit	Amount	Total Charges
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<b>MATERIALS SUBTOTAL</b>				\$ -
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LABOR / ADMIN CHARGES	Qty	Unit	Amount	Total Charges
Hourly labor - Crew (normal)	10	Hour	\$ 555.00	\$ 5,550.00
Hourly labor - Hydro-Vac Crew	3	Hour	\$ 500.00	\$ 1,500.00
Install power service	1	Hour	\$ 3,641.95	\$ 3,641.95
Admin Fee	1	Each	\$ 125.00	\$ 125.00

Taxes:

<b>LABOR / ADMIN CHARGES SUBTOTAL</b>		\$ 10,816.95
---------------------------------------	--	--------------

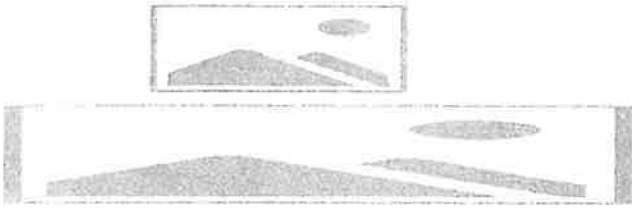
MATERIAL SUBTOTAL:	\$ -
LABOR / ADMIN CHARGES SUBTOTAL:	\$ 10,816.95
TAXES:	\$ -
<b>TOTAL AMOUNT DUE:</b>	<b>\$ 10,816.95</b>

**\*\*This invoice shows the details for the charges billed. You will also receive a summary statement from Midco. The summary statement only displays the total amount billed and does not contain details of the charges. Please only send one payment to Midco for these charges billed.\*\***

**Remit payment to: Midco, P.O. Box 5010, Sioux Falls, SD 57117 - 5010**

**Billing statements will be sent until balance is paid in full. \*Please note account number in your payment. Thank you!**





**DATE**

7/22/2024

**BILL TO:**

City of Fargo  
225 4th St N  
Fargo, ND 58103

**REMIT PAYMENT TO:**

/Sparklight  
1024 Page Dr S  
Fargo, ND 58103  
ATTN Allan Friedt

Vac+labor- Relocation of a ped and vault

**Address**  
52nd Ave and McMahon Estate Cir

DESCRIPTION	QUANTITY	U/M	AMOUNT	EXTENDED
<u>Materials:</u>				\$0.00
<u>Tax &amp; Freight</u>				
<u>Contract Labor</u> Vac+labor	1			\$ 2,000.00
<b>TOTAL:</b>				
<b>TOTAL:</b>				\$2,000.00

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Developer Agreement

Location: Cityside Addition

Date of Hearing: 6/17/2024

9

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/5/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Nathan Boerboom</u>

The Committee reviewed a communication from Planning Coordinator, Donald Kress, regarding the proposed plat for Cityside Addition, a major subdivision including a vacation of right of way (alley), which is a plat of a Lots 2 through 7, Block 31, and a vacation of a portion of the alley in Block 31, Keeney & Devitts Second Addition to create one lot, to be zoned DMU, Downtown Mixed Use. The plat vacates right of way for a portion of the north-south mid-block alley.

During the discussion, concerns were raised about future reconstruction of the remaining portion of the alley. Ben Dow requested that a Developer Agreement be created for the proposed plat, which will include a waiver of protest from the applicant on any future improvements to the remaining portion of the alley.

On a motion by Tim Mahoney, seconded by Nicole Crutchfield, the Committee voted to authorize the City Engineer to execute the plat and amenities plan contingent on applicant completing any required revisions, including the execution of a Developer Agreement.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Developer Agreement for Cityside Addition.

PROJECT FINANCING INFORMATION:


Recommended source of funding for project: None

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

COMMITTEE

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

ATTEST:

  
 Tom Knakmuhs, P.E.  
 City Engineer

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Plat Approval

Location: Cityside Addition

Date of Hearing: 6/17/2024

<u>Routing</u>	<u>Date</u>
City Commission	
PWPEC File	X
Project File	Donald Kress

The Committee reviewed a communication from Planning Coordinator, Donald Kress, regarding the proposed plat for Cityside Addition, a major subdivision including a vacation of right of way (alley), which is a plat of a Lots 2 through 7, Block 31, and a vacation of a portion of the alley in Block 31, Keeney & Devitts Second Addition to create one lot, to be zoned DMU, Downtown Mixed Use. The plat vacates right of way for a portion of the north-south mid-block alley.

During the discussion, concerns were raised about future reconstruction of the remaining portion of the alley. Ben Dow requested that a Developer Agreement be created for the proposed plat, which will include a waiver of protest from the applicant on any future improvements to the remaining portion of the alley.

Staff is seeking approval for the City Engineer to execute the plat and amenities plan contingent on applicant completing any required revisions, including the execution of a Developer Agreement.

On a motion by Tim Mahoney, seconded by Nicole Crutchfield, the Committee voted to authorize the City Engineer to execute the plat and amenities plan contingent on applicant completing any required revisions.

RECOMMENDED MOTION

No Commission action required.

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
	N/A
	N/A
	N/A

COMMITTEE

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

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

WATTEST:

  
Tom Knakmuhs, P.E.  
City Engineer

### **Developer Agreement**


This Agreement, made and entered into between 202 Flats, LLC, a North Dakota limited liability company (“Developer”), and the City of Fargo, a municipal corporation (“City”), is for the purpose of establishing public infrastructure for the property identified below and legally described on the attached Exhibit A (the “Development Property”). For good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Developer holds all right, title and interest in the Development Property, known as Lot 1, Block 1 of the Cityside Addition in the City of Fargo, Cass County, North Dakota. Developer intends to develop the Development Property.
2. City shall complete improvements of the alley located immediately west of the Development Property at a future date to be determined by the City (the “Future Project”), which shall be determined at the sole discretion of the City. The funding of the future alley improvements will follow the City’s Infrastructure Policy in effect at the time of creation of the improvement district for the Future Project.
3. Developer hereby waives its right to protest the resolution(s) of necessity for the infrastructure and improvements for which such resolutions are required pursuant to North Dakota Century Code, Section 40-22-17, and specifically consents to the construction of the Future Project, and to the assessment of the costs thereof to the Development Property. Developer further waives its right to protest the amount, benefit, or any other assessment attribute related to the installation and construction of the Future Project. The project costs which may be assessed against the Development Property, which will be in accordance with the City’s Infrastructure Funding Policy in effect at the time of creation of the improvement district, include all costs of completing the construction of the Future Project.

4. This Agreement shall be binding upon the respective successors and assigns of the parties hereto, including a purchaser of any portion of the Development Property. Developer agrees to inform any purchaser of any portion of the Development Property of the existence and content of this Agreement. Developer also hereby agrees to notify the City no later than 10 days prior to an assignment or sale of the Development Property.
5. The parties hereby agree that this Agreement may be recorded against the Development Property.
6. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.
7. The failure or delay of a party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver by that party of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right of the party to enforce each and every term of this Agreement.
8. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.
9. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.
10. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.

Developer

202 Flats, LLC



By: Andrew Hanson

Its: Chief Manager

Dated: 7-25-24

STATE OF North Dakota )  
COUNTY OF Cass ) ss.

On this 25<sup>th</sup> day of July, 2024, before me, a notary public in and for said county and state, personally appeared Andrew Hanson an authorized signatory of 202 Flats, LLC, the person described in and that executed the within and foregoing instrument, and acknowledged to me that said person executed the same.



(SEAL)



Notary Public  
Cass County, ND  
My Commission expires:

City of Fargo, a municipal corporation

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

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

ATTEST

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

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

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY and 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)

Exhibit A- Development Property

Lot 1 in Block 1 of the Cityside Addition in the City of Fargo, Cass County, North Dakota.



PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Developer Agreement

Location: Legacy I Eighth Addition

Date of Hearing: 7/29/2024

Routing	Date
City Commission	8/5/2024
PWPEC File	X
Project File	Nathan Boerboom

10

The Committee reviewed the accompanying correspondence from Assistant City Engineer, Nathan Boerboom, regarding a Developer Agreement for Legacy I Eighth Addition.

The Legacy I Eighth Addition creates three lots. Staff have been coordinating with the Developer on the storm water facilities for these three lots. This Addition is not served by a regional storm water retention pond; therefore, the lots must comply with the City's Storm Water Discharge and Treatment Requirements Policy and provide on-site storm water facilities. Due to the smaller sizes of Lots 2 and 3, on-site storm water retention facilities cannot be accommodated. To address this issue, the Developer has proposed that all storm water retention requirements for the three lots be met on Lot 1.

To accommodate this proposal, staff has developed the attached Developer Agreement, which includes the following key points:

- Owner of Lot 1 will construct, own, and maintain the storm water facility that is appropriately sized to satisfy the requirements for all three lots of the Legacy I Eighth Addition.
- Owner of Lot 1 is responsible for all costs associated with the construction, maintenance, and ownership of the storm water facility, and that the City has no obligation to pay any costs related to this storm water facility.

On a motion by Ben Dow, seconded by Brenda Derrig, the Committee voted to recommend approval of the Developer Agreement for Legacy I Eighth Addition.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Developer Agreement for Legacy I Eighth Addition.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: \_\_\_\_\_ N/A \_\_\_\_\_

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

COMMITTEE

	Present	Yes	No	Unanimous
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"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 Tom Knakmuhs, P.E.  
 City Engineer

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC  
**From:** Nathan Boerboom, Assistant City Engineer  
**Date:** July 16, 2024  
**Re:** Developer Agreement for Legacy I Eighth Addition

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## Background:

The Legacy I Eighth Addition creates three lots. This Addition is not served by a regional storm water retention pond; therefore, the lots must comply with the City's Storm Water Discharge and Treatment Requirements policy and provide on-site storm water facilities. Due to the smaller sizes of Lots 2 and 3, on-site storm water retention facilities cannot be accommodated. To address this issue, the Developer has proposed that all storm water retention requirements for the three lots be met on Lot 1.

To accommodate this proposal, staff has developed the attached Developer Agreement, which includes the following key points:

- Owner of Lot 1 will construct, own, and maintain the storm water facility that is appropriately sized to satisfy the requirements for all three lots of the Legacy I Eighth Addition.
- Owner of Lot 1 is responsible for all costs associated with the construction, maintenance, and ownership of the storm water facility, and that the City has no obligation to pay any costs related to this storm water facility.

Attached with this Memorandum is the full version of the Developer Agreement that provides further information regarding the proposed storm water facility within Legacy I Eighth Addition.

## Recommended Motion:

Approve the Developer Agreement for the Legacy I Eighth Addition.

### Developer Agreement

This Agreement, made and entered into between Pedore Development LLC, a North Dakota limited liability company (“Developer”), and the City of Fargo, a municipal corporation (“City”), is for the purpose of establishing guidelines and requirements for storm water retention and drainage for the property identified below and legally described on the attached Exhibit A (the “Development Property”). For good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Developer holds all right, title and interest in the Development Property, known as Lots 1, 2, and 3, Block 1 of the Legacy I Eighth Addition in the City of Fargo, Cass County, North Dakota.
2. Lots 2 and 3 of the Development Property are intended for development as townhome housing but will not be large enough to accommodate on-site storm water retention.
3. The Development Property is not served by a regional stormwater retention pond. The Development Property therefore must satisfy the City’s Storm Water Discharge and Treatment Requirements policy. Because Lots 2 and 3 are not large enough to have on-site storm water retention, Lot 1 must satisfy the storm water retention requirements for all three lots of the Development Property.
4. Developer, its successors and assigns, hereby agrees to construct, own, and maintain a storm water facility upon Lot 1, which will be adequate to satisfy and meet all storm water retention and water quality requirements for the entire Development Property, including Lots 2 and 3.
5. Developer, its successors and assigns, hereby further agrees that all costs and expenses of construction, maintenance, and ownership of the storm water facility shall be borne

by Developer and the City shall have no obligation to pay any of the costs or expenses related to construction, maintenance, or ownership of the storm water facility.

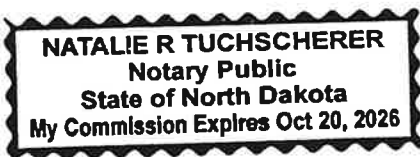
6. This Agreement shall be binding upon the respective successors and assigns of the parties hereto, including a purchaser of any portion of the Development Property. Developer agrees to inform any purchasers of the Development Property of the existence and context of this Agreement. Developer also hereby agrees to notify the City no later than 10 days prior to an assignment or sale of the Development Property.
7. The parties hereby agree that this Agreement may be recorded against the Development Property.
8. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.
9. The failure or delay of a party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver by that party of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right of the party to enforce each and every term of this Agreement.
10. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.
11. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.
12. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement. Developer

Dated: 7-15-24

[Signature]  
By: Procore Development LLC  
Its: President

STATE OF ND )  
 ) ss.  
COUNTY OF Cass )

On this 15 day of July, 2024, before me, a notary public in and for said county and state, personally appeared Nate Anderson an authorized signatory of Procore Development, the person described in and that executed the within and foregoing instrument, and acknowledged to me that said person executed the same.



[Signature]  
Notary Public  
Cass County, ND  
My Commission expires:

(SEAL)

City of Fargo, a municipal corporation

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

\_\_\_\_\_

Timothy J. Mahoney, Mayor

ATTEST

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

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

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY and 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)

Exhibit A- Development Property

Lots One, Two, and Three, Block 1 of the Legacy I Eighth Addition in the City of Fargo, Cass County, North Dakota

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Memorandum of Understanding

Location: Deer Creek Addition

Date of Hearing: 7/29/2024

<u>Routing</u>	Date
City Commission	<u>8/5/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Nathan Boerboom</u>



The Committee reviewed the accompanying correspondence from Assistant City Engineer, Nathan Boerboom, regarding a Memorandum of Understanding (MOU) regarding the maintenance, repair, and reconstruction responsibilities of shared Deer Creek Infrastructure with the City of Horace.

The City of Horace has recently platted three subdivisions, Deer Creek Estates, Deer Creek Estates Second and Deer Creek Estates Third, adjacent to Fargo's Deer Creek Addition. All four subdivisions are located adjacent to Deer Creek Parkway, with a 430-foot street section dividing the two cities. Due to this shared street, staff has been working on a Memorandum of Understanding (MOU) to formalize the maintenance, repair, and reconstruction responsibilities of each city for this shared street.

The following are key responsibilities listed within the MOU:

- Fargo responsibilities
  - Future maintenance, repairs, and reconstruction will be completed by Fargo to our design standards for a collector street;
  - Future maintenance, repairs, and reconstruction of the sidewalk on the north side of the street.
- Horace responsibilities
  - Reimburse Fargo for 50% of the costs of any maintenance, repairs, and reconstruction projects on the shared street section of Deer Creek Parkway;
  - Future maintenance, repairs, and reconstruction of the sidewalk on the south side of the street.

In addition to Deer Creek Parkway being shared infrastructure between the two cities, the City of Horace also approached staff regarding utilizing Fargo's existing storm sewer to serve the shared rear yard lot lines of the two cities. Through these conversations, it is recommended that rear yard drainage from the residential lots be routed into Fargo's storm sewer system. This would be accomplished by utilizing existing Fargo storm sewer inlets serving the residential lots on the north side of Deer Creek Parkway and new storm sewer inlets installed by Horace to serve the residential lots on the south side of Deer Creek Parkway. These new storm sewer inlets would be connected to an existing Fargo storm sewer pipe. The only storm water runoff that would be allowed to enter into Fargo's storm sewer system would be water from the residential lots' rear yards. No storm water runoff from any City of Horace street would be allowed. Each city will be responsible for the maintenance, repairs, and reconstruction of their storm sewer infrastructure.

On a motion by Brenda Derrig, seconded by Steve Dirksen, the Committee voted to recommend approval of the Memorandum of Understanding regarding the maintenance, repair, and reconstruction responsibilities of shared Deer Creek Infrastructure with the City of Horace.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Memorandum of Understanding regarding the maintenance, repair, and reconstruction responsibilities of shared Deer Creek Infrastructure with the City of Horace.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A



PWPEC ROA  
7/29/2024 -- Page 2

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

Yes	No
	N/A
	N/A
	N/A

COMMITTEE

Present	Yes	No	Unanimous
			<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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<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
- Brenda Derrig, Assistant City Administrator
- Ben Dow, Director of Operations
- Steve Sprague, City Auditor
- Tom Knakmuhs, City Engineer
- Susan Thompson, Finance Director

ATTEST:

  
 Tom Knakmuhs, P.E.  
 City Engineer

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC  
**From:** Nathan Boerboom, Assistant City Engineer  
**Date:** July 23, 2024  
**Re:** Memorandum of Understanding with City of Horace for Shared Deer Creek Infrastructure

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## Background:

The City of Horace has recently platted three subdivisions, Deer Creek Estates, Deer Creek Estates Second and Deer Creek Estates Third, adjacent to Fargo's Deer Creek Addition. All four subdivisions are located adjacent to Deer Creek Parkway, with a 430-foot street section dividing the two cities. Due to this shared street, staff has been working with the City of Horace to develop a Memorandum of Understanding (MOU) to formalize the maintenance, repair, and reconstruction responsibilities of each city for this shared street.

The following are key responsibilities listed within the MOU:

- Fargo responsibilities
  - Future maintenance, repairs, and reconstruction will be completed by Fargo to our design standards for a collector street;
  - Future maintenance, repairs, and reconstruction of the sidewalk on the north side of the street.
- Horace responsibilities
  - Reimburse Fargo for 50% of the costs of any maintenance, repairs, and reconstruction projects on the shared street section of Deer Creek Parkway;
  - Future maintenance, repairs, and reconstruction of the sidewalk on the south side of the street.

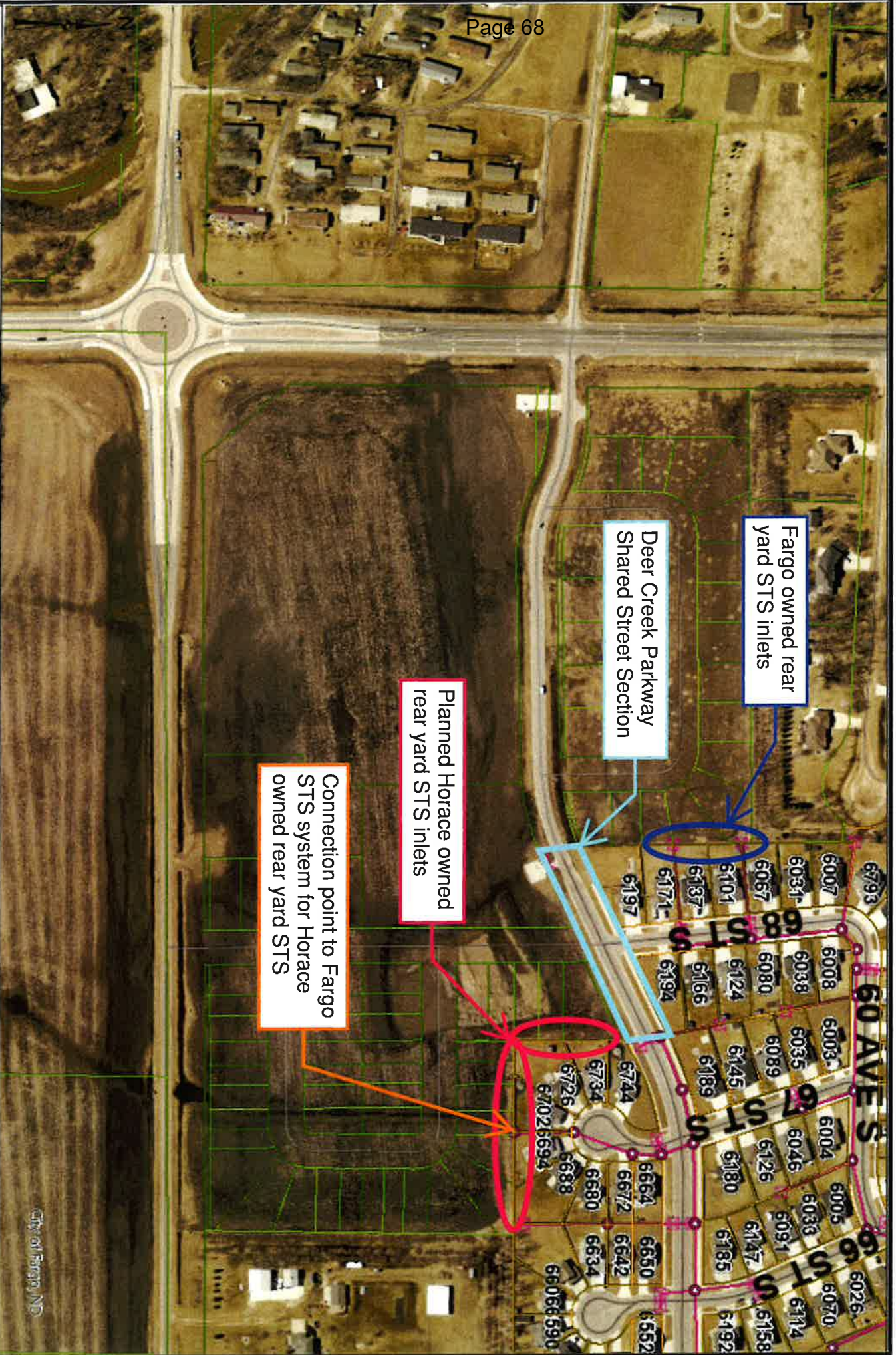
In addition to Deer Creek Parkway being shared infrastructure between the two cities, the City of Horace also approached staff regarding utilizing Fargo's existing storm sewer to serve the shared rear yard lot lines of the two cities. Through these conversations, it is recommended that rear yard drainage from the residential lots be routed into Fargo's storm sewer system. This would be accomplished by utilizing existing Fargo storm sewer inlets serving the residential lots on the north side of Deer Creek Parkway and new storm sewer inlets installed by Horace to serve the residential lots on the south side of Deer Creek Parkway. These new storm sewer inlets would be connected to an existing Fargo storm sewer pipe. The only storm water runoff that would be allowed to enter into Fargo's storm sewer system would be water from the residential lots' rear yards. No storm water runoff from any City of Horace street would be allowed. Each city will be responsible for the maintenance, repairs, and reconstruction of their storm sewer infrastructure.

Attached to this Memorandum is a map that illustrates what storm sewer infrastructure each city is responsible for, the drainage area of that storm sewer infrastructure, and the shared Deer Creek Parkway street section.

**Recommended Motion:**

Approve the Memorandum of Understanding with the City of Horace for shared Deer Creek infrastructure.

NAB/klb  
Attachments



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

1-4-514

This report is not a substitute for accurate field surveys or for locating utility accurately lines and any related features.

# Horace/Deer Creek

7/24/2024 11:03 AM



City of Fargo, ND

**MEMORANDUM OF UNDERSTANDING  
REGARDING STORM SEWER AND STREET MAINTENANCE,  
REPAIRS, AND RECONSTRUCTION**

This Memorandum of Understanding (“MOU”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, (the “Effective Date”) by and between the City of Fargo, a North Dakota municipal corporation, whose address is 225 Fourth Street North, Fargo, North Dakota 58102 (“Fargo”), and the City of Horace, a North Dakota municipal corporation, whose address is 215 Park Drive East, Horace, North Dakota 58047 (“Horace”).

WHEREAS, North Dakota Century Code § 40-05.1-06 and Article 3 of Fargo’s Home Rule Charter authorizes Fargo to enter into contracts;

WHEREAS, North Dakota Century Code § 40-05.1-06 and Article 3 of Horace’s Home Rule Charter authorizes Horace to enter into contracts;

WHEREAS, there is an existing addition within Fargo named Deer Creek Addition that adjoins Deer Creek Parkway;

WHEREAS, there are three (3) recently platted additions within Horace named Deer Creek Estates Addition, Deer Creek Estates Second Addition, and Deer Creek Estates Third Addition (collectively, the Fargo and Horace developments are referred to herein as the “Additions”), all of which adjoin Deer Creek Parkway;

WHEREAS, an approximately 430 foot section of Deer Creek Parkway (the “Street Section”) divides Fargo’s Deer Creek (north side) and Horace’s Deer Creek Estates Second Addition and Deer Creek Estates Third Addition (south side), which is depicted in **Exhibit A**; and

WHEREAS, the parties desire to define the rights and responsibilities for the shared use of storm sewer inlets and the maintenance, repair, and reconstruction obligations of the Street Section in writing under this MOU.

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

1. **Storm Sewer Inlets.** The Additions will utilize existing Fargo rear yard storm sewer inlets and proposed Horace rear yard storm sewer inlets as follows:

- a. Two (2) existing storm sewer inlets are located in the northwest corners of Lots 2 and 4, Block 1, Deer Creek Addition (Fargo). Storm water runoff from the rear yards of Lots 15 through 19, Block 1, Deer Creek Estates Addition (Horace) will be directed into these two existing storm sewer inlets.
- b. Five (5) proposed storm sewer inlets will be located in the northeast corners of Lots 3, 5, 9, 10, and 11 of Block 2, Deer Creek Estates Second Addition (Horace). Storm water runoff from the rear yards of Lots 28 through 33, Block 24, Deer Creek Addition (Fargo) will be directed into these five (5) proposed storm sewer inlets.

- c. The storm sewer Horace will install to service the rear yards of Lots 2 through 12, Block 2, Deer Creek Estates Second Addition (Horace) will be permitted to connect to Fargo's existing thirty inch (30") reinforced concrete pipe storm sewer installed under Fargo's Improvement District #UN-14-11.
- d. Only storm water runoff from the rear yards of the lots referenced in subparagraphs (a) and (b) above will be directed into the seven (7) storm sewer inlets and Fargo's storm sewer system. Runoff from Horace's street right-of-way will not be allowed to enter Fargo's storm sewer system.

2. Storm Sewer Infrastructure Maintenance, Repair, and Reconstruction. Fargo will be responsible to complete maintenance, repairs, and reconstruction to its respective storm sewer infrastructure, including bearing all costs associated with the maintenance, repairs, and reconstruction. Horace will be responsible to complete construction, maintenance, repairs, and reconstruction to its respective storm sewer infrastructure, including bearing all costs associated with the construction, maintenance, repair, and reconstruction. Horace's responsibilities include the manhole structure connecting to Fargo's existing thirty inch (30") storm sewer pipe.

3. Street Section Maintenance, Repair, and Reconstruction. Fargo originally constructed Deer Creek Parkway, including the Street Section, and classified it as a collector roadway. Maintenance, repairs, and reconstruction of the Street Section will be done as follows:

- a. Future maintenance, repairs, and reconstruction to the Street Section, including street lights, will be completed by Fargo to Fargo's design standards for a collector roadway. Fargo will request input from Horace before proceeding with any maintenance, repairs, and/or reconstruction project(s). Horace will have a reasonable period of time, not exceeding sixty (60) days, to provide its input on whether it desires to participate in the project, including input on project design and cost. If Horace does not provide input within sixty (60) days, Fargo may commence with the proposed project. If Fargo proceeds with a maintenance, repair, or reconstruction project without requesting input from Horace, Horace will not be responsible for any costs associated with the project.

Following project design approval by Horace, or Horace's failure to respond in a timely manner, Fargo will administer and construct the project, including bidding, awarding of contracts, and administration of contracts, in accordance with the project design approved by the parties. Future project costs associated with any maintenance, repairs, and/or reconstruction of the Street Section, done in accordance with this subsection, will be split equally between Fargo and Horace. Upon project completion, Fargo will invoice Horace. Horace will compensate Fargo for the invoice amount within sixty (60) days' receipt of the invoice. Any dispute of the invoice amount may be addressed in accordance with dispute resolution provided herein.

- b. Fargo is responsible for maintenance, repairs, and reconstruction of the sidewalks and shared use paths on the north side of the Street Section. Horace is responsible for the maintenance, repairs, and reconstruction of sidewalks and shared use paths on the south side of the Street Section.

- c. Snow removal and street sweeping will be completed by either party. The party which reaches its respective portion of Deer Creek Parkway first for snow removal or street sweeping will complete the work on the Street Section. Snow removal on sidewalks and shared use paths is not applicable to the Deer Creek Parkway so each party will be responsible for its respective sidewalk or shared use path.

4. Dispute Resolution.

- a. The parties will each designate a representative who will be that party's representative with respect to any matters relating to the repair, reconstruction, and/or maintenance obligations described herein, which may be in dispute or require agreement under the terms of this MOU. Such representative may be changed from time to time. The representatives will be responsible for resolving any dispute between the parties concerning this MOU.
- b. If the designated representatives cannot agree with respect to any matter requiring agreement or with respect to any dispute concerning this MOU, the parties will submit the matter to their respective governing body (or a committee established by the governing body) to resolve the dispute.

5. Cooperation. The parties will cooperate regarding any obligations to obtain necessary permits, licenses, registrations, and approvals from all applicable federal, state, and other applicable government entities regarding future maintenance, repair, or reconstruction projects on the Street Section. The parties will execute other reasonable documents and agreements as necessary to accomplish the objectives of this MOU. To the extent necessary, each party will grant to the other party any and all necessary easements to enable the other party to perform its obligations under the terms of this MOU.

6. Term. This MOU commences on the Effective Date and remains in effect until the parties mutually agree in writing to terminate this MOU.

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

8. Notice. Any notice or election required or permitted to be given or served by any party to this MOU upon any other will be deemed given or served in accordance with the provisions of this MOU if said notice or election is (a) delivered personally, or (b) mailed by

United States certified mail, return receipt requested, postage prepaid, and in any case properly addressed as follows:

If to Fargo: City of Fargo  
Attn: City Auditor  
Fargo City Hall  
225 Fourth Street North  
Fargo, ND 58102

If to Horace: City of Horace  
Attn: City Auditor  
215 Park Drive East  
Horace, ND 58047

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

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

10. Entire Agreement. This MOU constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties with respect to the matters contained herein. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions set forth herein, and that no modification of this MOU and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the parties.

11. Amendments. No amendment, modification, or waiver of any condition, provision or term will be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver.

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

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

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



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

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

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

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

19. Severability. In the event that any term, part, or provision of this MOU is held to be invalid or unenforceable, all other terms, parts, and provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable term, part, or provision severed from the remainder of this MOU.

20. Counterparts. This MOU may be executed in counterparts, meaning that this MOU is valid if signed by both parties even if the signatures of the parties appear on separate copies of the same MOU rather than on a single document.

21. Effective Date. This MOU becomes effective on the date of the last signature appearing below.

IN WITNESS WHEREOF, the parties have duly affixed their signatures on the dates written below.

(Signatures appear on the following pages.)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF FARGO, NORTH DAKOTA, a  
municipal corporation

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

ATTEST:

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF HORACE, NORTH DAKOTA, a  
municipal corporation

By: \_\_\_\_\_  
Jeff Trudeau, Mayor

ATTEST:

\_\_\_\_\_  
Brenton Holper, City Auditor

EXHIBIT A

DEER CREEK PARKWAY STREET MAP

# Deer Creek Parkway

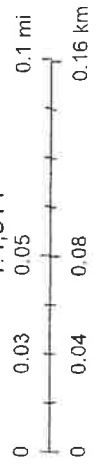


7/3/2024, 11:48:14 AM

Parcels

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Fargo, North Dakota, Maxar, Esri Community Maps Contributors, County of Cass, ND, State of North Dakota, © OpenStreetMap, Microsoft, Esri, City of Horace Utility Map  
IE and the City of Horace provide this data on an as is basis and are not liable for any damages resulting from using this information.

July 25, 2024

12

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

Re: Temporary Construction Easement  
Improvement District #BR-25-F1

Dear Commissioners:

Accompanying for City Commission review and approval is a Temporary Construction Easement with **Global Development, LLC** in association with Improvement District #BR-25-F1.

RECOMMENDED MOTION:

Approve Temporary Construction Easement with **Global Developmet LLC**.

Please return a copy of the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Kasey McNary

**EASEMENT**  
(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that **Global Development, L.L.C.**, a North Dakota limited liability company, 16 Broadway N, Suite 208, Fargo ND 58102, hereinafter referred to as “Grantor”, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, temporary construction easements under, over, upon and in the lands hereinafter described for the purpose of asphalt work and repairs, together with the customary appurtenances, said tracts being described as follows:

**A tract of land in an unplatted parcel described in Quitclaim Deed document 1177807 on file at the Cass County Recorder's Office in the Northeast Quarter of the Northwest Quarter of Section 7, Township 139 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, more particularly described as follows:**

**The northerly 5.00 feet of the westerly 40.00 feet of said unplatted parcel.**

**Said tract contains 200 square feet, more or less.**

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

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

Grantor, its successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with said parcels to be used for asphalt work and repairs and all other construction activities during the construction phase of said project, and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the parcels so as to interfere in any manner with the said parcels during the construction phase. Grantee, at its own expense, shall leave the premises in as good condition as they were prior to the time construction activities began.

This Easement shall terminate on October 31, 2025, or upon completion of the construction project, whichever occurs later.

[Signature pages to follow]



IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 23<sup>rd</sup> day of July, 2024.

**GRANTOR:**

Global Development, L.L.C.

Randy Thorson  
By:  
Its:

STATE OF NORTH DAKOTA        )  
                                                  )  
COUNTY OF CASS                    )

On this 23<sup>rd</sup> day of July, 2024, before me, a notary public, in said County and State, personally appeared Randy Thorson known to me to be the President of the limited liability company that is described herein, and that s/he executed the foregoing instrument, and acknowledged to me that s/he executed the same on behalf of said limited liability company.

(SEAL)



Vonnie Birmingham  
Notary Public  
My Commission Expires: 3/21/26

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

(SEAL)

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

The legal description was prepared by:

Brent W. Wacha (LS-5068)  
Professional Land Surveyor  
City of Fargo – Engineering Dept.  
225 4th Street North  
Fargo ND 58102  
(701) 476-6796

This document prepared by:

Kasey D. McNary (ND# 06590)  
Assistant City Attorney  
SERKLAND LAW FIRM  
10 Roberts Street North  
Fargo, ND 58102  
(701) 232-8957

July 24, 2024

13

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

**Re: Memorandum of Offer to Landowner  
Permanent Easements – Improvement District #PR-24-A1**

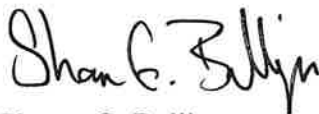
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Memorandum of Offer to Landowner document for the acquisition of a (2) permanent easements in association with Improvement District #PR-24-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 the purchase of (2) permanent easements from **JLB South, Inc.** in association with Improvement District #PR-24-A1 and that the Mayor is instructed to execute the Memorandum of Offer to Landowner & Easement documents on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Kasey McNary  
Jeremy Engquist

**MEMORANDUM OF OFFER TO LANDOWNER**

City of Fargo, Engineering Department

Project PR-24-A1	County Cass	Parcel(s) 01-8507-00100-000
Landowner JLB South, Inc.		
Mailing Address 16 Broadway N - Suite 208 Fargo, ND 58102		

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


See attached exhibit(s).

I, as right of way agent for the City of Fargo, Engineering Department, am hereby authorized to offer the following amount of \$ 30,792.41 as full compensation for the fee and/or temporary taking of the foresaid parcels and all damages incidental thereto. The offer set forth has been established through one of the following, Basic Data Book, Certified Appraisal, City of Fargo Minimum Payment Policy. A breakdown of this offer is as follows:

Land	\$	_____	
Easement and Access Control	\$	<u>30,792.41</u>	
Improvements on Right of Way*	\$	_____	
Damages to Remainder	\$	_____	
<b>Total Offer</b>			<b>\$ <u>30,792.41</u></b>

\*Description of Damages to Remainder are as follows:

\_\_\_\_\_

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

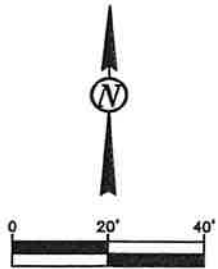
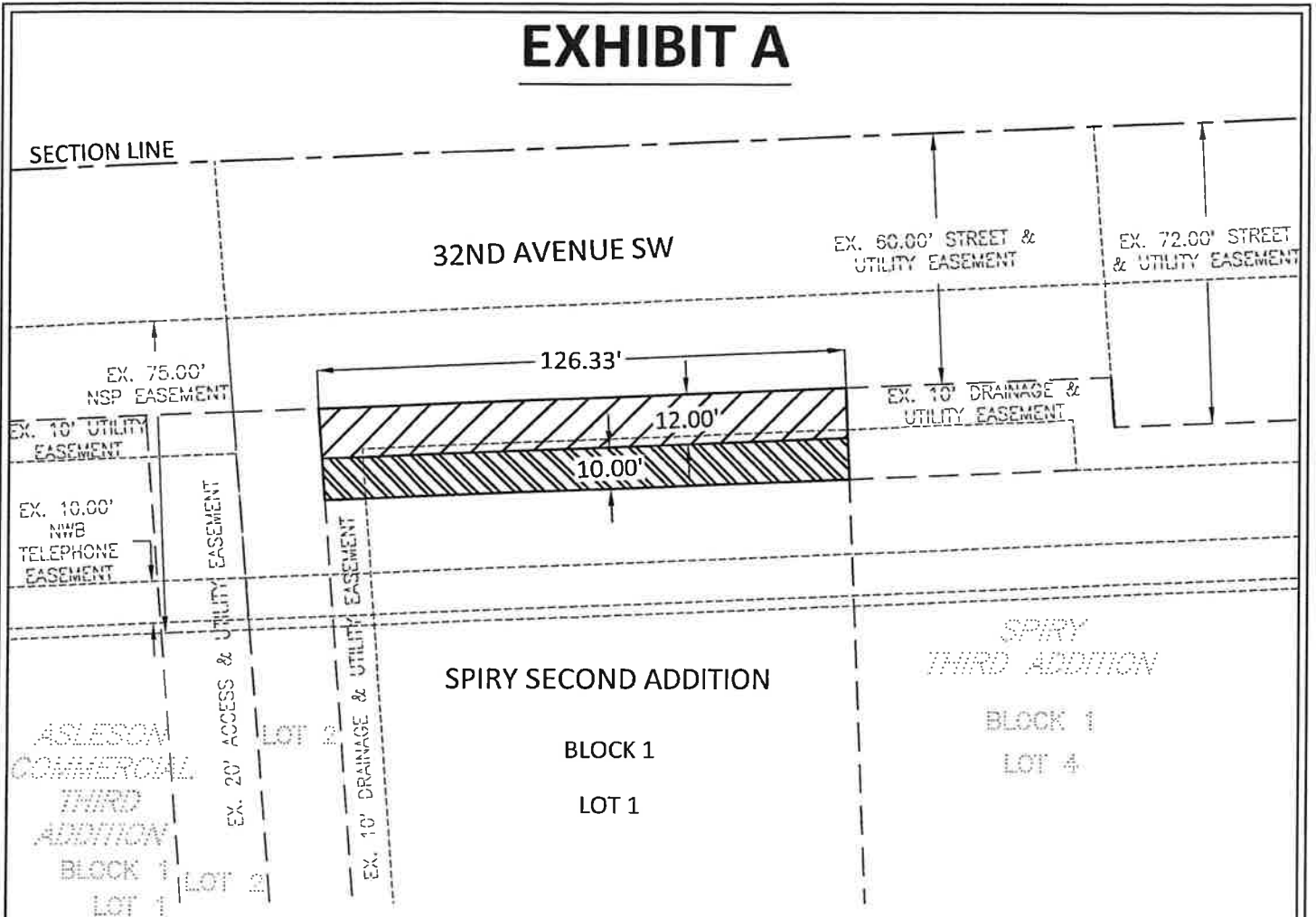
  
Shawn G. Bullinger  
Land Acquisition Specialist, City of Fargo

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



Timothy J. Mahoney  
MAYOR  
\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
DATE

# EXHIBIT A



BEARINGS BASED ON  
CITY OF FARGO GROUND COORDINATE  
SYSTEM, DECEMBER 1992

### LEGEND

- STREET & UTILITY EASEMENT
- UTILITY EASEMENT
- EXISTING LOT LINE
- RIGHT OF WAY
- EXISTING EASEMENT
- SECTION LINE



ENGINEERING DEPT.

## PERMANENT EASEMENT

LOT 1, BLOCK 1, SPIRY SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DRAWN BY: JWZ

APPROVED BY: BWB

DATE: MARCH 25, 2024

SHEET 1 OF 2

# EXHIBIT A

Street & Utility Easement Description:

A tract of land in Lot 1, Block 1 of Spiry Second Addition on file as document 1391128 at the Cass County Recorder's Office, City of Fargo, Cass County, North Dakota described as follows:

The northerly 12.00 feet of said Lot 1.

Said tract contains 1,514 square feet, more or less.

Utility Easement Description:

A tract of land in Lot 1, Block 1 of Spiry Second Addition on file as document 1391128 at the Cass County Recorder's Office, City of Fargo, Cass County, North Dakota described as follows:

The southerly 10.00 feet of the northerly 22.00 feet of said Lot 1.

Said strip contains 1,257 square feet, more or less.



ENGINEERING DEPT.

## PERMANENT EASEMENT

LOT1, BLOCK 1, SPIRY SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DRAWN BY: JWZ

APPROVED BY: BWW

DATE: MARCH 25, 2024

SHEET 2 OF 2

**PERMANENT EASEMENT**  
(Street and Utility)

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

A tract of land in Lot 1, Block 1 of Spiry Second Addition on file as document 1391128 at the Cass County Recorder’s Office, City of Fargo, Cass County, North Dakota described as follows:

The northerly 12.00 feet of said Lot 1.

Said tract contains 1,514 square feet, more or less.

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

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

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

[Signature pages to follow]



IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 23<sup>rd</sup> day of July, 2024.

**GRANTOR:**

JLB South, Inc.

Lance Thorson

By: Lance Thorson

Its: President

STATE OF North Dakota

COUNTY OF Cass

On this 23<sup>rd</sup> day of July, 2024, before me, a notary public in and for said county and state, personally appeared Lance Thorson to me known to be the President of **JLB South, Inc.**, and executed the within and foregoing instrument, and acknowledged the same.

(SEAL)



Vonnie Birmingham  
Notary Public  
My Commission Expires: 3/21/26

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

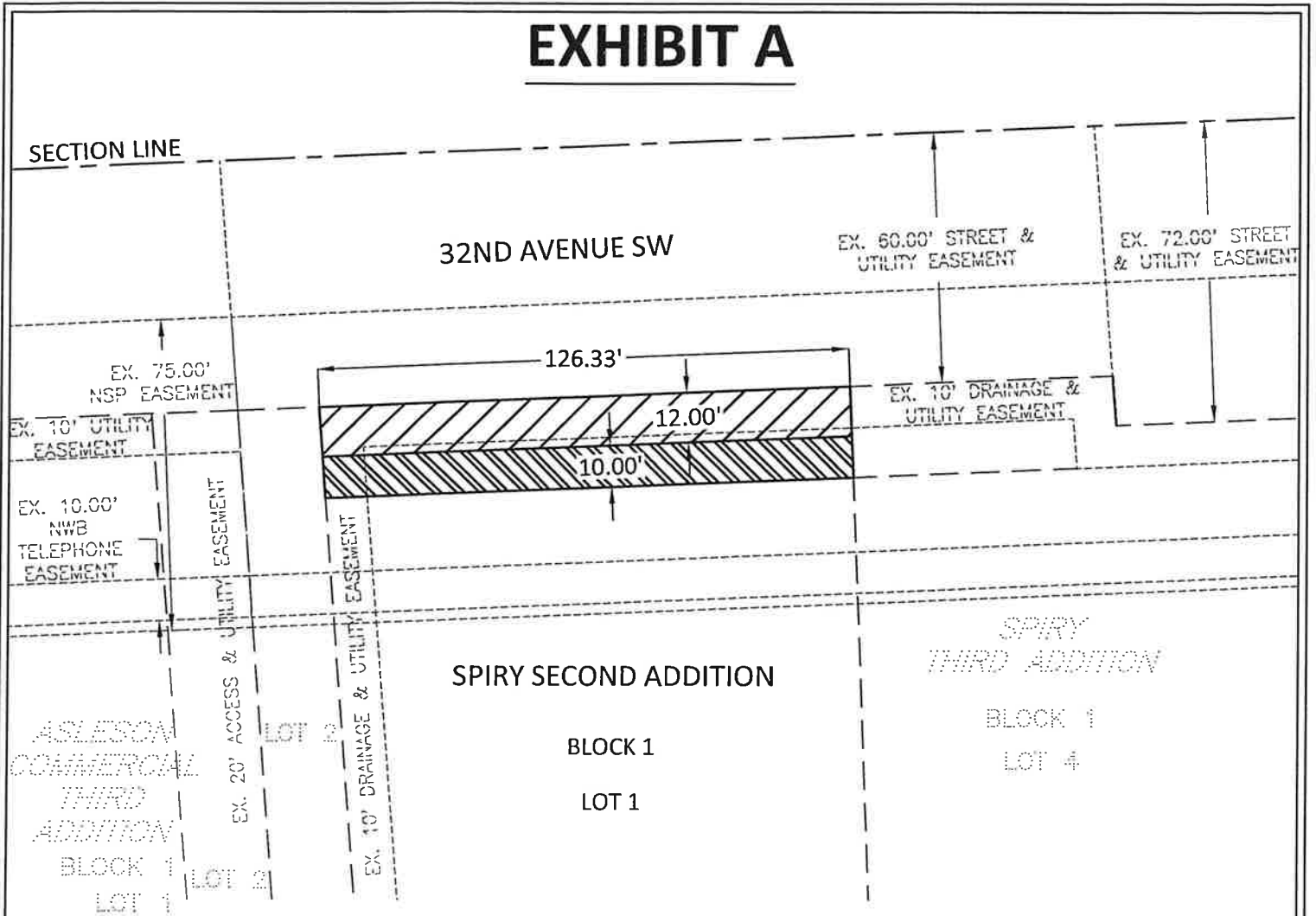
(SEAL)

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

The legal description was prepared by:  
Brent W. Wacha (LS-5068)  
Professional Land Surveyor  
City of Fargo – Engineering  
225 4th Street North  
Fargo ND 58102  
(701) 476-6638

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

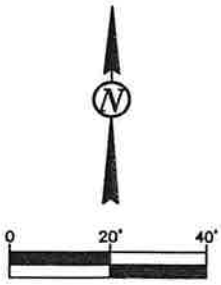
# EXHIBIT A



ASLESON  
COMMERCIAL  
THIRD  
ADDITION  
BLOCK 1  
LOT 1

SPIRY SECOND ADDITION  
BLOCK 1  
LOT 1

SPIRY  
THIRD ADDITION  
BLOCK 1  
LOT 4



BEARINGS BASED ON  
CITY OF FARGO GROUND COORDINATE  
SYSTEM, DECEMBER 1992

- LEGEND**
- STREET & UTILITY EASEMENT
  - UTILITY EASEMENT
  - EXISTING LOT LINE
  - RIGHT OF WAY
  - EXISTING EASEMENT
  - SECTION LINE



## PERMANENT EASEMENT

LOT 1, BLOCK 1, SPIRY SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

ENGINEERING DEPT.	DRAWN BY: JWZ	APPROVED BY: BWW	DATE: MARCH 25, 2024	SHEET 1 OF 2
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# EXHIBIT A

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The southerly 10.00 feet of the northerly 22.00 feet of said Lot 1.

Said strip contains 1,257 square feet, more or less.



## PERMANENT EASEMENT

LOT1, BLOCK 1, SPIRY SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA



ENGINEERING DEPT.

DRAWN BY: JWZ

APPROVED BY: BWW

DATE: MARCH 25, 2024

SHEET 2 OF 2

**PERMANENT EASEMENT**  
(Utility)

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

A tract of land in Lot 1, Block 1 of Spiry Second Addition on file as document 1391128 at the Cass County Recorder's Office, City of Fargo, Cass County, North Dakota described as follows:

The southerly 10.00 feet of the northerly 22.00 feet of said Lot 1.

Said strip contains 1,257 square feet, more or less.

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

The easement area granted by Grantor to Grantee contains an existing sign, and the parties hereby agree the sign will remain within the easement area. Grantor shall be solely responsible for and bear all of the costs and expenses of all maintenance, upkeep, replacement, and repairs to the sign and all components of the sign and necessary insurance. Grantor shall be responsible for the repair and replacement of any portion of public property, including the street, sidewalk, and public utilities, which may be damaged or destroyed as a direct result of Grantor's use, operation, and maintenance of the sign whether occurring within or outside the easement area. To the extent it becomes necessary in the future to have the sign relocated to a location outside the easement area, then Grantee will be responsible for all costs to remove and/or relocate the sign to Grantor's private property, but only so long as the request to relocate the sign is made by Grantee. Grantee shall also then be responsible for restoring the easement area to a vegetated surface upon completion of the relocation of the sign.

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 public utilities 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 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 public utilities and customary appurtenances was begun.

[Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set his hand and caused this instrument to be executed this 22<sup>nd</sup> day of July, 2024.

**GRANTOR:**

JLB South, Inc.

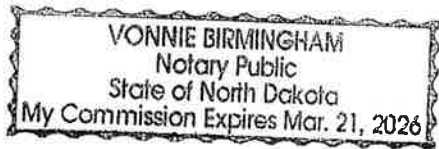
Lance Thorson

By: Lance Thorson  
Its: President

STATE OF North Dakota )  
COUNTY OF Cass )

On this 22<sup>nd</sup> day of July, 2024, before me, a notary public in and for said county and state, personally appeared Lance Thorson to me known to be the President of **JLB South, Inc.**, and executed the within and foregoing instrument, and acknowledged the same.

(SEAL)



Vonnie Birmingham  
Notary Public  
My Commission Expires: 3/21/26



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

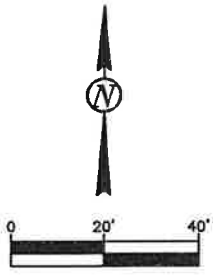
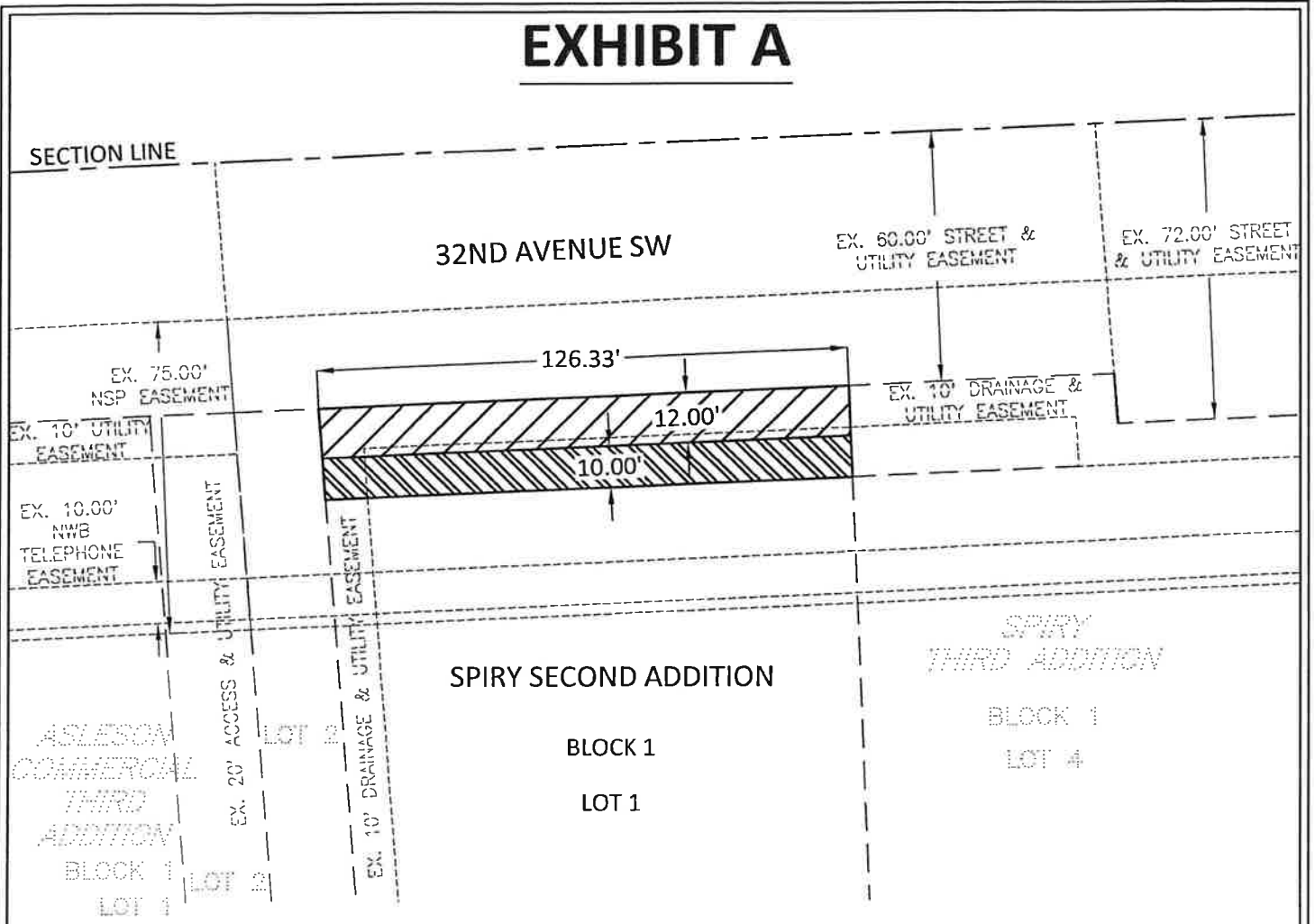
(SEAL)

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

The legal description was prepared by:  
Brent W. Wacha (LS-5068)  
Professional Land Surveyor  
City of Fargo – Engineering  
225 4th Street North  
Fargo ND 58102  
(701) 476-6638

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

# EXHIBIT A



BEARINGS BASED ON  
CITY OF FARGO GROUND COORDINATE  
SYSTEM, DECEMBER 1992

**LEGEND**

- STREET & UTILITY EASEMENT
- UTILITY EASEMENT
- EXISTING LOT LINE
- RIGHT OF WAY
- EXISTING EASEMENT
- SECTION LINE



**PERMANENT EASEMENT**

**LOT 1, BLOCK 1, SPIRY SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**

DRAWN BY: JWZ	APPROVED BY: BWV	DATE: MARCH 25, 2024	SHEET 1 OF 2
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ENGINEERING DEPT.

## PERMANENT EASEMENT

LOT1, BLOCK 1, SPIRY SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DRAWN BY: JWZ

APPROVED BY: BWB

DATE: MARCH 25, 2024

SHEET 2 OF 2

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. NR-23-A2 Type: Change Order #4 & Time Extension

Location: Storm Sewer Lift Stations # 47 & #48 on 38th St S at Drain 27 Date of Hearing: 7/29/2024

15

Routing Date
City Commission 8/5/2024
PWPEC File X
Project File Christine Goldader

The Committee reviewed the accompanying correspondence from Project Manager, Christine Goldader, regarding Change Order #4 in the amount of \$20,800.00 for additional work, along with time extensions to the Interim Completion Date 3 bringing it to 8/17/2024 and Interim Completion Date 4 bringing it to 9/23/2024 due to weather events.

Staff is recommending approval of Change Order #4 in the amount of \$20,800.00, bringing the total contract amount to \$9,740,293.50 and the time extensions as described above

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Change Order #4 in the amount of \$20,800.00 and the time extensions to the Interim Completion Date 3 and Interim Completion Date 4 to Key Contracting.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve Change Order #4 in the amount of \$20,800.00, bringing the total contract amount to \$9,740,293.50 and the time extensions to the Interim Completion Date 3 bringing it to 8/17/2024 and Interim Completion Date 4 bringing it to 9/23/2024 to Key Contracting.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Sales Tax

Table with 2 columns: Question, Yes/No. Rows include 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).

COMMITTEE

Table with 4 columns: Name, Present, Yes, No, Unanimous. Lists committee members and their voting status.

ATTEST:

Signature of Tom Knakmuhs, P.E. City Engineer

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC  
**From:** Christine Goldader, Project Manager  
**Date:** June 29, 2024  
**Re:** Project No. NR-23-A2 – Change Order #4

---

**Background:**

Key Contracting Inc. is the Prime Contractor for Project No. NR-23-A2, reconstruction of storm sewer lift stations #47 and #48 at 38<sup>th</sup> Street South and Cass County Drain 27.

The attached Change Order in the amount of \$20,800 (0.2% of the original contract), which increases the total contract amount to \$9,740,293.50, is for additional work as shown on Change Order #4.

This is a change order request to extend an existing handhole in a new levee. The existing handhole is located east of new LS47 across 38th Street South. The existing handhole must be extended 5 feet upwards. The handhole extensions will be secured to the existing handhole structure using four 1-foot stainless straps. The top of the handhole extension will be encased in concrete, 6" thick, 1' around the perimeter of the extension, reinforced with #4 rebar.

Traffic Control Phase 3 started on 6/4/2024 with a maximum duration of 60 days (8/3/2024 completion). Traffic Control Phase 4 has a maximum duration of 21 days, however, the combined duration of Phase 3 and Phase 4 cannot exceed 75 days. The result of the 75-day maximum is that the de facto duration of Phase 4 is 15 days. Specifically, Key requests a 14-day extension of Phase 3 (to 8/17/2024) and a 14-day extension of Phase 4 (9/9/2024 to 9/23/2024). This request is reasonable given the 11 significant rain events Fargo has experienced since 6/1/2024, which has inundated the trench that is needed for the majority of this work.

**Recommended Motion:**

Approve Change Order #4 in the amount of \$20,800 to Key Contracting Inc.

Extend Interim Completion Date 3 from 8/3/2024 to 8/17/2024.

Extend Interim Completion Date 4 from 9/9/2024 to 9/23/2024.

CAG/jmg  
Attachment



**CHANGE ORDER REPORT**

**DRAIN #27 LIFT STATION #47 & #48 - GENERAL**

**PROJECT NO. NR-23-A2**

**STORM SEWER LIFT STATIONS #47 & #48 ON 38TH STREET SOUTH AT CASS COUNTY DRAIN 27.**

**Change Order No** 4      **Change Order Date** 7/22/2024  
**Contractor** Key Contracting Inc

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

**EXPLANATION OF CHANGE**      Change Order # 4

Section	Line No	Item Description	Unit	Orig Cont		Prev C/O		Prev Cont		Curr C/O		Tot Cont		Unit Price (\$)	C/O Ext Price (\$)
				Qty	0	Qty	0	Qty	0	Qty	1	Qty	1		
Change Order 4	13	Special Bid Item A	LS	0		0		0		1		1		\$20,800.00	\$20,800.00
													<b>Change Order 4 Sub Total</b>	<b>\$20,800.00</b>	

**Summary.**

Source Of Funding	Infrastructure Sales Tax Fund 460
Net Amount Change Order # 4 (\$)	\$20,800.00
Previous Change Orders (\$)	\$45,886.00
Original Contract Amount (\$)	\$9,673,607.50
Total Contract Amount (\$)	\$9,740,293.50

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

**CONTRACT DATES**

<b>Current Substantial Completion Date</b>	<b>Current Final Completion Date</b>
10/3/2024	11/5/2024
<b>Additional Days Substantial Completion</b>	<b>Additional Days Final Completion</b>
0	0
<b>New Substantial Completion Date</b>	<b>New Final Completion Date</b>
10/3/2024	11/5/2024

**Interim Completion Dates**

APPROVED  
For Contractor  
Title

*thomas martin*  
President

APPROVED DATE  
Department Head  
Mayor  
Attest



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. UR-24-H1

Type: Change Order #1

Location: Citywide

Date of Hearing: 7/29/2024

16

<u>Routing</u>	<u>Date</u>
City Commission	8/5/2024
PWPEC File	X
Project File	Rick Larson

The Committee reviewed the accompanying correspondence from Project Manager, Rick Larson, related to Change Order #1 in the amount of \$4,085.00 for additional work.

Staff is recommending approval of Change Order #1 in the amount of \$4,085.00, bringing the total contract amount to \$48,585.00.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Change Order #1 to Key Contracting.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #1 in the amount of \$4,085.00, bringing the total contract amount to \$48,585.00 to Key Contracting.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Utility Funds

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

COMMITTEE

	<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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, Assistant City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tom Knakmuhs, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Susan Thompson, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

T. Knakmuhs  
Tom Knakmuhs, P.E.  
City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Rick Larson, Project Manager  
**Date:** July 19, 2024  
**Re:** Project No. UR-24-H1 – Change Order #1

---

## **Background:**

Key Contracting is the Prime Contractor for Project No. UR-24-H1, a citywide project for the replacement of multiple sanitary sewer manhole inverts that have deteriorated over time.

## **Change Order #1:**

- 1.) Due to a sinkhole that formed next to the sanitary sewer manhole in front of Cash Wise Foods at 1401 33<sup>rd</sup> Street South., the Contractor was directed to make repairs to this manhole. Soon after repairs were started, it was discovered that the manhole would need to be replaced and that the City would need to seek multiple quotes for this work. Key is asking to be reimbursed for their time and materials for the attempted repair of this sanitary sewer manhole. The total contract price adjustment for this work is \$1,085.00, the Contractor is not requesting any additional time for this work.
- 2.) Due to a large amount of ground water entering the sanitary sewer manhole at University Drive and 2<sup>nd</sup> Avenue South (Site #6), the Contractor was directed to inject the cracks from the inside of this manhole with hydrophobic resin to stop any leaks. The total contract price adjustment for this work is \$3,000.00, the Contractor is not requesting any additional time for this work.

## **Recommended Motion:**

Approve Change Order #1 in the amount of \$4,085.00 with no adjustments to completion dates.

RJL/jmg  
Attachment

**Key Contracting, Inc.**  
 245 7th Avenue NE  
 West Fargo, North Dakota 58078  
 Phone: (701) 238-8192  
 Fax: (701) 356-0166  
 Internet: keycontracting.com



## CHANGE ORDER REQUEST

Request: 1  
 Date: 7/9/2024  
 Project: UR-24-H1

Project Location: Fargo, ND  
 Request for: Extra Labor and Injection

Narrative: This is a two part request. First, we request compensation for evaluation and attempted repair of the Cashwise sinkhole. That repair was not able to be completed due to the discovery of negative flow. Second, the manhole on South University Drive was injected with hydrophobic resin to stop leaks and the cost was agreed prior to the injection.

The contract is changed as follows:

Item Number	Description	Quantity	Rate	Total
1	Labor Hours	9.5	\$ 70.00	\$ 665.00
1	Supervisor, Tool Trailer and Vehicle	3	\$ 140.00	\$ 420.00
2	Injection for SUD Manhole	1	\$ 3,000.00	\$ 3,000.00
				\$ -

**Total Requested Change** \$ 4,085.00

The contract is hereby amended as follows:

Original Contract Price	\$ 44,500.00
Previous Contract Adjustments	\$ -
Current Change Order Adjustment	\$ 4,085.00
<b>Amended Contract Total</b>	<b>\$ 48,585.00</b>

Substantial Completion	Unchanged
Final Completion	Unchanged

Accepted on the date noted above by:

Key Contracting, Inc

Engineer:

Owner:



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

**Change Order No** 1      **Change Order Date** 7/11/2024  
**Contractor** Key Contracting Inc

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

**EXPLANATION OF CHANGE**      Change Order # 1

Change Order #1:

- 1.) Due to a sinkhole that formed next to the sanitary sewer manhole in front of Cash Wise Foods at 1401 33rd St S., the Contractor was directed to make repairs to this manhole. Soon after repairs were started, it was discovered that the manhole would need to be replaced and that the City would need to seek multiple quotes for this work. Key is asking to be reimbursed for their time and materials for the attempted repair of this sanitary sewer manhole. The total contract price adjustment for this work is \$1,085.00, the Contractor is not requesting any additional time for this work.
- 2.) Due to a large amount of ground water entering the sanitary sewer manhole at University Drive and 2nd Avenue South (Site #6), the Contractor was directed to inject the cracks from the inside of this manhole with hydrophobic resin to stop any leaks. The total contract price adjustment for this work is \$3,000.00, the Contractor is not requesting any additional time for this work.

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	3	Repair Manhole Bottom	EA	0	0	0	1	1	\$1,085.00	\$1,085.00
	4	Repair Manhole Leak	EA	0	0	0	1	1	\$3,000.00	\$3,000.00
<b>Change Order 1 Sub Total</b>										<b>\$4,085.00</b>

Summary.

Source Of Funding

Net Amount Change Order # 1 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Sanitary Sewer Utility Funds

\$4,085.00

\$0.00

\$44,500.00

\$48,585.00

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

APPROVED

For Contractor

Title

*Thomas Martin*

President

APPROVED DATE

Department Head

Mayor

Attest



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. ER-24-A1 Type: Final Balancing Change Order #1

Location: 1398 Block of 30th Avenue South Date of Hearing: 7/29/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/5/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Rick Larson</u>

17

The Committee reviewed the accompanying correspondence from Project Manager, Rick Larson, regarding Final Balancing Change Order #1 in the amount of \$0.00, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Final Balancing Change Order #1 in the amount of \$0.00, bringing the total contract amount to \$58,600.00.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Final Balancing Change Order #1 to Master Construction.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve Final Balancing Change Order #1 in the amount of \$0.00, bringing the total contract amount to \$58,600.00 to Master Construction.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: WW Utility Funds


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

COMMITTEE

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

ATTEST:

C: Kristi Olson

  
 Tom Knakmuhs, P.E.  
 City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Rick Larson, Project Manager  
**Date:** July 19, 2024  
**Re:** Project No. ER-24-A1 – Final Balancing Change Order #1

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**Background:**

The attached Final Balancing Change Order #1 in the amount of \$0.00 reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

The original contract bid price for this project was \$58,600.00 and the project final amount is \$58,600.00 (no increase). This Project is funded by Waste Water Utility Funds.

**Recommended Motion:**

Approve the Final Balancing Change Order #1 in the amount of \$0.00 to Master Construction.

RJL/klb  
Attachment



**CHANGE ORDER REPORT**  
**PAVING AND UTILITY REHAB/RECONSTRUCTION**  
**PROJECT NO. ER-24-A1**  
**1398 BLOCK OF 30TH AVE. S.**

Final Balancing  
Change Order

**Change Order No**      1                              **Change Order Date**      7/19/2024  
**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  
 Final Balancing Change Order

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



Summary.

Source Of Funding

Net Amount Change Order # 1 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

Waste Water Utility Funds

\$0.00

\$0.00

\$58,600.00


\$58,600.00

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

APPROVED

For Contractor

Title

  
Luke Anthony  
Controller

APPROVED DATE

Department Head

Mayor

Attest



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. ER-24-B1

Type: Final Balancing Change Order #1

Location: 1401 33rd Street South

Date of Hearing: 7/29/2024

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/5/2024</u>
PWPEC File	<u>X</u>
Project File	<u>Rick Larson</u>

18

The Committee reviewed the accompanying correspondence from Project Manager, Rick Larson, regarding Final Balancing Change Order #1 in the amount of \$0.00, which reconciles the measured quantities used in the field with those estimated for the contract.

Staff is recommending approval of Final Balancing Change Order #1 in the amount of \$0.00, bringing the total contract amount to \$27,150.00.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Final Balancing Change Order #1 to Dirt Dynamics.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve Final Balancing Change Order #1 in the amount of \$0.00, bringing the total contract amount to \$27,150.00 to Dirt Dynamics.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: WW Utility 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>
				<u>  <input checked="" type="checkbox"/>  </u>
Tim Mahoney, Mayor	<u><input type="checkbox"/></u>	<u><input type="checkbox"/></u>	<u><input type="checkbox"/></u>	
Nicole Crutchfield, Director of Planning	<u><input type="checkbox"/></u>	<u><input type="checkbox"/></u>	<u><input type="checkbox"/></u>	
Steve Dirksen, Fire Chief	<u><input checked="" type="checkbox"/></u>	<u><input checked="" type="checkbox"/></u>	<u><input type="checkbox"/></u>	
Brenda Derrig, Assistant City Administrator	<u><input checked="" type="checkbox"/></u>	<u><input checked="" type="checkbox"/></u>	<u><input type="checkbox"/></u>	
Ben Dow, Director of Operations	<u><input checked="" type="checkbox"/></u>	<u><input checked="" type="checkbox"/></u>	<u><input type="checkbox"/></u>	
Steve Sprague, City Auditor	<u><input type="checkbox"/></u>	<u><input type="checkbox"/></u>	<u><input type="checkbox"/></u>	
Tom Knakmuhs, City Engineer	<u><input checked="" type="checkbox"/></u>	<u><input checked="" type="checkbox"/></u>	<u><input type="checkbox"/></u>	
Susan Thompson, Finance Director	<u><input checked="" type="checkbox"/></u>	<u><input checked="" type="checkbox"/></u>	<u><input type="checkbox"/></u>	

ATTEST:

C: Kristi Olson

T. Knakmuhs  
Tom Knakmuhs, P.E.  
City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Rick Larson, Project Manager  
**Date:** July 25, 2024  
**Re:** Project No. ER-24-B1 – Final Balancing Change Order #1

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**Background:**

The attached Final Balancing Change Order #1 in the amount of \$0.00 reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

The original contract bid price for this project was \$27,150.00 and the project final amount is \$27,150.00 (No Increase). This Project is funded by Waste Water Utility Funds.

**Recommended Motion:**

Approve the Final Balancing Change Order #1 in the amount of \$0.00 to Dirt Dynamics.

RJL/jmg  
Attachment



**CHANGE ORDER REPORT**  
**SANITARY SEWER REPAIR & INCIDENTALS**  
**PROJECT NO. ER-24-B1**  
**1401 33RD ST S**

Final Balancing  
Change Order

**Change Order No** 1      **Change Order Date** 7/25/2024  
**Contractor** Dirt Dynamics

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

**EXPLANATION OF CHANGE**      Change Order # 1  
Final Balancing Change Order

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

**Summary**

**Source Of Funding**

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

**Previous Change Orders (\$)**

**Original Contract Amount (\$)**

**Total Contract Amount (\$)**

Waste Water Utility Funds

\$0.00

\$0.00

\$27,150.00

\$27,150.00

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

APPROVED

For Contractor

Title

*Wak* 7-25-24  
*Estimator*

APPROVED DATE

Department Head

Mayor

Attest

*T-Rice*



**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)

July 31, 2024

19

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Project No. DR-21-A1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, July 31, 2024, for Drain Rehab/Reconstruction, Project No. DR-21-A1, located as follows: 64th Avenue east of University.

The bids were as follows:

Industrial Builders Inc	\$169,060.00
Meyer Contracting, Inc.	\$247,968.40
Engineers Estimate	\$143,800.00

Private financial security is not needed.

No protests have been received.

This office recommends award of the contract to Industrial Builders Inc. in the amount of \$169,060.00 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE  
City Engineer



**Engineer's Statement Of Cost**

**Project # DR-21-A1**

**Drain Rehab/Reconstruction**

64th Avenue east of University

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 City Engineer for the City of Fargo, North Dakota;

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

Drain Rehab/Reconstruction Project # DR-21-A1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
<b>Miscellaneous</b>					
1	Mobilization	LS	1.00	37,000.00	37,000.00
2	Clear & Grub	LS	1.00	25,000.00	25,000.00
3	Topsoil - Strip & Spread	CY	1,400.00	12.00	16,800.00
4	Excavate & Haul - Excess Material	CY	780.00	12.00	9,360.00
5	Site Grading	LS	1.00	15,000.00	15,000.00
6	Traffic Control - Type 1	LS	1.00	2,000.00	2,000.00
<b>Miscellaneous Total</b>					<b>105,160.00</b>
<b>Erosion Control</b>					
7	F&I Rip Rap Precast Conc	SY	100.00	500.00	50,000.00
8	Seeding Type A	SY	8,000.00	0.60	4,800.00
9	Mulching Type 1 Hydro	SY	8,000.00	0.60	4,800.00
10	Sediment Control Log 16" to 20" Dia	LF	180.00	10.00	1,800.00
11	Temp Construction Entrance	EA	1.00	2,500.00	2,500.00
<b>Erosion Control Total</b>					<b>63,900.00</b>
<b>Total Construction in \$</b>					<b>169,060.00</b>

Engineering	10.00%	16,906.00
Admin	4.00%	6,762.40
Legal	3.00%	5,071.80
Interest	4.00%	6,762.40
Contingency	5.00%	8,453.00
<b>Total Estimated Costs</b>		<b>213,015.60</b>
Utility Funds - Stormwater - 524		213,015.60
<b>Unfunded Costs</b>		<b>0.00</b>

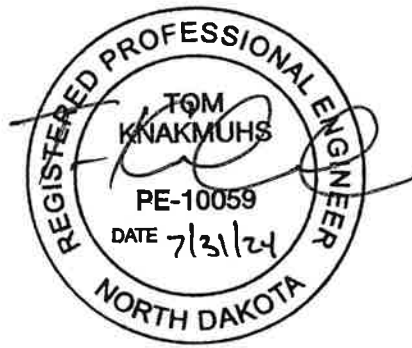
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 07/31/2024



Thomas Knakmuhs

City Engineer







**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)

July 31, 2024

20

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Project No. UR-24-A1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, July 31, 2024, for Utility Rehab/Reconstruction, Project No. UR-24-A1, located as follows: Various Sites City Wide.

The bids were as follows:

Key Contracting Inc	\$393,470.00
Dirt Dynamics	\$429,055.00
Master Construction Co Inc	\$453,415.00
Engineers Estimate	\$443,090.00

Private financial security is not needed.

No protests have been received.

This office recommends award of the contract to Key Contracting Inc. in the amount of \$393,470.00 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE  
City Engineer



**Engineer's Statement Of Cost**  
**Project # UR-24-A1**  
**Utility Rehab/Reconstruction**

Various Sites City Wide

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 City Engineer for the City of Fargo, North Dakota;

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

Utility Rehab/Reconstruction Project # UR-24-A1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
<b>Site 1 4861 47 Ave S</b>					
1	Mobilization	LS	1.00	2,000.00	2,000.00
2	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
3	Excavation	CY	15.00	10.00	150.00
4	Fill - Import	CY	15.00	10.00	150.00
5	Repair Manhole	EA	1.00	7,500.00	7,500.00
6	Rem & Repl Sidewalk 5" Thick Reinf Conc	SY	10.00	150.00	1,500.00
7	Casting to Grade - w/Conc	EA	1.00	1,500.00	1,500.00
8	Seeding Type B	SY	15.00	10.00	150.00
9	Mulching Type 1 Hydro	SY	15.00	10.00	150.00
10	Traffic Control - Type 1	LS	1.00	550.00	550.00
Site 1 4861 47 Ave S Total					<b>14,650.00</b>
<b>Site 2 LS 53 25 St N &amp; 52 Ave N</b>					
11	Mobilization	LS	1.00	5,000.00	5,000.00
12	F&I Trash Guard	EA	1.00	10,000.00	10,000.00
Site 2 LS 53 25 St N & 52 Ave N Total					<b>15,000.00</b>
<b>Site 3 Drain 27 &amp; 52 Ave S</b>					
13	Mobilization	LS	1.00	7,000.00	7,000.00
14	Topsoil - Strip & Spread	LS	1.00	2,000.00	2,000.00
15	Rem & Repl Sidewalk 5" Thick Reinf Conc	SY	25.00	200.00	5,000.00
16	Remove Pipe All Sizes All Types	LF	40.00	200.00	8,000.00
17	Seeding Type B	SY	100.00	10.00	1,000.00
18	Mulching Type 1 Hydro	SY	100.00	10.00	1,000.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
19	Sediment Control Log 6" to 8" Dia	LF	30.00	6.00	180.00
20	Traffic Control - Type 1	LS	1.00	1,900.00	1,900.00
Site 3 Drain 27 & 52 Ave S Total					<b>26,080.00</b>
<b>Site 4 LS 21 1810 12 Ave N-Drain 10</b>					
21	Mobilization	LS	1.00	10,000.00	10,000.00
22	Topsoil - Strip & Spread	LS	1.00	500.00	500.00
23	Excavate & Haul - Excess Material	CY	20.00	10.00	200.00
24	Topsoil - Import	CY	15.00	10.00	150.00
25	F&I Controlled Density Fill	CY	15.00	300.00	4,500.00
26	Seeding Type B	SY	50.00	10.00	500.00
27	Mulching Type 1 Hydro	SY	50.00	10.00	500.00
Site 4 LS 21 1810 12 Ave N-Drain 10 Total					<b>16,350.00</b>
<b>Site 5 45 St N Just So. of 16 Ave N West side</b>					
28	Mobilization	LS	1.00	5,000.00	5,000.00
29	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
30	Fill - Import	CY	15.00	10.00	150.00
31	Rem & Repl Sidewalk 5" Thick Reinf Conc	SY	10.00	150.00	1,500.00
32	Repair Inlet	EA	1.00	5,000.00	5,000.00
33	Casting to Grade - no Conc	EA	1.00	1,500.00	1,500.00
34	F&I Flap Gate 24" Dia Stainless Steel	EA	1.00	12,000.00	12,000.00
35	Seeding Type B	SY	10.00	10.00	100.00
36	Mulching Type 1 Hydro	SY	10.00	10.00	100.00
37	Traffic Control - Type 1	LS	1.00	1,100.00	1,100.00
Site 5 45 St N Just So. of 16 Ave N West side Total					<b>27,450.00</b>
<b>Site 6 37 Ave So. 38 St S</b>					
38	Mobilization	LS	1.00	5,000.00	5,000.00
39	Topsoil - Strip & Spread	LS	1.00	2,000.00	2,000.00
40	F&I Repair Band 42" thru 54" Dia	EA	1.00	10,000.00	10,000.00
41	Fill - Import	CY	15.00	10.00	150.00
42	Repair Manhole	EA	1.00	7,500.00	7,500.00
43	Casting to Grade - no Conc	EA	1.00	1,500.00	1,500.00
44	Seeding Type B	SY	100.00	10.00	1,000.00
45	Mulching Type 1 Hydro	SY	100.00	10.00	1,000.00
46	Traffic Control - Type 1	LS	1.00	500.00	500.00
Site 6 37 Ave So. 38 St S Total					<b>28,650.00</b>

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
<b>Site 7 3305 39 Ave S</b>					
47	Mobilization	LS	1.00	5,000.00	5,000.00
48	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
49	Excavation	CY	10.00	10.00	100.00
50	F&I Controlled Density Fill	CY	16.00	300.00	4,800.00
51	Seeding Type B	SY	10.00	10.00	100.00
52	Mulching Type 1 Hydro	SY	10.00	10.00	100.00
Site 7 3305 39 Ave S Total					<b>11,100.00</b>
<b>Site 8 3310 38 Ave S</b>					
53	Mobilization	LS	1.00	7,000.00	7,000.00
54	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
55	F&I Repair Band 14" thru 24" Dia	EA	1.00	6,000.00	6,000.00
56	Fill - Import	CY	10.00	10.00	100.00
57	Seeding Type B	SY	15.00	10.00	150.00
58	Mulching Type 1 Hydro	SY	15.00	10.00	150.00
Site 8 3310 38 Ave S Total					<b>14,400.00</b>
<b>Site 9 64 Ave So. East of University Dr</b>					
59	Mobilization	LS	1.00	3,000.00	3,000.00
60	F&I Flap Gate 24" Dia Stainless Steel	EA	1.00	12,000.00	12,000.00
61	Seeding Type B	SY	10.00	10.00	100.00
62	Mulching Type 1 Hydro	SY	10.00	10.00	100.00
Site 9 64 Ave So. East of University Dr Total					<b>15,200.00</b>
<b>Site 10 4823 51 Ave So.</b>					
63	Mobilization	LS	1.00	8,000.00	8,000.00
64	Topsoil - Strip & Spread	LS	1.00	2,000.00	2,000.00
65	Site Grading	LS	1.00	1,000.00	1,000.00
66	Repair Inlet	EA	1.00	1,500.00	1,500.00
67	Fill - Import	CY	15.00	10.00	150.00
68	Casting to Grade - no Conc	EA	1.00	1,000.00	1,000.00
69	Seeding Type B	SY	225.00	10.00	2,250.00
70	Mulching Type 1 Hydro	SY	225.00	10.00	2,250.00
Site 10 4823 51 Ave So. Total					<b>18,150.00</b>
<b>Site 11 33 Ave So. &amp; 25 St So.</b>					
71	Mobilization	LS	1.00	5,000.00	5,000.00
72	Topsoil - Strip & Spread	LS	1.00	2,000.00	2,000.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
73	Repair Inlet	EA	1.00	2,500.00	2,500.00
74	Casting to Grade - w/Conc	EA	1.00	1,000.00	1,000.00
75	Rem & Repl Curb & Gutter	LF	30.00	100.00	3,000.00
76	Fill - Import	CY	15.00	10.00	150.00
77	Repair Pavement - Patch Asph	SY	40.00	150.00	6,000.00
78	Seeding Type B	SY	25.00	10.00	250.00
79	Mulching Type 1 Hydro	SY	25.00	10.00	250.00
80	Traffic Control - Type 1	LS	1.00	2,200.00	2,200.00
Site 11 33 Ave So. & 25 St So. Total					<b>22,350.00</b>
<b>Site 12 Kandi Ln. &amp; Broadway No. outfall</b>					
81	Mobilization	LS	1.00	20,000.00	20,000.00
82	Clear & Grub	LS	1.00	10,000.00	10,000.00
83	Topsoil - Strip & Spread	LS	1.00	5,000.00	5,000.00
84	Excavation	CY	85.00	100.00	8,500.00
85	F&I Rip Rap Rock	CY	85.00	200.00	17,000.00
86	Seeding Type B	SY	175.00	10.00	1,750.00
87	Mulching Type 1 Hydro	SY	175.00	10.00	1,750.00
Site 12 Kandi Ln. & Broadway No. outfall Total					<b>64,000.00</b>
<b>Site 13 6188 Silverleaf Dr S</b>					
88	Mobilization	LS	1.00	10,000.00	10,000.00
89	Topsoil - Strip & Spread	LS	1.00	2,000.00	2,000.00
90	Site Grading	LS	1.00	1,000.00	1,000.00
91	Repair Inlet	EA	1.00	1,500.00	1,500.00
92	Fill - Import	CY	10.00	10.00	100.00
93	Casting to Grade - no Conc	EA	1.00	1,000.00	1,000.00
94	Seeding Type B	SY	225.00	10.00	2,250.00
95	Mulching Type 1 Hydro	SY	225.00	10.00	2,250.00
Site 13 6188 Silverleaf Dr S Total					<b>20,100.00</b>
<b>Site 14 7 Ave No. &amp; Drain 10</b>					
96	Mobilization	LS	1.00	15,000.00	15,000.00
97	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
98	Excavation	CY	40.00	20.00	800.00
99	Fill - Import	CY	20.00	10.00	200.00
100	Repair Manhole	EA	1.00	10,000.00	10,000.00
101	Seeding Type B	SY	30.00	10.00	300.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
102	Mulching Type 1 Hydro	SY	30.00	10.00	300.00
103	Traffic Control - Type 1	LS	1.00	900.00	900.00
Site 14 7 Ave No. & Drain 10 Total					<b>28,500.00</b>
<b>Site 15 Drain 40 &amp; 5 Ave S</b>					
104	Mobilization	LS	1.00	5,000.00	5,000.00
105	Topsoil - Strip & Spread	LS	1.00	2,000.00	2,000.00
106	F&I Type A Repair Band 60" Plus Dia	EA	1.00	9,000.00	9,000.00
107	Fill - Import	CY	20.00	10.00	200.00
108	Seeding Type B	SY	30.00	10.00	300.00
109	Mulching Type 1 Hydro	SY	30.00	10.00	300.00
110	Traffic Control - Type 1	LS	1.00	500.00	500.00
Site 15 Drain 40 & 5 Ave S Total					<b>17,300.00</b>
<b>Site 16 1381 25 Ave So.</b>					
111	Mobilization	LS	1.00	2,000.00	2,000.00
112	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
113	Repair Inlet	EA	1.00	1,000.00	1,000.00
114	Rem & Repl Casting - Inlet	EA	1.00	1,000.00	1,000.00
115	Casting to Grade - w/Conc	EA	1.00	1,000.00	1,000.00
116	Rem & Repl Curb & Gutter	LF	20.00	100.00	2,000.00
117	Seeding Type B	SY	25.00	10.00	250.00
118	Mulching Type 1 Hydro	SY	25.00	10.00	250.00
119	Traffic Control - Type 1	LS	1.00	1,800.00	1,800.00
Site 16 1381 25 Ave So. Total					<b>10,300.00</b>
<b>Site 17 14 1/2 St So. &amp; 16 Ave So.</b>					
120	Mobilization	LS	1.00	5,000.00	5,000.00
121	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
122	Remove Pipe All Sizes All Types	LF	24.00	10.00	240.00
123	F&I Pipe 12" Dia Reinf Conc	LF	24.00	100.00	2,400.00
124	Repair Manhole	EA	1.00	1,500.00	1,500.00
125	Rem & Repl Sidewalk 5" Thick Reinf Conc	SY	5.00	10.00	50.00
126	Rem & Repl Curb & Gutter	LF	30.00	150.00	4,500.00
127	F&I Det Wam Panels Cast Iron	SF	8.00	200.00	1,600.00
128	Repair Pavement - Patch Asph	SY	7.00	700.00	4,900.00
129	Casting to Grade - w/Conc	EA	1.00	1,000.00	1,000.00
130	Seeding Type B	SY	30.00	10.00	300.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
131	Mulching Type 1 Hydro	SY	30.00	10.00	300.00
132	Traffic Control - Type 1	LS	1.00	1,200.00	1,200.00
Site 17 14 1/2 St So. & 16 Ave So. Total					<b>23,990.00</b>
<b>Site 18 4826 47 St S</b>					
133	Mobilization	LS	1.00	2,000.00	2,000.00
134	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
135	Topsoil - Import	CY	20.00	10.00	200.00
136	Casting to Grade - w/Conc	EA	1.00	1,000.00	1,000.00
137	Rem & Repl Curb & Gutter	LF	30.00	150.00	4,500.00
138	Rem & Repl Sidewalk 5" Thick Reinf Conc	SY	15.00	100.00	1,500.00
139	Seeding Type B	SY	40.00	10.00	400.00
140	Mulching Type 1 Hydro	SY	40.00	10.00	400.00
141	Traffic Control - Type 1	LS	1.00	1,100.00	1,100.00
Site 18 4826 47 St S Total					<b>12,100.00</b>
<b>Site 19 2816 38 Ave S</b>					
142	Mobilization	LS	1.00	4,000.00	4,000.00
143	Topsoil - Strip & Spread	LS	1.00	1,000.00	1,000.00
144	Repair Inlet	EA	1.00	1,500.00	1,500.00
145	Seeding Type B	SY	25.00	10.00	250.00
146	Mulching Type 1 Hydro	SY	25.00	10.00	250.00
147	Traffic Control - Type 1	LS	1.00	800.00	800.00
Site 19 2816 38 Ave S Total					<b>7,800.00</b>
<b>Total Construction in \$</b>					<b>393,470.00</b>

Engineering	10.00%	39,347.00
Admin	4.00%	15,738.80
Legal	3.00%	11,804.10
Interest	4.00%	15,738.80
Contingency	5.00%	19,673.50
<b>Total Estimated Costs</b>		<b>495,772.20</b>
Utility Funds - Stormwater - 524		495,772.20
<b>Unfunded Costs</b>		<b>0.00</b>

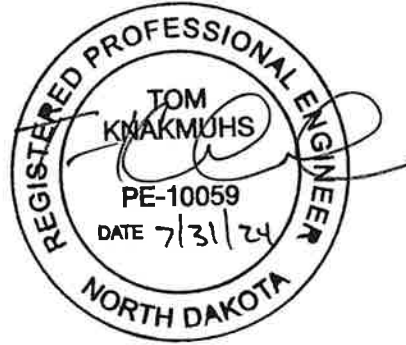
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 07/31/2024



Thomas Knakmuhs

City Engineer





# Memorandum

23

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** July 31, 2024  
**Re:** Approve the Master Service Agreements for HVAC and Plumbing Services (RFP24229)

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Dear Commissioners:

Facilities Management published a Request for Qualifications (RFQ) for HVAC and Plumbing Services on June 5, 2024. Submissions were opened and reviewed on July 17, 2024. Eight Vendors were selected and then approved by the Commission to proceed with Master Service Agreements (MSA's).

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

- Daniel Olson Plumbing
- G&R Controls
- H.A. Thompson & Sons
- Home Heating & Plumbing
- J-Tech Mechanical
- Jeff's Plumbing
- Legacy Plumbing and Heating
- Valley Services Mechanical

**Recommended Action:**

Move to approve the Master Service Agreements with each of these Vendors.

**Master Services Agreement  
Between  
City of Fargo  
and Daniel Olson Plumbing  
RFP24229**

This Master Services Agreement (the “Agreement,” which includes all attachments), effective August 6, 2024 (“Effective Date”), is entered into by and between Daniel Olson Plumbing (the “Vendor”), having a principal place of business at 2201 Elm St. N, Fargo, ND 58102 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

**1. TERM**

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

**2. STATEMENT OF WORK**

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as “Services.” Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

**3. MATERIALS**

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

**4. LIEN WAIVER**

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

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet (“Rate Sheet”) for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by August 6<sup>th</sup> for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to [FinanceAPAR@FargoND.gov](mailto:FinanceAPAR@FargoND.gov).

6. OWNERSHIP OF DOCUMENTS

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

7. INDEPENDENT CONTRACTOR

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

8. NO CONFLICTS OF INTEREST

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

9. CONFIDENTIALITY

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

10. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

11. INDEMNIFICATION

Vendor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, Vendor error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Vendor or of any subcontractor of the Vendor, or which arises out of any workmen's compensation claim of any employee of the Vendor or of any employee of any subcontractor of the Vendor. The Vendor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Vendor, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Vendor does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

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

13. DISPUTE RESOLUTION

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

14. GOVERNING LAW

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

15. ENTIRE AGREEMENT

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

16. ASSIGNMENT

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

17. TERMINATION

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

18. SEVERABILITY

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

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

CITY OF FARGO

Daniel Olson Plumbing

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

BY Daniel Olson  
\_\_\_\_\_

DATE: \_\_\_\_\_

DATE: 07/29/2024

ATTEST:

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

### **Statement of Work**

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

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

#### **Professional Services:**

- Plumbing Services and Repairs
- Drain Cleaning
- Water Heater Replacements
- Gas Line Repair and Installation
- Remodeling

### Rate Sheet

The Rates below are valid beginning August 6, 2024. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by August 5<sup>th</sup> of the year, the Rates shall carry forward for the next year of the Agreement.

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

Rates:

June 23, 2024

### Price Sheet

- All service and drain cleaning calls have a \$ 15.00 service fee per trip.
- Plumbing labor per hour Monday - Friday 8 AM -5 PM. \$ 120.00.
- Plumbing labor per hour Monday - Friday 5:01PM - 12: AM (2 hour minimum) \$ 180.00.
- Plumbing labor per hour Monday - Friday 12:01 AM - 7:59 AM (2 hour minimum) \$ 240.00.
- Plumbing labor per hour Saturday - Sunday 8:01 AM - 12 AM (2 hour minimum) \$ 180.00.
- Plumbing labor per hour Sunday and all holidays 12:01 AM - 8 AM following day (2 hour minimum) \$ 240.00.
- Main line sewer \$ 250.00 for the first 100 feet and first 1.5 hours on call.
- 2" Drain calls are \$ 135.00 for the first 1 hour on call.
- Pull and reset toilet or urinal with drain clean is \$ 75.00.
- Toilet Auger \$ 135.00.
- All drain cleaning calls have a \$ 75.00 additional charge on time and half times and \$ 150.00 additional charge on double time and holidays.
- Supply Fees have a minimum charge of \$ 2.00 and up based on the amount of supplies used.



**Master Services Agreement  
Between  
City of Fargo  
and G&R Controls  
RFP24229**

This Master Services Agreement (the “Agreement,” which includes all attachments), effective August 6, 2024 (“Effective Date”), is entered into by and between G&R Controls (the “Vendor”), having a principal place of business at 5425 51<sup>st</sup> Ave S, Fargo, ND 58104 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

**1. TERM**

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

**2. STATEMENT OF WORK**

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as “Services.” Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

**3. MATERIALS**

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

**4. LIEN WAIVER**

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

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by August 6<sup>th</sup> for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to [FinanceAPAR@FargoND.gov](mailto:FinanceAPAR@FargoND.gov).

6. OWNERSHIP OF DOCUMENTS

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

7. INDEPENDENT CONTRACTOR

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

8. NO CONFLICTS OF INTEREST

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

9. CONFIDENTIALITY

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

10. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

11. INDEMNIFICATION

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

demands. The Vendor does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

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

13. DISPUTE RESOLUTION

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

14. GOVERNING LAW

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

15. ENTIRE AGREEMENT

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

16. ASSIGNMENT

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

17. TERMINATION

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

18. SEVERABILITY

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

IN WITNESS WHEREOF, City and G&R Controls have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

G&R Controls

BY \_\_\_\_\_

BY 

Dr. Timothy J. Mahoney, Mayor

Matt Perkins, Managing Partner

DATE: \_\_\_\_\_

DATE: 7/31/24

ATTEST:

BY \_\_\_\_\_

Steven Sprague, City Auditor



### **Statement of Work**

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

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

#### **Professional Services:**

- HVAC Services
- Electrical Services
- Building Automation Services
- Testing and Balancing

### Rate Sheet

The Rates below are valid beginning August 6, 2024. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by August 5<sup>th</sup> of the year, the Rates shall carry forward for the next year of the Agreement.

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

Rates:



**Service Rates**  
Effective January 1, 2023  
grcontrolsinc.com

#### MECHANICAL • HVAC

Normal Service Rate                      \$115.00/hour

Contract Customer Rate                      \$92.00/hour

#### BOILER • BURNER

Normal Service Rate                      \$155.00/hour

Contract Customer Rate                      \$124.00/hour

#### AUTOMATION • VFD • SECURITY

Normal Service Rate                      \$150.00/hour

Contract Customer Rate                      \$120.00/hour

- CONTRACT CUSTOMER OVERTIME IS APPLICABLE CONTRACT CUSTOMER RATE PLUS \$40.00/HR
- NON-CONTRACT CUSTOMER OVERTIME IS DOUBLE THE APPLICABLE NORMAL SERVICE RATE
- IN TOWN TRIP COST OF \$30 ON NON-CONTRACT SERVICE
- ONE HOUR MINIMUM BILLING APPLIES TO ALL RATES
- CONTRACT RATE IS NORMAL RATE LESS 20% DISCOUNT
- MILEAGE IS \$.85 PER MILE WITH DRIVING TIME CHARGED AT APPLICABLE RATE
- SUBSISTENCE IS CHARGED AT ACTUAL TECHNICIAN'S EXPENSE

**Master Services Agreement  
Between  
City of Fargo  
and H.A. Thompson & Sons  
RFP24229**

This Master Services Agreement (the "Agreement," which includes all attachments), effective August 6, 2024 ("Effective Date"), is entered into by and between H.A. Thompspon & Sons(the "Vendor"), having a principal place of business at 2601 12<sup>th</sup> St. N Suite 400, Fargo, ND 58102 and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

**1. TERM**

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

**2. STATEMENT OF WORK**

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as "Services." Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

**3. MATERIALS**

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

**4. LIEN WAIVER**

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



5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by August 6<sup>th</sup> for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to [FinanceAPAR@FargoND.gov](mailto:FinanceAPAR@FargoND.gov).

6. OWNERSHIP OF DOCUMENTS

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

7. INDEPENDENT CONTRACTOR

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

8. NO CONFLICTS OF INTEREST

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

9. CONFIDENTIALITY

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

10. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

11. INDEMNIFICATION

Vendor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, Vendor error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Vendor or of any subcontractor of the Vendor, or which arises out of any workmen's compensation claim of any employee of the Vendor or of any employee of any subcontractor of the Vendor. The Vendor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Vendor, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Vendor does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

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

13. DISPUTE RESOLUTION

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

14. GOVERNING LAW

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

15. ENTIRE AGREEMENT

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

16. ASSIGNMENT

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

17. TERMINATION

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

18. SEVERABILITY

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

IN WITNESS WHEREOF, City and H.A. Thompson & Sons have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

H.A. Thompson & Sons

BY \_\_\_\_\_

BY  \_\_\_\_\_

Dr. Timothy J. Mahoney, Mayor

*Matthew Hillis*

DATE: \_\_\_\_\_

DATE: *7/26/2024*

ATTEST:

BY \_\_\_\_\_

Steven Sprague, City Auditor

### Statement of Work

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

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

#### Professional Services:

Provides preventive maintenance, service, for all HVAC, including but not limited to:

- Air Compressors
- Air Filters
- Air Handlers
- Bard Packaged Units
- Boiler Pumps
- Boilers
- Building Automation Systems (BAS)
- Chiller Pumps
- Chillers (Air-Cooled, Water-Cooled)
- Computer Room Air Conditioning (Liebert and others)
- Condensers
- Controls
- Coolers (Walk in)
- Cooling Towers
- DX (Direct Expansion) Units
- ERV (Energy Recovery Ventilators)
- Exhaust Fans
- Fans (direct or belt driven)
- Furnaces
- Geothermal Heat Pumps
- Heat Exchangers
- Heat Pumps
- Heaters
- Humidifiers/Dehumidifiers
- In-Duct Air Purification
- Make Up Air Unit
- Marvair Packaged Units
- Mini-Split Units
- Packaged Air Conditioners
- Packaged Terminal Air Conditioners
- Pumps
- Rooftop Units
- Split Systems
- Thermostats: Control temperature settings.
- Variable Frequency Drives (VFDs)
- VAVs
- Ventilation Fans
- VRF Systems
- Water Heaters
- Water Pumps

**Rate Sheet**

The Rates below are valid beginning August 6, 2024. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by August 5<sup>th</sup> of the year, the Rates shall carry forward for the next year of the Agreement.

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

Rates:

**Price Rate Sheet**

Provide a schedule of fixed hourly rates for regular business hours (8am-5pm), overtime hours, holiday hours, and any other fees

Hourly Service Rate	\$115/hr
Hourly Service OT Rate	\$170/hr
Hourly Holiday and Weekend Rate	\$170/hr
Trip Charge	\$10/trip
Misc Material Charge	\$5/trip

**Master Services Agreement**  
**Between**  
**City of Fargo**  
**and Home Heating, Plumbing, & Air Conditioning Inc.**  
**RFP24229**

This Master Services Agreement (the "Agreement," which includes all attachments), effective August 6, 2024 ("Effective Date"), is entered into by and between Home Heating, Plumbing, & Air Conditioning Inc. (the "Vendor"), having a principal place of business at 701 28<sup>th</sup> St. S, Fargo, ND, 58106 and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

**1. TERM**

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

**2. STATEMENT OF WORK**

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as "Services." Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

**3. FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS**

Some projects may be grant funded through the Federal Transit Administration (FTA and the Section 5307 (Urbanized Capital and Operating) program; and 5339 (Bus and Bus Facilities) programs; and the City of Fargo General Fund. Therefore, Local, federal and state requirements and corresponding contract clauses will apply to these projects and any resulting contractual arrangement attached hereto as Attachment C.

**4. MATERIALS**

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

5. LIEN WAIVER

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

6. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by August 6<sup>th</sup> for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to [FinanceAPAR@FargoND.gov](mailto:FinanceAPAR@FargoND.gov).

7. OWNERSHIP OF DOCUMENTS

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

8. INDEPENDENT CONTRACTOR

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

9. NO CONFLICTS OF INTEREST

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



10. CONFIDENTIALITY

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

11. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

12. INDEMNIFICATION

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

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

13. FORCE MAJEURE

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

14. DISPUTE RESOLUTION

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

15. GOVERNING LAW

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

16. ENTIRE AGREEMENT

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

17. ASSIGNMENT

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

18. TERMINATION

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

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

19. SEVERABILITY

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

IN WITNESS WHEREOF, City and Home Heating, Plumbing, & Air Conditioning Inc. have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Home Heating, Plumbing, & Air Conditioning Inc.

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

BY David Brown  
DAVID BROWN HVAC Service Manager

DATE: \_\_\_\_\_

DATE: 7/26/24

ATTEST:

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



### Statement of Work

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

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

#### Professional Services:

##### HVAC Services Provided

- Roof Top Air Handlers
- Make Up Air Units
- Exhaust Fans
- Boilers
- Variable Air Volume
- Constant Air Volume
- Chillers
- Geo Systems
- Floor Heat
- Furnaces
- Heat Pumps
- Air Conditioning
- Mini-Splits
- Humidifiers
- Dehumidifiers
- Gas Piping
- Duct Cleaning
- Fireplaces

##### Plumbing Services Provided

- Water piping (repair or replace)
- DWV piping (repair or replace)
- Drain cleaning
- Drain inspection (camera)
- Fixture's (repair or replace)
- Water heater (repair or replace)
- Sump pumps
- Drink fountains
- Garbage disposals

**Rate Sheet**

The Rates below are valid beginning August 6, 2024. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by August 5<sup>th</sup> of the year, the Rates shall carry forward for the next year of the Agreement.

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

Rates:

**PRICE RATE SHEE**

Regular Hourly Rate (8am-5pm Monday – Friday) - \$125.00 per/hour

Over Time Hourly Rate - \$187.50 per hour

Holiday Hourly Rate - \$250.00 per hour

**Master Services Agreement**  
**Between**  
**City of Fargo**  
**and Jeff's Plumbing and Drain Cleaning Inc.**  
**RFP24229**

This Master Services Agreement (the "Agreement," which includes all attachments), effective August 6, 2024 ("Effective Date"), is entered into by and between Jeff's Plumbing and Drain Cleaning Inc. (the "Vendor"), having a principal place of business at 750 34<sup>th</sup> St. N Unit J, Fargo, ND 58103 and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

**1. TERM**

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

**2. STATEMENT OF WORK**

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**3. FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS**

Some projects may be grant funded through the Federal Transit Administration (FTA and the Section 5307 (Urbanized Capital and Operating) program; and 5339 (Bus and Bus Facilities) programs; and the City of Fargo General Fund. Therefore, Local, federal and state requirements and corresponding contract clauses will apply to these projects and any resulting contractual arrangement attached hereto as Attachment C.

**4. MATERIALS**

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

5. LIEN WAIVER

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

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7. OWNERSHIP OF DOCUMENTS

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8. INDEPENDENT CONTRACTOR

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

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10. CONFIDENTIALITY

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11. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

12. INDEMNIFICATION

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



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

13. FORCE MAJEURE

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

14. DISPUTE RESOLUTION

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

15. GOVERNING LAW

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

16. ENTIRE AGREEMENT

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

17. ASSIGNMENT

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

18. TERMINATION

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

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

19. SEVERABILITY

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

IN WITNESS WHEREOF, City and Jeff's Plumbing and Drain Cleaning Inc. have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Jeff's Plumbing and Drain Cleaning Inc.

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

BY *[Signature]*  
Josh Gunkal, GM

DATE: \_\_\_\_\_

DATE: 7/29/24

ATTEST:

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



### **Statement of Work**

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

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

#### **Professional Services:**

- Jetting Services
- Drain and Sewer Cleaning
- Plumbing Repair and New Installation
- Excavating and Sewer Relining
- TV/Video Pipe Inspection Services
- Water Heater Service and Replacement
- Remodeling, New Construction, Commercial Services
- A.O. Smith Water Heater Authorized Service Repair
- Sewer Vent Repair and Inspection Including Smoke Testing

**Rate Sheet**

The Rates below are valid beginning August 6, 2024. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by August 5<sup>th</sup> of the year, the Rates shall carry forward for the next year of the Agreement.

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

Rates:

**Normal Hourly rate - \$98 (We do not charge overtime)**

**Small auger fee - \$50 plus labor (Use of machine fee)**

**Large auger fee - \$100 plus labor (Use of machine fee)**

**Small jetter fee - \$150 plus labor (Use of machine fee)**

**Large Jetter fee - \$350 plus labor (Use of machine fee)**

**(Note: large jetter will require min of 2 plumbers to operate at \$98 per hour each)**

**Dispatch fee - \$40 applied 1 time per call for calls from 5pm-8am weekdays and 5pm Friday to 8am Monday mornings.**

**Truck charge will be added for misc material and truck fees at a minimum of \$10**

**Master Services Agreement  
Between  
City of Fargo  
and J-Tech Mechanical  
RFP24229**

This Master Services Agreement (the “Agreement,” which includes all attachments), effective August 6, 2024 (“Effective Date”), is entered into by and between J-Tech Mechanical (the “Vendor”), having a principal place of business at 9780 Industrial Dr., Horace, ND, 58047 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

**1. TERM**

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

**2. STATEMENT OF WORK**

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as “Services.” Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

**3. FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS**

Some projects may be grant funded through the Federal Transit Administration (FTA and the Section 5307 (Urbanized Capital and Operating) program; and 5339 (Bus and Bus Facilities) programs; and the City of Fargo General Fund. Therefore, Local, federal and state requirements and corresponding contract clauses will apply to these projects and any resulting contractual arrangement attached hereto as Attachment C.

**4. MATERIALS**

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

5. LIEN WAIVER

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

6. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by August 6<sup>th</sup> for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to [FinanceAPAR@FargoND.gov](mailto:FinanceAPAR@FargoND.gov).

7. OWNERSHIP OF DOCUMENTS

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

8. INDEPENDENT CONTRACTOR

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

9. NO CONFLICTS OF INTEREST

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

10. CONFIDENTIALITY

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

11. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

12. INDEMNIFICATION

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

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

13. FORCE MAJEURE

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

14. DISPUTE RESOLUTION

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

15. GOVERNING LAW

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

16. ENTIRE AGREEMENT

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

17. ASSIGNMENT

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

18. TERMINATION

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



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

19. SEVERABILITY

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

IN WITNESS WHEREOF, City and J-Tech Mechanical have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

J-Tech Mechanical

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

BY \_\_\_\_\_  
Jason Jundt

DATE: \_\_\_\_\_

DATE: 7/26/2024

ATTEST:

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

### **Statement of Work**

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

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

#### **Professional Services:**

- HVAC/Plumbing Projects
- Preventative Maintenance
- HVAC/Plumbing Repairs
- Design/Build
- Equipment Upgrades
- Bathroom/Kitchen Upgrades
- Commercial HVAC/Plumbing Services
- Backflow Testing and Repair



**Master Services Agreement  
Between  
City of Fargo  
and Legacy Plumbing  
RFP24229**

This Master Services Agreement (the "Agreement," which includes all attachments), effective August 6, 2024 ("Effective Date"), is entered into by and between Legacy Plumbing (the "Vendor"), having a principal place of business at 3522 4<sup>th</sup> Ave S, Fargo, ND, 58103 and City of Fargo (the "City"), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a "Party" and collectively, the "Parties").

**1. TERM**

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

**2. STATEMENT OF WORK**

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form ("Statement of Work") attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as "Services." Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

**3. MATERIALS**

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

**4. LIEN WAIVER**

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

5. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by August 6<sup>th</sup> for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to [FinanceAPAR@FargoND.gov](mailto:FinanceAPAR@FargoND.gov).

6. OWNERSHIP OF DOCUMENTS

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

7. INDEPENDENT CONTRACTOR

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

8. NO CONFLICTS OF INTEREST

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

9. CONFIDENTIALITY

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

10. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

11. INDEMNIFICATION

Vendor agrees to indemnify and hold harmless the City, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, Vendor error, mistake, negligence, or other fault of the Vendor, any subcontractor of the Vendor, or any officer, employee, representative, or agent of the Vendor or of any subcontractor of the Vendor, or which arises out of any workmen's compensation claim of any employee of the Vendor or of any employee of any subcontractor of the Vendor. The Vendor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Vendor, or at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with, any such liability, claims, or demands. The Vendor does not agree to defend, indemnify, or hold harmless the City of the City's own actions, omissions or negligence.

12. FORCE MAJEURE

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

13. DISPUTE RESOLUTION

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

14. GOVERNING LAW

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

15. ENTIRE AGREEMENT

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

16. ASSIGNMENT

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

17. TERMINATION

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

18. SEVERABILITY

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

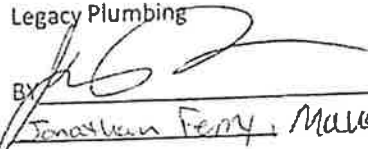
IN WITNESS WHEREOF, City and Legacy Plumbing have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

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

DATE: \_\_\_\_\_

Legacy Plumbing

BY  \_\_\_\_\_  
Jonathan Ferry, Manager

DATE: 7-26-2024

ATTEST:

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



### **Statement of Work**

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

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

#### **Professional Services:**

- Plumbing Services
- Plumbing Remodel
- Plumbing New Construction
- Heating and Cooling Services
- Heating and Cooling Retrofit Services
- Heating and Cooling New Construction

**Rate Sheet**

The Rates below are valid beginning August 6, 2024. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by August 5<sup>th</sup> of the year, the Rates shall carry forward for the next year of the Agreement.

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

Rates:

PLUMBING DISPATCH: \$50 (REGULAR HOURS)

PLUMBING DISPATCH AFTER HOURS (AFTER 5 PM, WEEKENDS, HOLIDAYS): \$97

PLUMBING LABOR RATE: \$120/HR (REGULAR AND HOLIDAY/WEEKEND RATE)

HVAC DISPATCH: \$50 (REGULAR HOURS)

HVAC DISPATCH AFTER HOURS (AFTER 5 PM, WEEKENDS, HOLIDAYS): \$97

HVAC LABOR RATE: \$120/HR (REGULAR AND HOLIDAY/WEEKEND RATE)

DRAIN CLEANING RATES:

LARGE MACHINE UP TO 100' WITH CAMERA INSPECTION: \$334

SMALL MACHINE (2" OR SMALLER PIPE) UP TO 50': \$159

CHAIN MACHINE (4" OR SMALLER PIPE) UP TO 75': \$209

JETTING: (3" OR LARGER PIPE) UP TO 300': \$1295

**Master Services Agreement  
Between  
City of Fargo  
and Valley Service Mechanical, LLC  
RFP24229**

This Master Services Agreement (the “Agreement,” which includes all attachments), effective August 6, 2024 (“Effective Date”), is entered into by and between Valley Service Mechanical, LLC (the “Vendor”), having a principal place of business at 528 16<sup>th</sup> St. NE, West Fargo, ND 58078 and City of Fargo (the “City”), a North Dakota municipal corporation, having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota 58102 (each a “Party” and collectively, the “Parties”).

**1. TERM**

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

**2. STATEMENT OF WORK**

A Summary of all services the Vendor is able to provide under this Agreement is described in the Statement of Work form (“Statement of Work”) attached hereto as Attachment A. Vendor hereby agrees to complete work pursuant to a work request, awarded bid, and/or awarded proposal. Neither this Agreement nor the Statement of Work is a commitment by the City to issue the Vendor any work requests, bids or proposals. The work request, Request for Bid (RFB) or Request for Proposal (RFP) shall describe the specific scope of services for a particular project. Any services provided by the Vendor under this Agreement are referred to as “Services.” Any project exceeding \$100,000.00 is required to go through a separate RFP per City policy.

**3. FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS**

Some projects may be grant funded through the Federal Transit Administration (FTA and the Section 5307 (Urbanized Capital and Operating) program; and 5339 (Bus and Bus Facilities) programs; and the City of Fargo General Fund. Therefore, Local, federal and state requirements and corresponding contract clauses will apply to these projects and any resulting contractual arrangement attached hereto as Attachment C.

**4. MATERIALS**

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

5. LIEN WAIVER

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

6. COMPENSATION

The Parties shall negotiate rates annually. Negotiated Rate Sheet ("Rate Sheet") for the current Agreement year is attached as Attachment B. If a new rate sheet is not negotiated by August 6<sup>th</sup> for the current Agreement year, the Rate Sheet shall be carried forward for the next year. Vendor shall not charge and the City will not pay for any services performed without a work request, awarded bid or awarded proposal. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice. Invoices shall be e-mailed to [FinanceAPAR@FargoND.gov](mailto:FinanceAPAR@FargoND.gov).

7. OWNERSHIP OF DOCUMENTS

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

8. INDEPENDENT CONTRACTOR

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

9. NO CONFLICTS OF INTEREST

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

10. CONFIDENTIALITY

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

11. INSURANCE

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

i. Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$1,000,000 each occurrence, \$2,000,000 aggregate.

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

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

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

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

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

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

12. INDEMNIFICATION

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

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

13. FORCE MAJEURE

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

14. DISPUTE RESOLUTION

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

15. GOVERNING LAW

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

16. ENTIRE AGREEMENT

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

17. ASSIGNMENT

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

18. TERMINATION

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

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

19. SEVERABILITY

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

IN WITNESS WHEREOF, City and Valley Service Mechanical, LLC have caused this Agreement to be duly executed as of the date first above written.

CITY OF FARGO

Valley Service Mechanical, LLC

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

BY  \_\_\_\_\_  
BRANDON HAYES

DATE: \_\_\_\_\_

DATE: 7-25-2024

ATTEST:

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

### **Statement of Work**

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

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

#### **Professional Services:**

- Installation and Service of Commercial HVAC Equipment
- Installation and Service of Residential HVAC Equipment
- Installation and Service of Commercial Plumbing Equipment
- Installation and Service of Residential Plumbing Equipment

After hours emergency service for HVAC only at this time.

Regular Business hours Monday through Friday 8:00am-5:00pm.

After hours emergency service after 5:00pm and Holidays.



**Rate Sheet**

The Rates below are valid beginning August 6, 2024. Rates may be renegotiated at the request of either Party annually. If new Rates are not negotiated by August 5<sup>th</sup> of the year, the Rates shall carry forward for the next year of the Agreement.

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

Rates:

# Labor Rates

**Regular time Plumbing and HVAC Service rates \$125.00 Per hour**

**After hours & Holidays HVAC Rates \$187.50 Per hour**

**Regular hours Monday - Friday 8:00 A.M. – 5:00 P.M.**

**After hours and Holidays 5:00 P.M. – 8:00 A.M.**

**\*\*\* After hours plumbing service isn't available at this time. \*\*\***



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

**TO:** Board of Commissioners

**FROM:** Susan Thompson, Director of Finance

**RE:** FAHR Staff meeting – Items for Commission Review/Approval

**DATE:** August 5, 2024

24

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**Receive & File:** Sales Tax Update

**Action Needed:** Other Financial Considerations  
*FAHR endorses the request:*

Forestry/Admin – NP/River Tree Removal

City of Fargo  
 Comparative Sales Tax Analysis of All Sales Tax Revenue - ACCRUAL BASIS  
 PB: SS/KAC (prior to 2022)  
 7/22/2024

Payment Date	month collected	Amount	County Collections	County Growth %	City Collections	City Growth %
		County Sales Tax	8,299,237.43	-2.5%	City Sales Tax	25,379,873.10 -1.6%
		County Sales Tax			City Sales Tax	25,379,873.10 City 2024
		County Sales Tax			City Sales Tax	8,299,237.43 County 2024
		County Sales Tax			City Sales Tax	25,783,749.02 City 2023
		County Sales Tax			City Sales Tax	8,509,748.77 County 2023
7/22/2024	May-24	County Sales Tax	1,348,902.41		City Sales Tax	4,252,926.43
6/24/2025	Apr-24	County Sales Tax	1,759,660.73		City Sales Tax	5,404,517.72
5/21/2024	Mar-24	County Sales Tax	2,276,388.27		City Sales Tax	6,980,911.25
4/22/2024	Feb-24	County Sales Tax	1,023,591.77		City Sales Tax	3,163,097.74
3/21/2024	Jan-24	County Sales Tax	1,890,694.25		City Sales Tax	5,578,419.96
2/22/2024	Dec-24	County Sales Tax	2,781,114.42	23,106,462.71 8.2%	City Sales Tax	8,158,464.07 69,250,461.96 4.0%
1/22/2024	Nov-24	County Sales Tax	1,559,305.60		City Sales Tax	4,709,032.00
12/20/2023	Oct-24	County Sales Tax	1,916,009.28		City Sales Tax	5,684,255.33
11/22/2023	Sep-24	County Sales Tax	2,480,655.78		City Sales Tax	7,615,211.78
10/21/2023	Aug-24	County Sales Tax	1,509,750.17		City Sales Tax	4,530,239.88
9/20/2023	Jul-24	County Sales Tax	2,012,131.70		City Sales Tax	6,030,106.74
8/20/2023	Jun-24	County Sales Tax	2,337,746.99		City Sales Tax	6,739,403.04
7/21/2023	May-24	County Sales Tax	1,873,134.11		City Sales Tax	5,735,919.99
6/21/2023	Apr-24	County Sales Tax	2,076,304.07		City Sales Tax	6,368,293.95
5/21/2023	Mar-24	County Sales Tax	1,528,002.65		City Sales Tax	4,619,852.76
4/22/2023	Feb-24	County Sales Tax	1,455,198.19		City Sales Tax	4,544,116.43
3/19/2023	Jan-24	County Sales Tax	1,577,109.75		City Sales Tax	4,515,565.89
2/22/2023	Dec-22	County Sales Tax	2,331,087.61	21,358,922.89 -2.6%	City Sales Tax	7,015,548.33 66,571,120.26 4.3%
1/24/2023	Nov-22	County Sales Tax	1,892,168.21		City Sales Tax	5,746,351.94
12/21/2022	Oct-22	County Sales Tax	1,904,586.17		City Sales Tax	5,637,286.90
11/22/2022	Sep-22	County Sales Tax	1,828,464.08		City Sales Tax	5,282,124.95
10/21/2022	Aug-22	County Sales Tax	1,905,477.39		City Sales Tax	5,697,578.75
9/20/2022	Jul-22	County Sales Tax	2,321,971.24		City Sales Tax	7,149,286.78
8/20/2022	Jun-22	County Sales Tax	1,816,911.33		City Sales Tax	5,066,525.72
7/21/2022	May-22	County Sales Tax	1,811,968.57		City Sales Tax	5,388,350.10
6/21/2022	Apr-22	County Sales Tax	1,971,576.35		City Sales Tax	6,059,165.61
5/21/2022	Mar-22	County Sales Tax	1,526,674.55		City Sales Tax	4,461,738.30
4/22/2022	Feb-22	County Sales Tax	613,842.16		City Sales Tax	4,850,989.43
3/19/2022	Jan-22	County Sales Tax	1,434,195.23		City Sales Tax	4,216,173.45
2/22/2022	Dec-21	County Sales Tax	2,471,070.77	21,920,710.74 31.1%	City Sales Tax	7,455,248.61 63,840,810.53 29.9%
1/25/2022	Nov-21	County Sales Tax	1,587,312.19		City Sales Tax	4,653,877.92
12/21/2021	Oct-21	County Sales Tax	2,245,078.73		City Sales Tax	6,847,607.38
11/22/2021	Sep-21	County Sales Tax	1,578,911.41		City Sales Tax	4,305,274.70
10/21/2021	Aug-21	County Sales Tax	1,846,222.17		City Sales Tax	4,948,174.14
9/20/2021	Jul-21	County Sales Tax	1,941,367.18		City Sales Tax	5,563,279.08
8/20/2021	Jun-21	County Sales Tax	1,928,026.98		City Sales Tax	5,794,768.26
7/21/2021	May-21	County Sales Tax	2,134,078.28		City Sales Tax	6,292,906.78
6/21/2021	Apr-21	County Sales Tax	1,247,864.18		City Sales Tax	3,423,096.66
5/21/2021	Mar-21	County Sales Tax	1,924,292.66		City Sales Tax	5,462,536.61
4/22/2021	Feb-21	County Sales Tax	1,588,269.26		City Sales Tax	4,766,421.14
3/19/2021	Jan-21	County Sales Tax	1,428,216.93		City Sales Tax	4,327,619.25
2/22/2021	Dec-20	County Sales Tax	1,445,794.87	16,719,327.13 0.3%	City Sales Tax	4,232,187.56 49,146,842.57 -5.0%
1/25/2021	Nov-20	County Sales Tax	1,587,940.99		City Sales Tax	4,492,863.04
12/21/2020	Oct-20	County Sales Tax	1,630,976.65		City Sales Tax	4,999,947.66
11/23/2020	Sep-20	County Sales Tax	1,396,321.95		City Sales Tax	3,952,605.63
10/21/2020	Aug-20	County Sales Tax	1,694,006.82		City Sales Tax	4,276,558.28
9/22/2020	Jul-20	County Sales Tax	1,467,915.93		City Sales Tax	4,382,459.17
8/21/2020	Jun-20	County Sales Tax	1,605,095.72		City Sales Tax	4,774,814.61
7/22/2020	May-20	County Sales Tax	1,557,866.22		City Sales Tax	4,797,152.70
6/19/2020	Apr-20	County Sales Tax	860,574.06		City Sales Tax	2,448,782.22
5/21/2020	Mar-20	County Sales Tax	1,293,072.02		City Sales Tax	3,865,417.55
4/22/2020	Feb-20	County Sales Tax	1,306,194.23		City Sales Tax	4,286,357.93
3/20/2020	Jan-20	County Sales Tax	873,567.67		City Sales Tax	2,637,696.22
2/24/2020	Dec-19	County Sales Tax	1,806,500.14	16,670,136.34 6.0%	City Sales Tax	5,542,185.17 51,737,824.69 7.4%
1/23/2020	Nov-19	County Sales Tax	1,765,912.60		City Sales Tax	5,757,005.84
12/20/2019	Oct-19	County Sales Tax	1,053,485.18		City Sales Tax	3,055,444.40
11/22/2019	Sep-19	County Sales Tax	1,586,457.86		City Sales Tax	4,786,259.66
10/21/2019	Aug-19	County Sales Tax	1,600,148.48		City Sales Tax	4,940,121.35
9/23/2019	Jul-19	County Sales Tax	1,209,618.14		City Sales Tax	3,618,612.18
8/21/2019	Jun-19	County Sales Tax	2,012,988.64		City Sales Tax	6,334,417.88
7/22/2019	May-19	County Sales Tax	1,000,237.92		City Sales Tax	2,954,722.53
6/21/2019	Apr-19	County Sales Tax	1,206,333.76		City Sales Tax	3,957,201.59
5/21/2019	Mar-19	County Sales Tax	1,575,011.74		City Sales Tax	4,907,368.09
4/22/2019	Feb-19	County Sales Tax	781,011.94		City Sales Tax	2,472,350.68
3/21/2019	Jan-19	County Sales Tax	1,072,429.94		City Sales Tax	3,407,135.32
2/22/2019	Dec-18	County Sales Tax	1,602,337.29	15,720,221.20	City Sales Tax	4,957,423.52 48,185,965.90
1/23/2019	Nov-18	County Sales Tax	1,331,035.62		City Sales Tax	4,232,397.07
12/21/2018	Oct-18	County Sales Tax	1,343,355.18		City Sales Tax	4,113,930.12
11/23/2018	Sep-18	County Sales Tax	1,718,685.28		City Sales Tax	5,054,359.80
10/19/2018	Aug-18	County Sales Tax	991,141.62		City Sales Tax	2,924,184.95
9/24/2018	Jul-18	County Sales Tax	1,438,831.10		City Sales Tax	4,290,954.46
8/21/2018	Jun-18	County Sales Tax	1,796,550.82		City Sales Tax	5,462,231.25
7/23/2018	May-18	County Sales Tax	1,042,677.94		City Sales Tax	3,258,203.14
6/21/2018	Apr-18	County Sales Tax	1,142,864.18		City Sales Tax	3,527,756.41
5/21/2018	Mar-18	County Sales Tax	1,508,616.11		City Sales Tax	4,674,211.89
4/20/2018	Feb-18	County Sales Tax	713,349.48		City Sales Tax	2,264,455.70
3/21/2018	Jan-18	County Sales Tax	1,090,776.58		City Sales Tax	3,425,857.59
2/22/2018	Dec-17	County Sales Tax	1,871,667.76		City Sales Tax	6,232,808.91
1/23/2018	Nov-17	County Sales Tax	924,357.13		City Sales Tax	2,809,247.58
<b>Totals Since 2018</b>		<b>\$ 113,951,386</b>			<b>\$ 344,902,586</b>	

**Report of Action:**  
**FAHR Meeting of 7/28/2024**



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

**Department:** Forestry/Admin  
**Description:** NP/River – Tree Removal (previous Mid-America Steel)  
As per the attachment memo, City staff recommends removing dead trees along NP Avenue. Funding is suggested at \$25,000 of Riverfront TIF funds to supplement \$6,000 of Forestry operating funds. Removal timeline is Summer 2024.

**Net Financial Impact:** \$25,000 TIF Funds (\$6,000 Forestry funds already budgeted)

At their meeting, FAHR endorsed this request.

**Suggested Motion:**  
Accept the authorization of \$25,000 from the Riverfront TIF to be utilized for the removal of trees on the south side of NP Avenue along the River.

July 26, 2024

TO: Board of City Commissioners

FROM: Brenda Derrig, Assistant City Administrator

RE: Tree Removal on southside of NP Avenue at River along old Mid America Steel Site.

The trees along the south side on NP Avenue at the river have died and Forestry would like to remove them. One option would be to minimally remove the ones that could potentially cause damage that are overhanging NP the other option is to clear all the trees and open up along the bike trail. We feel that the right thing to do is to clear out all of the trees and open up the bike trail so we do not have to go in a second time. Currently Forestry can support the lower removal at \$6,000. We will need an additional \$25,000 for full removal. It is my recommendation to use our Riverfront TIF dollars to pay for the additional cost.

As was reported to you in April from Jim Gilmour, Strategic Planning Director, there is currently a balance of \$93,444.48. The Commission approved on April 29, 2024 to allocate TIF funds towards Lashkowitz Housing Project. Below is the spread sheet that was provided in April.

Balance as of April 2024	\$ 93,444.48
Projected FY 2025 TIF	<u>\$ 572,000.00</u>
Available - 2025	\$ 665,444.48
Fargo Housing	\$ (536,000.00)
Civic Plaza	<u>\$ (100,000.00)</u>
Balance in 2025	\$ 29,444.48

We are asking to use \$25,000 of the Riverfront TIF towards the removal of the trees.

**Recommended Motion:**

Approve the authorization of \$25,000 from the Riverfront TIF to be utilized for the removal of trees on the south side on NP Avenue along the river.



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

25

**TO:** Board of Commissioners

**FROM:** Susan Thompson, Director of Finance

**RE:** Resolution Authorizing the Issuance of \$9 Million of Taxable Appropriation Bond (NP Parking), Series 2024E, through the BND Infrastructure Revolving Loan Fund, prescribing terms and conditions thereof, and creating a fund for the payment thereof

**DATE:** August 5, 2024

The City of Fargo was approved by BND for \$9 million of Taxable Appropriation Bonds through the BND Infrastructure Revolving Loan Fund. The bonds carry a 2% annual interest rate and a thirty-year payment term.

As discussed at the May 17, 2024 City Commission Informational Meeting, funding for the approved NP Parking Lot will be provided through a combination of sources including this BND Bond, an appropriation Bond to be sold later this fall, and City of Fargo interfund borrowing.

**Suggested Motion:**

Approve the Resolution authorizing the Issuance of Taxable Annual Appropriation Bonds (NP Parking), Series 2024E, prescribing terms and conditions thereof, and creating a fund for payment thereof.

**ARNTSON STEWART WEGNER PC**  
ATTORNEYS AT LAW

SCOTT D. WEGNER  
swegner@aswbondlaw.com

July 25, 2024

Susan J. Thompson  
Director of Finance  
City of Fargo  
225 4<sup>th</sup> St N  
Fargo, ND 58102

Re: \$9,000,000 Taxable Annual Appropriation Bond (NP Parking), Series 2024E  
BND Loan – Infrastructure Revolving Loan Fund

Dear Susan:

Please find enclosed the following in regard to the BND loan:

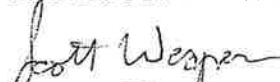
1. Closing Certificate
2. Loan Agreement
3. Bond
4. Financing Resolution

I understand the City Commission will consider the resolution on August 5. If adopted, please have all the documents signed and return them to my office prior to the August 15, 2024 closing date.

I will email the final Requisition for Payment form, which should be submitted to Kylee at BND from time to time as needed to draw on the loan (328.5713, [kmerkel@nd.gov](mailto:kmerkel@nd.gov)). A draw is not required on the August 15, 2024 closing date. I previously emailed the preliminary amortization schedule.

Please contact me with any questions. Thank you.

Sincerely,  
**ARNTSON STEWART WEGNER PC**

  
Scott D. Wegner  
Enc.

R-1

CITY OF FARGO, NORTH DAKOTA  
TAXABLE ANNUAL APPROPRIATION BOND (NP PARKING), SERIES 2024E  
(INFRASTRUCTURE REVOLVING LOAN FUND)

Term Bond

**Principal Amount:** Not to Exceed Nine Million Dollars (\$9,000,000)  
(Final Principal Amount as recorded on the attached schedule and grid herein)

**Registered Holder:** Bank of North Dakota  
Bismarck, North Dakota

<u>Dated Date</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP</u>	<u>Registrar/Paying Agent</u>
August 15, 2024	December 1, 2054	2.00%	NA	City Auditor
<u>Interest Payment Dates</u>		<u>Initial Interest Payment Date</u>		<u>Initial Principal Payment Date</u>
Each June 1 and December 1		December 1, 2024		December 1, 2025

CITY OF FARGO, NORTH DAKOTA (the "City"), a North Dakota political subdivision, acknowledges itself indebted and for value received hereby promises, subject to annual appropriation, to pay to the Registered Holder on the Record Date (the 15<sup>th</sup> day of the month, whether or not a business day, immediately preceding each payment date), the principal installments set out in the final amortization schedule prepared by the Registered Holder based on the advances as recorded on the grid on the reverse hereof (which schedule shall be revised in accordance with Section 1.06 of the Loan Agreement in the event funds are advanced to the City other than as originally set forth in said amortization schedule), and on the Maturity Date unless redeemed prior thereto as provided in the Resolution. The amount shown on the books and records of the Registered Holder shall be prima facie evidence of the Principal Amount of the Bond then outstanding; and, on the final maturity of the Bond, or earlier full redemption, all outstanding principal balance and all accrued and unpaid interest on the Bond must be paid. This Bond shall bear interest on the outstanding Principal Amount at the Interest Rate specified above from the date of first advance to the Initial Interest Payment Date and on each Interest Payment Date thereafter, including the Maturity Date. Such interest will be payable by check, wire, or other electronic transfer to the Registered Holder.

This bond is the duly authorized bond of the City (the "Bond") issued by the City in the principal amount of not to exceed \$9,000,000 under and pursuant to North Dakota Century Code (the "N.D.C.C.") Section 40-05-01(2), the City's Home Rule Charter, Code of Ordinances Section 3-0802 and a resolution adopted by the Board of Commissioners on August 5, 2024 (the "Resolution"). The Bond is issued for the purpose of financing in part construction of the NP Avenue parking garage, as further described in the Development Agreement dated as of October 31, 2022, as amended, between the City and Great Plains NP Holdings, LLC (the "Project"). Additional terms and conditions for the repayment of the Bond are contained in the Loan Agreement between the Registered Holder and the City dated as of August 1, 2024 (the "Loan Agreement"). Capitalized terms used herein which are not specifically defined herein shall have the same meanings given to such terms in the Loan Agreement and Resolution. Copies of the Resolution and Loan Agreement are on file with the City in the office of its City Auditor in Fargo, North Dakota.

The Bond:

- (i) is transferable, as provided in the Resolution;
- (ii) is subject to optional redemption, as provided in the Resolution; and
- (iii) is subject to the payment of the principal installments set out in the attached amortization schedule.

Additional provisions of this Bond are contained on the reverse hereof and such provisions shall for all purposes have the same effect as though fully set forth at this place.

IN WITNESS WHEREOF, the City, by its Board of Commissioners, has caused the Bond to be executed in its behalf by the manual signature of the Mayor and the official seal, if any, to be imprinted hereon and attested to by the manual signature of the City Auditor.

CITY OF FARGO, NORTH DAKOTA

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Auditor

(SEAL)



\$9,000,000  
 CITY OF FARGO, NORTH DAKOTA  
 TAXABLE ANNUAL APPROPRIATION BOND (NP PARKING), SERIES 2024E  
 (INFRASTRUCTURE REVOLVING LOAN FUND)

**CLOSING CERTIFICATE**

The undersigned hereby certify that as of August 15, 2024, they are the duly appointed or elected, qualified and acting Mayor and City Auditor of the City of Fargo, North Dakota (the "City"), and as such are familiar with the City's properties, affairs and records, and further certify as follows:

1. A. The City is a political subdivision duly organized and existing under the provisions of North Dakota Century Code (the "N.D.C.C."), Title 40 and the City's Home Rule Charter. The persons listed below constitute the duly elected, appointed, qualified and acting members of the Board of City Commissioners (the "Commission") of the City and the officers of the City.

<u>Name</u>	<u>Office</u>	<u>Term Expires</u>
Dr. Timothy Mahoney	Mayor	2026
Denise Kolpack	Commissioner	2026
Dave Piepkorn	Commissioner	2026
John Strand	Commissioner	2028
Michelle Turnberg	Commissioner	2028
Michael J. Redlinger	City Administrator	Appointed
Steve Sprague	City Auditor	Appointed
Susan J. Thompson	Director of Finance	Appointed
Nancy Morris	City Attorney	Appointed

- B. All of the above officers of the City have been duly elected or appointed and qualified for their respective offices, and all of the officers are now, or were on the date the Resolution was adopted, in lawful incumbency of their respective offices.
  - C. The City was originally incorporated on January 15, 1875. Its population is estimated at 126,000. The official newspaper of the City is the *Fargo Forum* published daily in Fargo, North Dakota.
  - D. Regular meetings of the Commission are held at the Fargo City Hall located at 225 4<sup>th</sup> Street North, Fargo, North Dakota, every two weeks.
  - E. The City's federal tax identification number is 45-6002069.
2. This Certificate is given with regard to the issuance of the City's Taxable Annual Appropriation Bond (NP Parking), Series 2024E in the original principal amount of not to

exceed \$9,000,000 (the "Bond"). The Bond is issued for the purpose of financing in part construction of the NP Avenue parking garage (the "Project"). All regular or special meetings of the Commission held in conjunction with the issuance of the Bond were conducted with prior notice to the public in compliance with N.D.C.C. Sections 44-04-19 and 44-04-20. All formal actions relative to the adoption of the Resolution were taken in an open meeting of the Commission, and all deliberations of the Commission which resulted in formal action were in meetings open to the public.

3. Pursuant to law and the Financing Resolution adopted August 5, 2024 (the "Resolution"), the undersigned Mayor and City Auditor certify they officially signed and executed the Bond dated August 15, 2024, and maturing on or before December 1, 2054. The undersigned Mayor and City Auditor are delegated with the responsibility of issuing and delivering the Bond and the City has authorized by all necessary action and execution, issuance, delivery and due performance of the Bond; and the Bond, as executed, issued and delivered, is in the form approved by the Resolution. The Bond has been sold to the Bank of North Dakota as authorized by Section 3-0802 of the City's Code of Ordinances.
4. Pursuant to the Resolution, the Mayor and City Auditor certify they have signed and executed the Loan Agreement between the City and the Bank of North Dakota dated as of August 1, 2024 (the "Loan Agreement").
5. There is no litigation pending or, to the knowledge of the undersigned, threatened, to restrain or enjoin the construction of the Project, or the issuance, sale or delivery of the Bond, or in any way contesting or affecting any authority for the issuance of the Bond or the validity and binding legal obligation thereof, or any substantive or procedural debt limit restrictions, or to prevent the execution, registration, certification or delivery thereof, or to amend, cancel or revoke any proceedings taken incidental to the Bond, or in any way contesting the corporate existence, boundaries or powers of the City or the right of its officers to their respective offices.
6. All outstanding obligations of the City, including the Bond, are within all applicable state constitutional and statutory debt limitations of the City. No event of default under the Resolution or Loan Agreement and no event that, with the giving of notice or lapse of time or both, would become an event of default under the Resolution or Loan Agreement has occurred and is continuing.
7. The City is not in violation of any provision of its Home Rule Charter or Ordinances, and to the best of the City's knowledge, the City is not in violation of any provision of or in default under any indenture, mortgage, deed of trust, indebtedness, agreement, instrument, judgment, decree, order, statute, rule or regulation to which it is a party or by which any of its property is bound, other than violations and defaults which would have no material adverse effect on the transaction contemplated by the Bond, Resolution and Loan Agreement.
8. The execution and delivery of the Resolution and Loan Agreement, and the carrying out of the terms thereof, do not and will not result in a violation of any provision of or in a default

under the N.D.C.C. or the Home Rule Charter of the City, or any amendments thereto, or any indenture, resolution, mortgage, deed of trust, or other agreement to which the City is a party or by which it or any of its property is bound.

9. All elections, notifications, certifications, hearings and all other actions required to be taken by or on behalf of the City have been given, made, held or otherwise performed as required by the City's Home Rule Charter, Ordinances and N.D.C.C. Section 40-05-01(2).
10. All proceedings and actions taken by the City by and through its governing body and its Mayor and City Auditor in connection with the issuance and sale of the Bond and the execution and delivery by the City of the Bond, the Resolution and the Loan Agreement were duly conducted and adopted in accordance with all procedural requirements imposed by law (including, but not limited to, all applicable notice, quorum and validation requirements and as represented in said documents), and the officials of the City named in such documents executed the same as indicated therein and were duly elected or appointed and qualified to serve as such officers on the date of such execution.
11. The actions taken by the City or the City's officers relating to the adoption of the Resolution providing for the issuance of the Bond and the execution and delivery of the Loan Agreement and related closing documents, and any other agreements contemplated thereby, and the compliance with the provisions thereof by the City do not violate any law, including the City's Home Rule Charter and Ordinances, regulation, court order, consent decree or settlement to which the City is subject and does not and shall not, in any material respect, conflict with or constitute on the part of the City a breach of or a default under any agreement or instrument to which the City is bound.
12. There are no legal or governmental proceedings pending or threatened against the City or the Project wherein an unfavorable decision, ruling or finding would have a material adverse effect on the validity or security of the Bond, the Resolution, the Loan Agreement, the related closing documents or the transactions contemplated thereby.

Dated: August 15, 2024.

**CITY OF FARGO, NORTH DAKOTA**

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Mayor

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City Auditor

**LOAN AGREEMENT  
(Infrastructure Revolving Loan Fund)**

**THIS LOAN AGREEMENT** (the "Loan Agreement") dated as of August 1, 2024, between the **BANK OF NORTH DAKOTA**, an agency of the State of North Dakota ("BND") and **CITY OF FARGO, NORTH DAKOTA**, a political subdivision of the State of North Dakota (the "City").

**ARTICLE I  
TERMS AND CONDITIONS**

**Section 1.01. Terms.** BND hereby commits, subject to the availability of funds and the conditions hereinafter set forth, and pursuant to the City's Home Rule Charter, Article 3-0802 of the City's Code of Ordinances, Section 40-05-01(2) of the North Dakota Century Code ("N.D.C.C.") and the Resolution (has herein defined) to purchase from the City its \$9,000,000 Taxable Annual Appropriation Bond (NP Parking Garage), Series 2024E (the "Bond"), dated August 15, 2024, bearing interest at a rate of 2.00% fixed to maturity. The Bond is issued for the purpose of financing a portion of the costs of construction of the NP Avenue parking garage, as further described in the Development Agreement dated as of October 31, 2022, as amended between the City and Great Plains NP Holdings, LLC (the "Project"). The Bond shall have semi-annual interest payments each June 1 and December 1 commencing December 1, 2024. The Bond shall have annual principal payments, as set forth in the schedule attached to the Bond and made a part hereof, commencing December 1, 2025, and annually thereafter to and including December 1, 2054, on which date all unpaid interest and principal on the Bond shall be due and payable in full, subject to annual appropriation as further described herein.

**Section 1.02. Authority and Source of Funds.** The City acknowledges that the source of funds for the purchase of the Bond by BND is the Infrastructure Revolving Loan Fund established by N.D.C.C. Section 6-09-49 and all amendments, regulations, policies, guidelines and procedures promulgated thereunder (together, the "Program") and that the City must comply with all eligibility requirements of the Program, BND and the Industrial Commission of North Dakota.

**Section 1.03. Source of Payment.** The Bond is payable solely from legally available funds annually appropriated by the City for the payment of principal of, and interest on, the Bond. The City covenants to cause the proposed annual budget for the following Fiscal Year to be submitted for consideration by the Commission each year to include a specific line-item for an amount equal to the debt service on the Bond and to exhaust all available reviews and appeals in the event such portion of the budget is not approved, provided, however, that the inclusion of such line-item does not obligate the Commission to include such amount within the approved budget or appropriate such funds. In the event the Commission fails to appropriate such amounts for any Fiscal Year of the City by October 7 of the preceding fiscal year, the Bond is cancelled the immediately following December 1 without liability of the City for any further payments of debt service on the Bond and is of no further force and effect. The failure to appropriate funds and the cancellation of the Bond is not a default or event of default, and the Bondholder shall have no recourse against any of the funds, revenues or assets, including the Project, of the City. The Bond does not constitute a debt

of the City within the meaning of any constitutional or statutory limitation.

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

**Section 1.04. Mandatory Payments.** The principal and interest due on the Bond shall be paid in the amounts and on the dates set forth in the amortization schedule attached to the Bond and by reference made a part hereof ("Mandatory Payments") subject to the right of the City to prepay the Bond. Any principal or interest received by BND in excess of the amounts set forth in the amortization schedule attached to the Bond, as then in effect, which is not a Mandatory Payment, or is not designated as an Optional Payment under Section 1.05 by the City, shall, in the sole option and discretion of BND, (i) be applied to a future Mandatory Payment, (ii) treated as a prepayment of principal on the Bond, or (iii) returned by BND to the City as an overpayment.

**Section 1.05. Optional Payments.** The City may prepay the Bond, in whole or in part, without penalty, on any date at a price equal to 100% of the principal amount to be prepaid, together with interest thereon to the redemption date. Not less than 30 days prior to the date specified for redemption, the City will cause notice of the redemption to be mailed to BND. The principal amount of a partial prepayment may, in the sole option and discretion of the City, (i) be applied to a future principal payment of the Bond in a manner determined by BND, or (ii) be applied to reduce each unpaid principal installment required with respect to the Bond in the proportion that such installment bears to the total of all unpaid principal installments (i.e., the remaining principal payment schedule shall be re-amortized to provide proportionately reduced principal payments in each year).

**Section 1.06. Draws of Bond Proceeds.** The proceeds of the Bond are appropriated by the City to pay expenses necessarily incurred in the construction and completion of the Project and to pay costs associated with the issuance of the Bond. BND will disburse the proceeds of the Bond upon (a) execution and delivery by the City of this Loan Agreement, (b) issuance by the City of the Bond and delivery to BND, (c) the delivery to BND of any required closing documents and opinions and (d) submission to and approval by BND of Requisitions for Payment in the form approved by BND. Requests for draws on the Bond proceeds, in the form of Requisitions for Payment, shall be submitted by the City to BND from time to time in accordance with procedures established by BND. BND shall not be accountable for the use or application by the City or any other party of any funds which BND has released in accordance with the terms of this Loan Agreement. After all claims and expenses with respect to the Project and the issuance of the Bond have been duly paid and satisfied, the amortization schedule for the Bond shall be adjusted to reflect the total principal amount drawn under this Loan Agreement. Interest shall accrue on the outstanding amount of the Bond advanced by BND from the date of the first advance.

**Section 1.07. Closing Agent.** BND may designate and appoint the Bank of North Dakota Trust Department as its Closing Agent for this loan. If so designated and appointed, the City will close the loan with the Closing Agent at a time agreed upon by the City and the Closing Agent.

## **ARTICLE II REPRESENTATIONS OF PARTIES**

**Section 2.01. Representations of City.** The City covenants and agrees (i) that the proceeds of the Bond shall be used and expended in a manner consistent with the Program and the Commitment Letter dated June 18, 2024 (the "Commitment Letter"), this Loan Agreement and the Program, (ii) to cooperate with BND in the observance and performance of the respective duties, covenants, obligations and agreements of the City and BND under this Loan Agreement; (iii) that it will, subject to annual appropriation, in compliance with the procedures set forth in the City's Home Rule Charter and Ordinances and the N.D.C.C., promptly cause the principal and interest on the Bond to be paid as they become due; (iv) to provide from its own fiscal resources or proceeds of other borrowings all moneys in excess of the total amount of the Bond required to complete the construction of the Project; (v) to provide financial statements to BND on an annual basis; and (vi) to observe and perform its duties, covenants, obligations and agreements under the Financing Resolution adopted by the governing body of the City on August 5, 2024 (the "Resolution").

**Section 2.02. Representations of BND.** BND is duly organized and existing under the constitution and laws of the State, has full power and authority, including N.D.C.C. Section 6-09-49, to enter into the transactions contemplated by this Loan Agreement, and by proper action has duly authorized the execution and delivery of this Loan Agreement.

## **ARTICLE III DEFAULT AND REMEDIES**

**Section 3.01. Events of Default.** The following are events of default under this Loan Agreement ("Event of Default"): (i) failure of the City to make a Mandatory Payment on the Bond when due; (ii) failure of the City to comply with any provision of this Loan Agreement, the Resolution or the Bond for a period of thirty (30) days, after written notice from BND unless the City provides a written plan acceptable to BND providing for such a cure of the matter creating the default; or (iii) any representation made by or on behalf of the City contained in this Loan Agreement or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Bond, is false or misleading in any material respect.

**Section 3.02. Remedies.** Whenever an Event of Default referred to in Section 3.01 shall have occurred and be continuing, following not less than 30 days written notice to the City of such Event of Default, BND shall have the right to take, or to direct its authorized agent to take, any action permitted or required under the Resolution or this Loan Agreement or exercise whatever other remedy at law or in equity is available to BND to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the City hereunder. BND may also exercise one or more of the

following remedies: (i) withhold approval of any request to disburse Bond proceeds and (ii) reject any pending application by the City for financial assistance.

**ARTICLE IV  
GENERAL**

**Section 4.01. Assignments.** This Loan Agreement may not be assigned by the City without the written consent of BND. BND may assign this Loan Agreement, following written notice of such assignment to the City.

**Section 4.02. Notices.** All notices under this Loan Agreement will be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses:

(a) BND:	Bank of North Dakota 1200 Memorial Hwy PO Box 5509 Bismarck, ND 58506-5509 Attn: Commercial Loan Department
(b) City:	City of Fargo, North Dakota 225 4 <sup>th</sup> St N Fargo, ND 58102 Attn: Finance Director

**Section 4.03. Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon BND and the City and their respective successors and assigns.

**Section 4.04. Severability.** In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

**Section 4.05. Amendments, Changes and Modifications.** Except as otherwise provided herein, this Loan Agreement may not be amended, changed, modified or altered except in writing and signed by both parties.

**Section 4.06. Execution in Counterparts.** This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 4.07. Termination of Agreement.** This Loan Agreement shall terminate when the Bond is fully paid and retired or upon agreement of the parties in writing and signed by both parties.

**Section 4.08. Applicable Law.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

**Section 4.09. Complete Agreement.** This Loan Agreement represents (along with the documents referred to in this Loan Agreement), the entire agreement between the City and BND with respect to its subject matter.

**Section 4.10. Representation of Authority.** Each party signing this Loan Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Loan Agreement and that the Loan Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

**Section 4.11. Electronic Signatures.** The parties agree that the electronic signature of a party to this Loan Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Loan Agreement. For purposes hereof: (i) “electronic signature” means a manually signed original signature that is then transmitted by electronic means; and (ii) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message.

*(Remainder of this page intentionally left blank.)*



**IN WITNESS WHEREOF**, BND and the City have caused this Loan Agreement to be duly executed by their duly authorized officers as of the date first above written.

**BANK OF NORTH DAKOTA**

\_\_\_\_\_  
Authorized Officer

**CITY OF FARGO, NORTH DAKOTA**

**Attest:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Auditor

[Signature Page to Loan Agreement]

\$9,000,000  
CITY OF FARGO, NORTH DAKOTA  
TAXABLE ANNUAL APPROPRIATION BOND (NP PARKING). SERIES 2024E  
(INFRASTRUCTURE REVOLVING LOAN FUND)

**FINANCING RESOLUTION**

WHEREAS, pursuant to Section 40-05-01(2) of the North Dakota Century Code (“N.D.C.C.”), Section 40-05.1-06(2), N.D.C.C., the City’s Home Rule Charter, and Article 3-0802 of the City’s Code of Ordinances, the City of Fargo, North Dakota (the “City”) is authorized and empowered, among other things, to issue its bonds, subject to annual appropriation, to finance the acquisition, construction, improvement, betterment, extension, and equipping of a public facility or undertaking; and

WHEREAS, pursuant to a Development Agreement dated as of October 31, 2022, as amended, between the City and Great Plains NP Holdings, LLC, the City has agreed to finance costs of a Garage, as defined therein, to be available for public use (the “Project”); and

WHEREAS, the City will issue its Taxable Annual Appropriation Bond (NP Parking), Series 2024E (the “Bond”) to finance a portion of the costs of the Project, as well as certain costs of issuance of the Bond; and

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

WHEREAS, the City has made application to the Bank of North Dakota (“BND”) pursuant to the requirements of the Infrastructure Revolving Loan Fund, N.D.C.C. Section 6-09-49, to finance a portion of the cost of the Project and BND has approved the City’s application pursuant to the terms of a commitment letter dated June 18, 2024 (the “Commitment Letter”).

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

**SECTION 1. DEFINITIONS.** As used in this Resolution, the following words shall have the following meanings:

“**Authorized Officers**” means the Mayor, City Auditor, and Director of Finance and in the absence or disability of the such officers, each of the Deputy Mayor and the Deputy City Auditor or the individual or individuals authorized generally by the City to act on behalf of the Mayor, the City Auditor, the Director of Finance.

“**BND**” means the Bank of North Dakota.

“**Bond**” means the City of Fargo, North Dakota, Taxable Annual Appropriation Bond (NP Parking), Series 2024E issued pursuant to this Resolution in the amount of not to exceed \$9,000,000.

“**Bondholders**” means the person or persons in whose name such Bond shall be registered.

“**City**” means the City of Fargo, North Dakota, a North Dakota political subdivision and its successors and assigns.

“**Commission**” means the Board of City Commissioners of the City.

“**Commitment Letter**” means the BND Commitment Letter dated June 18, 2024.

“**Construction Fund**” means the Construction Fund established pursuant to Section 11 hereof.

“**Debt Service Fund**” means the Debt Service Fund established pursuant to Section 10 hereof.

“**Development Agreement**” means the Development Agreement dated as of October 31, 2022, as amended, between the City and Great Plains NP Holdings, LLC.

“**Loan Agreement**” means the Loan Agreement between the City and BND dated as of August 1, 2024.

“**N.D.C.C.**” means the North Dakota Century Code.

“**Project**” means the Garage, as described in the Development Agreement.

“**Registrar**” means the City Auditor, or any entity which is under contract with the City to serve as paying agent and registrar for the Bond and its successors and assigns.

**SECTION 2. AUTHORIZATION.** Pursuant to the authority of N.D.C.C. Section 40-05-01(2), N.D.C.C. Section 40-05.1-06(2), the City’s Home Rule Charter, Article 3-0802 of the City’s Code of Ordinances and the provisions of this Resolution, a bond of the City entitled to the benefits, protection and security of such provisions is hereby authorized in the aggregate principal amount of not to exceed Nine Million Dollars (\$9,000,000). The Bond shall be designated "\$9,000,000 City of Fargo, North Dakota, Taxable Annual Appropriation Bond (NP Parking), Series 2024E". issued for the purpose of financing a portion of the costs of the Project and paying related costs of issuance.

**SECTION 3. SALE OF THE BOND.** The Bond is hereby sold through negotiated sale to BND on the terms and conditions set forth in the Commitment Letter and herein at a purchase price of not to exceed \$9,000,000, or such lesser amount as may be required for the completion of the Project. The City agrees to pay all costs associated with the issuance and sale of the Bond. The Bond shall consist of a single term bond in the amount of not to exceed \$9,000,000. The Bond shall be issued only in fully registered form without coupons.

**SECTION 4. TERMS.** The Bond shall be dated August 15, 2024. The Bond shall mature on December 1, 2054, and shall bear interest at the rate of 2.00%, calculated on the basis of a 360-day year of twelve 30-day months, payable on June 1 and December 1 in each year commencing December 1, 2024.

The Bond is subject to annual mandatory principal installments commencing December 1, 2025, with the last principal payment being made on December 1, 2054, subject however to the final amortization schedule to be attached to the Bond upon the final loan advance in accordance with Section 1.06 of the Loan Agreement. The preliminary amortization schedule has been presented to the Commission at this meeting and is hereby approved. Each loan advance shall be recorded on the grid on the reverse of the Bond.

Interest on the Bond and the principal thereof shall be payable in lawful money of the United States of America by check, wire, or other electronic transfer. Interest shall be payable to the person in whose name the Bond is registered at the close of business on the fifteenth (15<sup>th</sup>) (whether or not a business day) of the immediately preceding month. Interest on the Bond shall cease at maturity or on a date prior thereto on which it has been duly called for redemption unless the holder thereof shall present the same for payment and payment is refused. The Bond shall be payable from the Debt Service Fund established herein.

**SECTION 5. REDEMPTION.** The Bond is subject to prepayment, in whole or in part, on any date at the option of the City upon 30 days' written notice at a price equal to the principal amount thereof plus accrued interest.

**SECTION 6. PREPARATION AND EXECUTION; FORM OF BOND.** The Bond shall be printed under the supervision and at the direction of the City Auditor, executed by the manual signature of the Mayor, sealed with a manual or facsimile of the City's official seal, if any, and attested to by the manual signature of the City Auditor and delivered to BND at closing. The Bond shall be reproduced in substantially the form on file with the City Auditor.

**SECTION 7. BUDGET, APPROPRIATION, AND NON-APPROPRIATION.** The City covenants to cause the proposed annual budget for the following Fiscal Year to be submitted for consideration by the Commission each year to include a specific line-item for an amount equal to the debt service on the Bond and to exhaust all available reviews and appeals in the event such portion of the budget is not approved, provided, however, that the inclusion of such line-item does not obligate the Commission to include such amount within the approved budget or appropriate such funds. In the event such funds are not appropriated, the Bond is subject to cancellation pursuant to Section 9 hereof.

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

**SECTION 8. SECURITY.** The Bond shall be a special, limited obligation of the City payable solely from legally available funds annual appropriated by the City for the payment of principal of, and interest on, the Bond. In the event the Commission fails to appropriate such amounts for any Fiscal Year of the City by October 7 of the preceding fiscal year, the Bond is cancelled the immediately following December 1 without liability of the City for any further payments of debt service on the Bond and is of no further force and effect. The failure to appropriate funds and the cancellation of the

Bond is not a default or event of default, and the Bondholder shall have no recourse against any of the funds, revenues or assets, including the Project, of the City. The Bond does not constitute a debt of the City within the meaning of any constitutional or statutory limitation.

**SECTION 9. LIMITED OBLIGATION, NON-APPROPRIATION.** The Bond shall be payable solely from legally available funds of the City appropriated annually and shall not be payable from, or be secured by any pledge of, any other funds, revenues, assets or taxing power of the City. The Bond shall be a valid claim of the respective owners thereof only against the funds established under this Resolution and any other moneys held by the Registrar for the benefit of the Bondholders. Upon a failure by the City to appropriate moneys sufficient to pay debt service on the Bond, the Bond will be cancelled as directed by the City to the Registrar and the City will have no further obligation for the payment of principal of, and interest on, the Bond.

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

In the event the City (i) does not adopt a budget for the following Fiscal Year ("Subsequent FY") by October 7 of each year (the "Budget Deadline") with a line-item for the payment of debt service as described above and (ii) adopts a resolution stating that no funds are being appropriated for the payment of the principal of, and interest on, the Bond due in the Subsequent FY (an "Event of Non-Appropriation"), the Bond shall be cancelled on the December 1 immediately following the Budget Deadline for that Fiscal Year (the "Termination Date") with the only liability of the City thereon being the payment of the principal of, and interest on the Bond due on the June 1 preceding such Termination Date, for the payment of which funds had been appropriated by inclusion in the City's prior budget. The resolution required above for non-appropriation may be included in the resolution of the City with respect to the approval of the budget generally.

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

The Bond does not constitute a debt or liability of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or any political subdivision thereof. The issuance of the Bond does not, directly, indirectly or contingently, obligate the State or any political subdivision thereof to levy any form of taxation for the payment thereof or to make any appropriation for their payment, and such Bond and interest payable thereon do not now and shall never constitute a debt of the State or any political subdivision thereof within the meaning of the Constitution or the statutes of the State and do not now and shall never constitute a charge against the credit or taxing power of the State or any political subdivision thereof. Neither the State nor any political subdivision thereof shall in any event be liable for the payment of the principal of or interest on the Bond or for the performance of any pledge, obligation or agreement of any kind whatsoever which may be undertaken by the City.

No breach by the City of any such pledge, obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any political subdivision thereof. No covenant or agreement in the Bond or in this Resolution and no obligation herein imposed upon the City and no breach thereof shall constitute or give rise to or impose upon the City a general liability or a charge upon its general credit or property.

**SECTION 10. DEBT SERVICE FUND.** The City shall establish and maintain so long as the Bond is outstanding and unpaid, a sinking fund as a separate and special bookkeeping account on the official books and records of the City, to be designated the "Debt Service Fund." On or before the twenty-fifth day of each May and November, the City shall deposit with the Registrar solely from expressly appropriated funds for such Fiscal Year, an amount sufficient, together with amounts already on deposit in the Debt Service Fund, to pay the principal, if any, of, and interest on, the Bond on the immediately following June 1 or December 1, as the case may be. If any such twenty-fifth day is not a Business Day, the deposit herein required to be made shall be made on the next preceding Business Day. Moneys on deposit in the Debt Service Fund shall be invested in such investments as are authorized by law for the City. Investment earnings shall be retained in the Debt Service Fund. Moneys on deposit in the Debt Service Fund, including income earned thereon, shall be applied by the Registrar to pay principal of, and interest on, the Bond as it becomes due.

**SECTION 11. CONSTRUCTION FUND.** The Board shall establish a Construction Fund and shall deposit to the credit of such Fund the proceeds of the Bond.

As bond proceeds are needed for Project costs, the City shall submit requests in accordance with Section 1.06 of the Loan Agreement. Loan advances shall be recorded on the grid on the back of the Bond. Money in the Construction Fund from such proceeds and earnings shall be used for payment of Project costs and costs of issuance of the Bond to include reimbursement to the City for advances made for such costs or to refund amounts borrowed for the Project, and for no other purpose.

Money in the Construction Fund shall be deposited with a qualified depository and any deposits in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation or the National Credit Union Administration shall be collateralized in accordance with Section 21-04-09 of the N.D.C.C. Money in the Construction Fund shall be subject to withdrawal from time to time by the Director of Finance for the purposes set forth above.

Money in the Construction Fund may be invested in such investments as are authorized by law for the City. Earnings from investment of the funds in the Construction Fund shall remain in the Construction Fund and shall be treated and disbursed as Bond proceeds. Any proceeds of the Bond and any interest earnings thereon remaining in the Construction Fund after payment of all outstanding interim indebtedness, costs of the Project, reimbursement of prior expenditures and issuance costs shall be transferred to the Debt Service Fund.

**SECTION 12. GENERAL COVENANTS.** The City hereby covenants and agrees with the Bondholders as follows, subject to annual appropriation as described herein:

- (a) To promptly pay the principal of, premium, if any, and interest on the Bond.

- (b) To fully and promptly perform the covenants, undertakings, stipulations and provisions contained and referred to herein and each and all the duties prescribed in the N.D.C.C. and its Home Rule Charter and Ordinances as such provisions relate to the Bond.
- (c) To maintain complete books and records relating to the operation of the City, the Construction Fund and the Debt Service Fund and cause such books and records to be audited annually at the end of each fiscal year in accordance with Generally Accepted Accounting Standards. The audit report shall be provided to BND.
- (d) The City represents that it is duly authorized under the Constitution and laws of the State and its Home Rule Charter and Ordinances to issue the Bond authorized hereby and to execute this Resolution, that all action on its part for the issuance of the Bond and the execution and delivery of this Resolution has been duly and effectively taken, and that the Bond in the hands of the owners thereof are and will be a valid and enforceable obligation of the City according to the import thereof.

**SECTION 13. REGISTRATION AND TRANSFER.** The Bond is transferable upon the books of and at the principal office of the Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of the Bond shall be required to be made during the fifteen days next preceding an interest payment date, nor during the forty-five days next preceding the date fixed for redemption of such Bond.

The Bond shall be registered as to both principal and interest and the Registrar shall establish and maintain a register for the purposes of recording the names and addresses of the registered owners or assigns, the dates of such registration and the due dates and amounts for payment of principal and interest on the Bond; and the City and the Registrar may deem and treat the person in whose name any Bond is registered as the absolute owner thereof, whether the Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

**SECTION 14. EVENTS OF DEFAULT.** Each of the following events is hereby declared an “Event of Default”:

- (a) payment of any installment of interest payable on the Bond for which the City has appropriated funds shall not be made when the same shall become due and payable; or
- (b) payment of the principal of, or the premium, if any, on the Bond for which the City has appropriated funds shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption; or

(c) the City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bond, in this Resolution, or in the Commitment Letter to be performed on the part of the City, and such default shall continue for the period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City.

**SECTION 15. REMEDIES.** Upon the occurrence of any Event of Default, the Bondholder may pursue any available remedy including a suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Bond outstanding hereunder.

**SECTION 16. AMENDMENT OF RESOLUTION.**

(a) This Resolution may be amended without the consent of any Bondholders for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City in this Resolution any other covenants and agreements thereafter to be observed by the City or to surrender any right or power herein reserved to or conferred upon the City;

(ii) to cure any ambiguity or formal defect contained in this Resolution, if that cure does not, in the judgment of the Board, adversely affect the interests of the Bondholders; or

(iii) to make any other change which, in the opinion of bond counsel and BND counsel, is not to the prejudice of the holders of the Bond.

(b) This Resolution may be amended for any other purpose only upon consent of not less than 100% in aggregate principal amount of the Bond outstanding; provided, however, that no amendment shall be valid which:

(i) extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Bondholder; or

(ii) reduces the percentage of Bondholders required to approve the amendatory resolutions.

**SECTION 17. DISCHARGE.** When the Bond, and the interest thereon, has been discharged as provided in this Section, all pledges, covenants, and other rights granted by this Resolution shall cease. The City may discharge the Bond installments due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full; or if any Bond installment or interest thereon should not be paid when due, the same may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The City may also discharge all prepayable Bond installments called for redemption on any date when they are prepayable according to their terms, by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full, provided that notice of



the redemption thereof has been duly given as provided herein. The City may also discharge all or part of the Bond at any time by irrevocably depositing in escrow with a suitable bank or trust company for the purpose of paying all or part of the principal and interest due on the Bond prior to the date upon which the same will be prepayable according to their terms, and paying such Bond on that date, a sum of cash and securities which are general obligations of the United States or securities the principal and interest payments on which are guaranteed by the United States, or deposits in the Bank of North Dakota which, as provided by N.D.C.C. Section 6-09-10, are guaranteed by the State of North Dakota, in such aggregate amount, bearing interest at such rates and maturing or callable at the holder's option on such dates as shall be required to provide funds sufficient for this purpose; provided that notice of the redemption of all prepayable Bond installments on or before such date has been duly given as required herein.

**SECTION 18. OTHER DOCUMENTS AND PROCEEDINGS.** The Authorized Officers are hereby authorized and directed to execute and carry out or cause to be carried out the obligations which are necessary or advisable in connection with this Resolution and the Loan Agreement and the issuance, sale, and delivery of the Bond. The Authorized Officers are further authorized and directed to prepare, execute and furnish to the attorneys passing on the legality of the Bond, certified copies of all proceedings, ordinances, resolutions and records and all such certificates and affidavits and other instruments as may be required to evidence the legality and marketability of the Bond, and all certified copies, certificates, affidavits and other instruments so furnished shall constitute representations of the City as to the correctness of all facts stated or recited therein.

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

**SECTION 19. LOAN AGREEMENT.** The Commission has received a proposed Loan Agreement to purchase the Bond upon the terms and conditions set forth therein and in the Commitment Letter. The Board hereby finds and determines the Loan Agreement to be in the best interest of the City and hereby accepts the Loan Agreement and instructs the Authorized Officers to execute the Loan Agreement on behalf of the City. The Loan Agreement is hereby incorporated by reference and the sale of the Bond is hereby awarded to BND. Each and all the provisions of this Resolution relating to the Bond are intended to be consistent with the provisions of the Loan Agreement, and to the extent that any provision in the Loan Agreement is in conflict with this Resolution as it relates to the Bond, that provision in the Loan Agreement shall control and this Resolution shall be deemed accordingly modified. The Loan Agreement may be attached to the Bond and shall be attached to the Bond if the holder of the Bond is any person other than BND.

**SECTION 20. CERTIFICATES.** The Authorized Officers, in consultation with bond counsel, are hereby authorized to deliver certificates which cures ambiguities, defects or omissions herein, correct, amend, or supplement any provision herein, all in furtherance of the financing contemplated by the Commitment Letter. Such authorization shall include, but is not limited to, adjustment of the amortization schedule and issuance of a revised bond in the event the preliminary amortization schedule is adjusted with the consent of BND.

**SECTION 21. ELECTRONIC SIGNATURES.** The Commission authorizes the Authorized Officers to execute documents relating to the issuance of the Bond using electronic signatures. The electronic signatures of the Authorized Officers shall be as valid as an original signature of such official and shall be effective to bind such official to any document relating to the issuance of the Bond. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means.

*(remainder of page intentionally left blank)*

Dated: August 5, 2024.

**CITY OF FARGO, NORTH DAKOTA**

**Attest:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Auditor

The governing body of the City acted on the foregoing resolution at a properly noticed meeting held in Fargo, North Dakota, on August 5, 2024, with the motion for adoption made by \_\_\_\_\_ and seconded by \_\_\_\_\_, and the roll call vote on the motion was as follows:

"Aye" \_\_\_\_\_

"Nay" \_\_\_\_\_

Absent \_\_\_\_\_

Abstain \_\_\_\_\_



**Fargo Cass  
Public Health**  
Prevent. Promote. Protect.

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

**MEMORANDUM**

26

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: JENN FAUL** *JF*  
**DIRECTOR OF PUBLIC HEALTH**

**DATE: AUGUST 1, 2024**

**RE: AGREEMENT BETWEEN FARGO CASS PUBLIC HEALTH  
DEPARTMENT AND DOYLE'S YELLOW CHECKER CAB, INC.  
FUNDS: RATES ESTABLISHED FOR TRIPS  
TERM: AUGUST 5, 2024 TO JULY 31, 2025  
RFP: 24232**

The attached agreement between Fargo Cass Public Health Department and Doyle's Yellow Checker Cab, Inc. on-call transportation services for Fargo Cass Public Health clients to and from specified locations as directed by FCPH staff. The agreement is renewable for four successive one-year periods.

- All trips 15 miles and under = \$22.50 (any additional stops = \$12.50)
- Any trip over 15 miles = \$10.00 drop, \$1.25 per mile
- \$10.00 no show fee

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

**Suggested Motion:**

Move to approve this agreement with Doyle's Yellow Checker Cab, Inc.

JF/lls

**Agreement Between  
Fargo Cass Public Health Department  
and Doyle's Yellow Checker Cab**

This Agreement (the "Agreement"), effective August 5, 2024 ("Effective Date"), is entered into by and between Doyle's Yellow Checker Cab, Inc., a North Dakota corporation ("Vendor"), having a principal place of business at 1418 Main Avenue, Fargo, North Dakota, 58103, and the City of Fargo, a North Dakota municipal corporation and its department, Fargo Cass Public Health ("City"), having a principal place of business at 225 4<sup>th</sup> Street North, Fargo, North Dakota, 58102 (each a "Party" and collectively, the "Parties").

**1. TERM**

The term of this Agreement will be for twelve (12) months from the Effective Date. Contracted months from August 5, 2024, through July 31, 2025. City reserves the right to execute the option to renew for four (4) successive one (1) year period, upon written notice. If City renews, the parties agree to negotiate rates and terms on an annual basis, providing that such negotiated rates and terms fall within the original scope of work for this Agreement. Such changes will be documented by amendment to the Agreement.

**2. REQUIREMENT**

Vendor must hold a current Taxi License issued by the City of Fargo Auditor's Office and maintain a license throughout the initial term and any renewal terms of the Agreement.

**3. COMPENSATION**

Rates for the current Agreement are as listed:

- All trips 15 miles and under = \$22.50  
(Any additional stop = \$12.50)
- Any trip over 15 miles = \$10.00 drop, \$1.25 per mile
- \$10.00 no-show fee

All invoices shall include the Reference number RFP24232 and include the details outlined in the approved "Trip Log". Vendor shall not charge and City will not pay for any services performed without a pre-authorized request using a pass-code. Except as otherwise provided, undisputed invoices shall be payable within 30 calendar days after the receipt of the invoice.

Vendor may refuse service at the time of passenger retrieval. If Vendor accepts the passenger, Vendor does so entirely at its own risk and waives and relieves City from any and all claims, damages or liability as a result of accepting the fare. Vendor shall not be compensated for any refusals.

**4. HOURS OF OPERATION**

Vendor's hours of operation must be 24 hours per day / 7 days per week / 365 days per year.

**5. CONFIDENTIALITY**

Vendor shall abide by all HIPAA / 42 CFR Part 2 compliance requirements in regard to confidentiality. Vendor agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any confidential information to any person, firm or corporation unless otherwise authorized or required by law.

**6. INSURANCE**

Vendor will obtain and maintain the following insurance coverage, with respect to Business Auto and Commercial Liability Coverage naming the City of Fargo as Additional Insured:

Commercial General Liability covering bodily injury with a limit of not less than U.S. \$1,000,000 per accident, and \$50,000 of property insurance. In addition, Vendor shall secure an Umbrella Policy in an amount not less than \$1,000,000.

- a. Vendor shall provide the City of Fargo with evidence of the foregoing coverage before providing any services.
- b. Vendor shall notify the City of Fargo 30 days prior to cancellation or reduction in limits of any insurance required hereunder.

**7. INDEMNIFICATION**

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

**8. FORCE MAJEURE**

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

**9. DISPUTE RESOLUTION**

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

**10. GOVERNING LAW**

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

**11. ENTIRE AGREEMENT**

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

**12. ASSIGNMENT**

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

**13. TERMINATION**

City may terminate this Agreement at any time by giving ten {10} days written notice to the Vendor. Vendor will be paid for services rendered prior to termination.

**14. SEVERABILITY**

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

IN WITNESS WHEREOF, City and Doyle's Yellow Checker cab have caused this Agreement to be duly executed as of the date first above written.

**CITY OF FARGO,**  
a North Dakota municipal corporation

**FARGO CASS PUBLIC HEALTH**

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

BY  \_\_\_\_\_  
Jenn Faul, Director of Health

Date: \_\_\_\_\_

Date: 07/31/2024

**ATTEST:**

**DOYLE'S YELLOW CHECKER CAB, INC.,**  
a North Dakota corporation

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

BY \_\_\_\_\_  
Kerim Nuhbegovic, Owner

Date: \_\_\_\_\_

Date: \_\_\_\_\_





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

**MEMORANDUM**

27

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: JENN FAUL** *JF*  
**DIRECTOR OF PUBLIC HEALTH**

**DATE: JULY 16, 2024**

**RE: APPLICATION FOR TITLE V / MATERNAL AND CHILD HEALTH  
(MCH) PROGRAM  
BUDGET PERIOD: OCTOBER 1, 2024 TO SEPTEMBER 30, 2025**

An application is being made for a renewal of the grant with North Dakota Department of Health and Human Services for the Title V MCH Program. This program is to increase the number of children and adolescents who are physically active and to increase the number of infants who are breastfed and for those infants who are breastfed exclusively through six months. Revenue from the MCH grant is in our budget for Fargo Cass Public Health. We are projected to receive \$17,500 from the grant and the City funded match which has been budgeted for would be \$13,125.

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

**Suggested Motion:**

Please allow Fargo Cass Public Health to move ahead with the application for the MCH grant..

JF/lis



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

MEMORANDUM

28

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: JENN FAUL** / *JF*  
**DIRECTOR OF PUBLIC HEALTH**  
**DATE: JULY 30, 2024**  
**RE: ADDENDUM C TO CASS HUMAN SERVICE ZONE AGREEMENT**  
**FUNDS: CHANGE IN RATES**  
**EXP: DECEMBER 31, 2024**

The agreement with Cass Human Service Zone has an addendum that has changed the rates for service. The definition of a unit rate for non-personal tasks changed from \$6.93 to \$7.14 and the definition of a unit rate for intermittent or occasional provision of personal care changed from \$7.70 to \$7.93. In addition, a note was added to include that Fargo Cass Public Health does not charge for mileage.

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

**Suggested Motion:**

Move to approve this addendum to the purchase of service agreement with Cass County Human Service Zone.

JF/lls

**Addendum C**  
Updated 07/22/2024

DEFINITION	DEFINITION OF UNIT	MAXIMUM ALLOWABLE AUTHORIZATION	RATE NEGOTIATED
The provision of non-personal (environmental support) tasks such as light housekeeping, laundry, meal planning and preparation that enables an individual to maintain as much independence and self-reliance as possible to continue living in their home.	\$7.14/15 min.  Tier 1(21-50 miles) \$9.19 Tier 2(51-70 miles) \$10.77 Tier 3(71+ miles) \$11.98	7 units/visit or at the discretion of the Care Coordinator up to 10 units/visit  26 visits/year	\$27.72/hr. of direct client time

DEFINITION	DEFINITION OF UNIT	MAXIMUM ALLOWABLE AUTHORIZATION	RATE NEGOTIATED
The intermittent or occasional provision of personal support care tasks/activities that enables an individual to maintain as much independent and self-reliance as possible to continue living in their home.	\$7.93/15 min.	\$15,000/year	\$30.80/hr. of direct client time

\*\*Please note that Fargo Cass Public Health does not charge for mileage.

**Fargo Cass Public Health**

Provider

  
By Jenn Faul, Director of Public Health

07/30/2024  
Date

456002069: Provider's Federal ID Number

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

\_\_\_\_\_  
Date

**Cass Human Service Zone**

  
Gail Bollinger, Director of Cass Human Service Zone

07/30/2024  
Date







# Cass Human Service Zone Addendum C

Final Audit Report

2024-07-30

Created:	2024-07-30
By:	Lori Sall (lsall@FargoND.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA4cjhM1QfErkuP36O8knmlH-D6dkq81CS

## "Cass Human Service Zone Addendum C" History

-  Document created by Lori Sall (lsall@FargoND.gov)  
2024-07-30 - 3:31:05 PM GMT
-  Document emailed to bollingerg@casscountynd.gov for signature  
2024-07-30 - 3:31:32 PM GMT
-  Email viewed by bollingerg@casscountynd.gov  
2024-07-30 - 4:24:47 PM GMT
-  Signer bollingerg@casscountynd.gov entered name at signing as Gail Bollinger  
2024-07-30 - 4:25:39 PM GMT
-  Document e-signed by Gail Bollinger (bollingerg@casscountynd.gov)  
Signature Date: 2024-07-30 - 4:25:41 PM GMT - Time Source: server
-  Agreement completed.  
2024-07-30 - 4:25:41 PM GMT



Information Services  
Fargo City Hall  
225 4th Street North  
Fargo, ND 58102-4817  
[www.fargoND.gov](http://www.fargoND.gov)

29

August 1, 2024

Honorable Board of  
City Commissioners  
City of Fargo  
225 4<sup>th</sup> St N  
Fargo, ND 58102

Dear Commissioners;

Under the Infrastructure Investment and Jobs Act (IIJA) framework, the Federal Government has allocated funds to each state to distribute in 2024. The grant is limited to unfunded cyber initiatives.

In October of 2023, the City Commission approved the submission of the IS grant request through the FY23 State and Local Cybersecurity Grant Program under CFDA #97.137 managed by North Dakota Department of Emergency Services.

All of our submitted grant requests were approved.

The grant funding cost share for this grant year is: Federal 80%, State 4.5% and Local 15.5.

We just finished and RFP process for a "xIoT Security Posture Management Solution."

We received 3 submissions. We have selected "Phosphorus Unified xIoT Security Management Platform" as the best solution for our needs. The vendor is Doosan Digital Innovation America, LLC.

The proposal came in at \$180,000 for a 3 year contract, payable annually. The cost share for this expenditure will be: Federal: \$144,000, State: \$8,100, and local: \$27,900.

**Suggested Motion:**

Move to approve the purchase of the "Phosphorus Unified xIoT Security Management Platform."

Thank you,

Ron Gronneberg  
CIO

**Vendor Information**

**xIoT Security Posture Management Solution**

**Information Services**

**Fargo, North Dakota**

Company Name: Doosan Digital Innovation America, LLC

Company Address: 2475 Mill Center Parkway, Suite 400  
Buford, GA 30518

Company Contact: Craig Dummer

Email: craig.dummer@doosan.com

Phone: 701-241-8709

Authorized Agent Signature: *Craig Dummer*

Printed Name: Craig Dummer

Title: IT Sourcing Manager

Date: 7/22/2024

### Experience and Qualifications:

The Phosphorus Unified xIoT Security Management Platform is powered by the industry's first and only scalable Intelligent Active Discovery (IAD) engine that is fast, accurate, and safe across a wide variety of Cyber-Physical System asset classes, including Office/Workplace IoT devices, OT and ICS devices, IoMT devices, IIoT devices, and other IPv4 or IPv6-enabled embedded devices. The patented Phosphorus IAD approach intelligently calibrates the platform's device interactions, dynamically adjusting discovery parameters such as probe sequencing, packet rates, ports in scope, and more – while ensuring that assets are fully classified with speed, safety, and minimal network impact.

The Phosphorus Unified xIoT Security Management Platform has multiple flexible deployment options such as on premises (virtual appliance) or private or public cloud (AWS, Azure, and GCP supported). The platform scales to massive enterprise environments - with optional siteManager deployments that help you to access hard-to-reach air gapped or DMZ environments. One of our primary design criteria is to expand on your existing investments in ticketing, CMDB, PAM, firewalls, logging, and more by integrating out-of-the-box with dozens of popular platforms - to enable them to help you with your xIoT estate courtesy of the Phosphorus Unified xIoT Security Management Platform.

### Innovation and Adaptability:

The Phosphorus platform is designed to meet the current needs and adapt to future challenges by providing scalable security and management capabilities for diverse IoT and OT device families. The platform is powered by the industry's first and only scalable Intelligent Active Discovery engine that is fast, accurate, and safe, across a wide variety of asset classes including Office/Workplace IoT, Building Management, IoMT, ICS, OT, IIoT, and other IP-enabled embedded devices. The platform's foundational device interaction abstraction layer then enables users to go beyond asset discovery — facilitating at-scale remediation and device management — to quantifiably reduce the risk of device compromise.

The platform — with patented device lifecycle management capabilities — enables rapidly adding support for new IP-connected embedded devices, ensuring coverage as our customers' device estates and threat models evolve.

### References:

Johnson Controls

Joel Goins, [joel.goins@jci.com](mailto:joel.goins@jci.com) and 405-318-1513

Product install description: JCI has installed at all of their Manufacturing sites to manage all IOT and OT devices.

Allina Healthcare

Jeremy Sneed, [jeremy.sneed@allina.com](mailto:jeremy.sneed@allina.com) and 612-412-6138

Product install description: Installed to manage all IOT devices in all Allina Hospitals now owned by Optum.

DDIA

Ryan Cossette, [ryan.cossette@doosan.com](mailto:ryan.cossette@doosan.com) and 701-241-1601

Product install description: inventory and manage IoT and IIoT within multiple locations and environments.

Pricing

All costs listed below are based on the scope and assumptions included in this statement of work and the terms outlined in the approved MSA.

2024 -2025	Qty	List Price	Unit Price	Total Annual Cost
Phosphorus Fullscope Operational Platform Term: 1 Year	1500	\$50.00	\$40.00	\$60,000
Sales Tax	1			Exempt (with certificate)
<b>Total</b>				<b>\$60,000</b>

2025 -2026	Qty	List Price	Unit Price	Total Annual Cost
Phosphorus Fullscope Operational Platform Term: 1 Year	1500	\$50.00	\$40.00	\$60,000
Sales Tax	1			Exempt (with certificate)
<b>Total</b>				<b>\$60,000</b>

2026 - 2027	Qty	List Price	Unit Price	Total Annual Cost
Phosphorus Fullscope Operational Platform Term: 1 Year	1500	\$50.00	\$40.00	\$60,000
Sales Tax	1			Exempt (with certificate)
<b>Total</b>				<b>\$60,000</b>

Renewal pricing will be quoted annually based on customer approval.

Additional unit price volume discounts are based on the information below:

Tiered Pricing:

- 1251-1500 licenses = \$42/unit
- 1501-2500 licenses = \$40/unit
- 2501-5000 licenses = \$35/unit
- 5001+ licenses = \$32/unit



### Security:

Phosphorus leverages a third party to perform penetration testing against the Phosphorus Enterprise platform to assess the security threats and risks associated with this platform including its web user interface, web API and VM network.

30

<b>City of Fargo Staff Report</b>			
<b>Title:</b>	University South Fifth Addition	<b>Date:</b> <b>Updated:</b>	6/26/2024 8/1/2024
<b>Location:</b>	2253 & 2285 University Drive South	<b>Staff Contact:</b>	Donald Kress, current planning coordinator
<b>Legal Description:</b>	Lots 1 and 2, Block 1, University South 3rd Addition		
<b>Owner(s)/Applicant:</b>	Grove Enclave, LLC / Houston Engineering	<b>Engineer:</b>	Houston Engineering, Inc.
<b>Entitlements Requested:</b>	<b>Minor Subdivision</b> (Replat of Lots 1 and 2, Block 1, University South 3rd Addition, to the City of Fargo, Cass County, North Dakota)		
<b>Status:</b>	City Commission consent agenda August 5 <sup>th</sup> , 2024		

<b>Existing</b>	<b>Proposed</b>
<b>Land Use:</b> Commercial and vacant	<b>Land Use:</b> No change
<b>Zoning:</b> GC, General Commercial with conditional overlay	<b>Zoning:</b> No change
<b>Uses Allowed:</b> Allows colleges, community service, daycare centers of unlimited size, <del>detention facilities</del> , health care facilities, parks and open space, religious institutions, safety services, basic utilities, <del>adult establishment</del> , offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, <del>self-service storage</del> , <del>vehicle repair</del> , <del>limited vehicle service</del> , and some telecommunication facilities. <b>Conditional Overlay Ord. No. 5332 prohibits uses as noted above, as well as conditional use permits for industrial uses</b>	<b>Uses Allowed:</b> No change. Conditional overlay will carry through to this subdivision.
<b>Maximum Lot Coverage Allowed:</b> 85%	<b>Maximum Lot Coverage Allowed:</b> No change

<b>Proposal:</b>
<p>The applicant requests one entitlement:</p> <ol style="list-style-type: none"> <li>1. A <b>minor subdivision</b>, to be known as University South Fifth Addition, replat of Lots 1 and 2, Block 1, University South 3rd Addition, to the City of Fargo, Cass County, North Dakota</li> </ol> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: LC, Limited Commercial with commercial uses</li> <li>• East: GC with commercial uses and LC with commercial uses</li> <li>• South: GC with commercial uses</li> <li>• West: GC with commercial uses</li> </ul> <p>(continued on next page)</p>

**Area Plans:**

The subject property is not included in a growth plan or area plan. However, a vision for this area is depicted in Fargo's Go2030 Comprehensive Plan. That plan envisions redevelopment of this portion of South University Drive to follow the model of a walkable mixed-use center, in which redevelopment of the properties along it would create pedestrian-oriented spaces with "walkable friendly" blocks, combining residential, commercial, and park or other amenity uses. A graphic of this general concept from the Go2030 plan is depicted below, with the subject property outlined in red and nearby street names circled in yellow.

**Context:**

**Schools:** The subject property is located within the Fargo School District and is served by Lincoln Elementary, Carl Ben Eielson Middle and South High schools.

**Neighborhood:** The subject property is located within the Brunsdale neighborhood.

**Parks:** Lincoln Park, located at 2190 9<sup>th</sup> Street South, is approximately 0.05 mile east of the subject property and provides amenities of baseball/softball fields, basketball court, multipurpose field, outdoor skating rinks, playground, ages 5-12, and warming houses

**Pedestrian / Bicycle:** There are no shared use paths adjacent to the subject property.

**MATBUS Route:** A stop for MATBUS Route 14 is located along 25<sup>th</sup> Street South, approximately 600 feet southwest of the subject property. This route connects the downtown transit hub with University Drive South and West Acres.

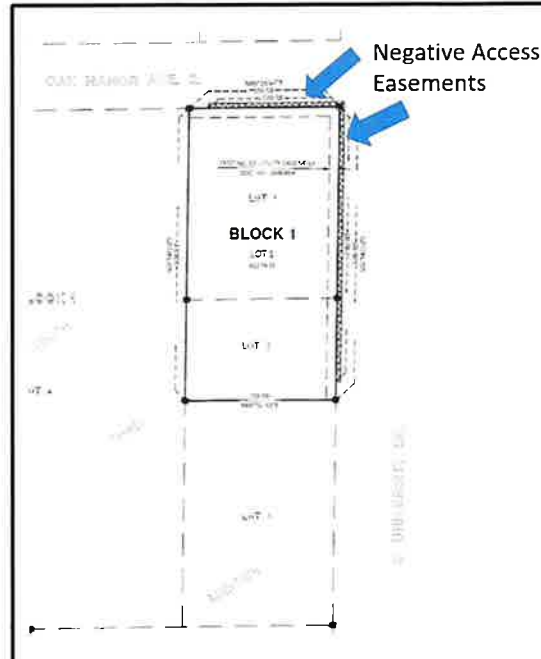
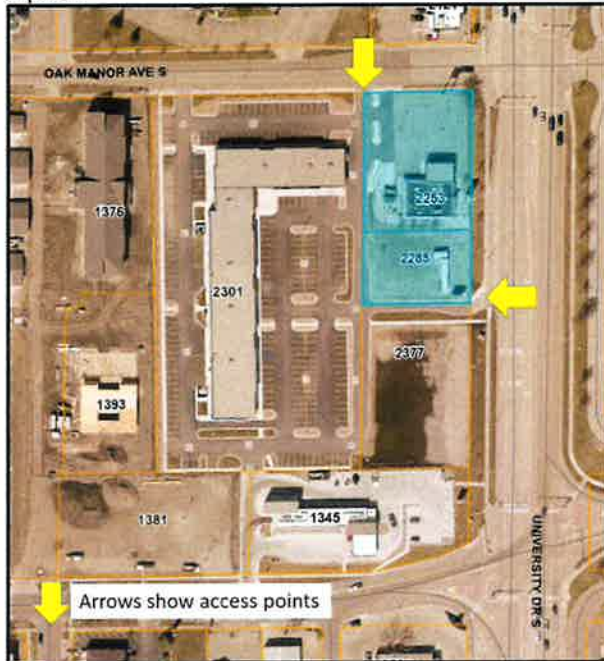
**Staff Analysis:**

The plat combines two existing lots into a single lot for commercial redevelopment. This lot will retain the zoning of GC, General Commercial with a C-O, Conditional Overlay that was approved by City

Commission on January 10, 2022 with the University South Second Addition and which carried through to the University South Third Addition, approved and recorded in May, 2022. The intent of the conditional overlay is to help development on these properties reach the goals of the Go2030 plan, as noted above, for this location. No change to the conditional overlay is proposed as part of this minor plat.

**AMENITIES PLAN:** An amenities plan relating to stormwater management has been reviewed and approved by City staff and the applicant.

**ACCESS:** Access to the proposed lot will be from shared access points from Oak Manor Drive South and University Drive South. The plat depicts negative access easements (NAE's) along the Oak Manor Drive South and University Drive South property frontages to indicate that access along these frontages is prohibited.



**Minor Subdivision**

The LDC stipulates that the following criteria is met before a minor plat can be approved:

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The requested minor subdivision combines two existing lots into a one lot, one block subdivision for commercial development. The current zoning is GC, General Commercial with a conditional overlay. No zone change is proposed. The conditional overlay will remain in effect. The subject property is not included in a growth plan or area plan. However, a vision for this area is depicted in Fargo's Go2030 Comprehensive Plan. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.

**(Criteria Satisfied)**

**2. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles.

**(Criteria Satisfied)**

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby approve the proposed subdivision plat, **University South Fifth Addition** as outlined within the staff report, as the proposal complies with the adopted Go2030 Comprehensive Plan, the standards of Article 20-06, Section 20-0907.B. and C and all other applicable requirements of the Land Development Code."

**Planning Commission Recommendation: July 2<sup>nd</sup>, 2024**

At the July 2<sup>nd</sup>, 2024 Planning Commission hearing, that Commission, by a vote of 9-0 with one Commissioner absent and one Commission seat vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed subdivision plat, **University South Fifth Addition** as outlined within the staff report, as the proposal complies with the adopted Go2030 Comprehensive Plan, the standards of Article 20-06, Section 20-0907.B. and C and all other applicable requirements of the Land Development Code."

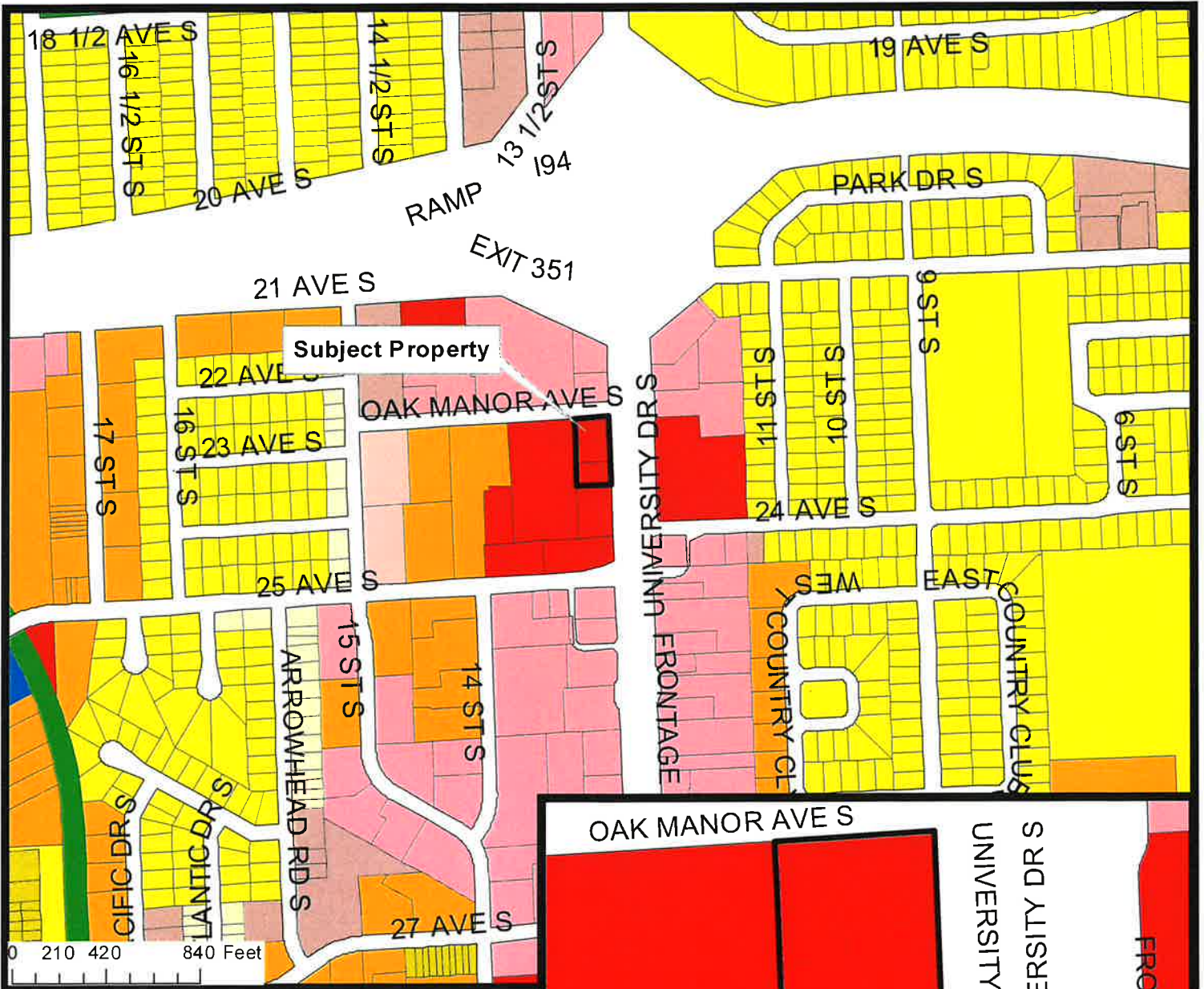
**Attachments:**

1. Zoning Map
2. Location Map
3. Preliminary Plat

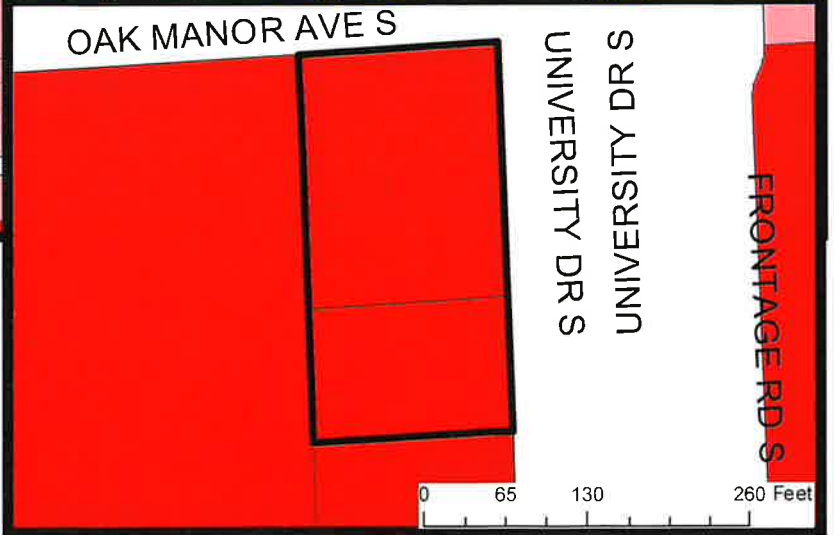
# Minor Subdivision

## University South Fifth Addition

2253 & 2285 South University Drive



0 210 420 840 Feet



0 65 130 260 Feet



### Legend

AG	LC	MHP	RR-2
GO	RR-1	PN	RR-3
GO	RR-2	PN	RR-3
GO	RR-3	UM U	City Limits



Fargo Planning Commission  
July 02, 2024

# Minor Subdivision

## University South Fifth Addition

2253 & 2285 South University Drive



### Legend

 City Limits

# UNIVERSITY SOUTH FIFTH ADDITION A MINOR SUBDIVISION BEING A REPLAT OF LOTS 1 & 2, BLOCK 1, UNIVERSITY SOUTH THIRD ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

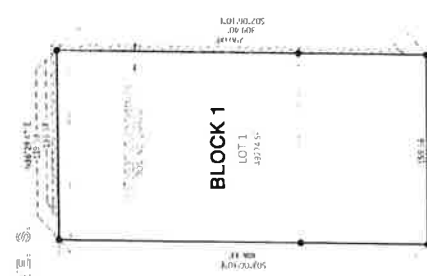


**LEGEND**

MEASURED BEARING	N02°20'07"E
MEASURED DISTANCE	100.00'
PLAT BEARING	N00°00'00"E
PLAT DISTANCE	100.00'
PLAT BEARING	N00°00'00"E
PLAT DISTANCE	100.00'
UTILITY EASEMENT	
EXISTING LOT LINE	
EXISTING UTILITY EASEMENT	
NEGATIVE ACCESS EASEMENT	
BEARINGS SHOWN ARE BASED ON NAD 83 COORDINATE SYSTEM, DECEMBER 1982	

**NOTES**

1. NEGATIVE ACCESS EASEMENT AS NOTED ON THIS PLAN IS A NEGATIVE ACCESS EASEMENT WHICH DENIES DIRECT VEHICULAR ACCESS TO A STREET OR PUBLIC RIGHT-OF-WAY DESIGNATION WHICH EASEMENT DENIES DIRECT VEHICULAR ACCESS TO A STREET OR PUBLIC RIGHT-OF-WAY DESIGNATION WHICH EASEMENT DENIES STREET OR WAY. THE NEGATIVE ACCESS EASEMENT IS NOT A STRIP OF LAND OR ANY OTHER FORM OF ADJACENT LOT OR LOTS.



**DIVISION CERTIFICATE**  
KNOW ALL PERSONS BY THESE PRESENTS, THAT Grove Excavate, LLC, a North Dakota limited liability company, is the owner and proprietor of the following described tract of land, to-wit: Block 1, University South Third Addition to the City of Fargo, Cass County, North Dakota.

That tract contains 1.31 acres, more or less, and is to be subdivided and replatted as UNIVERSITY SOUTH FIFTH ADDITION to the City of Fargo, Cass County, North Dakota, and does hereby dedicate to the public, to wit: the negative access easement shown on this plat.

**FARGO PLANNING COMMISSION APPROVAL**  
Approved by the City of Fargo Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Rody Schneider, Chair  
Fargo Planning Commission

State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Nary Public \_\_\_\_\_

**FARGO CITY COMMISSION APPROVAL**  
Approved by the Board of City Commissioners and ordered filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Timothy J. Mahoney, Mayor

State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

**CITY ENGINEER'S APPROVAL**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Tom Spivey, PE, City Engineer

State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

**CITY ENGINEER'S APPROVAL**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Tom Spivey, PE, City Engineer

State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

**CITY ENGINEER'S APPROVAL**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Tom Spivey, PE, City Engineer

State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

**CITY ENGINEER'S APPROVAL**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Tom Spivey, PE, City Engineer

State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

**CITY ENGINEER'S APPROVAL**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Tom Spivey, PE, City Engineer

State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_



Sheet 1 of 1  
Project No. 7489-0127





31

July 30, 2024

Fargo City Commission  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102

RE: RFP24268 – FARGODOME 2024 Rental Wheel Loader

Commissioners:

On July 22, 2024, four (4) proposals were received and reviewed for the 2024 Rental Wheel Loader Contract for snow removal at FARGODOME. Proposals were submitted by the following vendors.

The results are as follows:

<u>Firm</u>	<u>Total Price</u>
RDO Equipment	\$ 25,000.00
Interstate Power Systems	\$ 35,000.00
General Equipment	\$ 36,200.00
Titan Machinery	\$ 46,000.00

The review committee consisting of Rob Sobolik, Bernie Larson, Mike Nitschke of FARGODOME, and Tom Ganje evaluated the four (4) proposals and determined that all proposals were compliant. Based on the low bid proposal, our recommendation is to award RDO Equipment for the 2024 FARGODOME Rental Loader Contract. Funding for this project is included in the FARGODOME Operating budget.

At their meeting on Tuesday, July 30, 2024, the Fargo Dome Authority voted unanimously to accept the proposal from RDO Equipment for the 2024 FARGODOME Rental Loader Contract.

**Suggested Motion:**

I/we hereby move to approve the recommendation from the Fargo Dome Authority to approve the FARGODOME Rental Loader Contract for the contract price of \$25,000.

Thank you for your consideration of this matter.

Respectfully Submitted,

Rob Sobolik  
General Manager, FARGODOME



FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMANS & HYDRANTS

402 23rd Street North

Fargo, ND 58102

Phone: 701.241.1453 | Fax: 701.241.8100

[FargoND.gov](http://FargoND.gov)

July 23, 2024

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

32

RE: 2024 Rental Wheel Loaders (RFP24267)

Commissioners:

On July 22, 2024, five (5) proposals were received and read for the 2024 Rental Wheel Loader Contract. Proposals were submitted by the following vendors.

The results are as follows:

<u>Firm</u>	<u>Price for one term.</u>
RDO Equipment.	\$65,000.00
Titan Machinery.	\$90,000.00
Interstate Power System.	\$95,000.00
General Equipment.	\$99,200.00
United Rentals.	\$101,872.00

The review committee consisting of Ben Dow, Tom Ganje, and Corey Houim evaluated five (5) proposals and determined that all proposals were compliant. Based on the low bid proposal, our recommendation is to award RDO Equipment for the 2024 Rental Loader Contract. Upon satisfactory completion of the initial (1) one year contract, the City of Fargo reserves the right to execute the option of renewal for a successive period of (2) two additional years. Funding for this project is included in the 2024 Street Department budget.

Our recommendation is to award the Rental Loader Contract to RDO Equipment, with the option to extend the initial contract for an additional two years upon satisfactory completion of the initial term.

SUGGESTED MOTION:

I/we hereby move, based on the proposal from RDO Equipment, to approve the Rental Loader Contract for the total purchase price of \$65,000.00.

Respectfully Submitted,

Tom Ganje  
Fleet Purchasing Manager

**2024 Rental Loaders  
RFP24267  
7/22/2024**

	<b>RDO Equipment</b>	<b>Titan Machinery</b>	<b>Interstate Power Systems</b>	<b>General Equipment</b>	<b>United Rentals</b>
(4) Yard Loader Make	John Deere	Case	Liebherr	Komatsu	Case
(4) Yard Loader Model	644	821G	L550 X-Power	WA380-8	821G
(4) Yard Loader Month Rental Rate	\$5,000.00	\$7,400.00	\$7,000.00	\$7,240.00	\$7,298.00
(4) Yard Loader Weekly Rental Rate	\$1,250.00	\$2,900.00	\$2,310.00	\$2,880.00	\$3,086.00
(4) Yard Loader Total Price 5 Month Rental	\$25,000.00	\$37,000.00	\$35,000.00	\$36,200.00	\$43,392.00
(3) Yard Loader Make	John Deere	Case	Liebherr	Komatsu	Case
(3) Yard Loader Model	544	621G	L538	WA320-8	721G
One (3) Yard Loader Month Rental Rate	\$4,000.00	\$5,300.00	\$6,000.00	\$6,300.00	\$5,848.00
One (3) Yard Loader Weekly Rental Rate	\$1,000.00	\$2,100.00	\$1,980.00	\$2,400.00	\$2,338.00
Two (3) Yard Loaders Total Price 5 Month Rental	\$40,000.00	\$53,000.00	\$60,000.00	\$63,000.00	\$58,480.00
<b>Total Price for two (3) and one (4) Yard 5 Month loader Rental Price</b>	<b>\$65,000.00</b>	<b>\$90,000.00</b>	<b>\$95,000.00</b>	<b>\$99,200.00</b>	<b>\$101,872.00</b>



FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMANS & HYDRANTS  
402 23rd Street North  
Fargo, ND 58102  
Phone: 701.241.1453 | Fax: 701.241.8100  
FargoND.gov

33

July 23, 2024

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

RE: 2024 Motor Grader Contract (RFP24266).

Commissioners:

On July 22, 2024, two (2) proposals were received and read for the 2024 Rental Motor Grader Contract. Proposals were submitted by the following vendors.

The results are as follows:

<u>Firm</u>	<u>Price for one term.</u>
Butler Machinery Company.	\$42,500.00
RDO Equipment.	\$45,000.00

The review committee consisting of Ben Dow, Tom Ganje, and Corey Houim evaluated two (2) proposals and determined that all proposals were compliant. Based on the low bid proposal, our recommendation is to award Butler Machinery Company for the 2024 Motor Grader Contract. Upon satisfactory completion of the initial (1) one year contract, the City of Fargo reserves the right to execute the option of renewal for a successive period of (2) two additional years. Funding for this project is included in the 2024 Street Department budget.

Our recommendation is to award the Motor Grader Contract to Butler Machinery Company, with the option to extend the initial contract for an additional two years upon satisfactory completion of the initial term.

**SUGGESTED MOTION:**

I/we hereby move, based on the proposal from Butler Machinery Company, to approve the Rental Motor Grader Contract for the total purchase price of \$42,500.00.

Respectfully Submitted,

Tom Ganje  
Fleet Purchasing Manager

**2024 Rental Motor Grader with Wing**  
**RFP24266**  
**7/22/2024**

	<b>Butler Machinery</b>	RDO Equipment
Make	Catapillar	John Deere
Model	140 M2 AWD	772 GP
Monthly Rent Rate	\$8,500.00	\$9,000.00
Weekly Rent Rate	\$3,825.00	\$3,000.00
Total 5 Month Rental Rate	\$42,500.00	\$45,000.00



FLEET MANAGEMENT, FORESTRY  
STREETS & SEWERS  
WATERMANS & HYDRANTS  
402 23rd Street North  
Fargo, ND 58102  
Phone: 701.241.1453 | Fax: 701.241.8100  
FargoND.gov

34

July 30, 2024

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

RE: (2) Auto Side Load Refuse Truck (RFP24269).

Commissioners:

On July 30, 2024, three (3) proposals were received and read for the purchase of two (2) Auto Side Load Refuse Trucks. Proposals were submitted by the following vendors.

The results are as follows:

<u>Firm</u>	<u>Price for two w/Trade</u>
Sanitation Products.	\$612,298.00
Northern Truck Equipment	\$599,138.00
Northland Truck Sales Inc.	\$623,840.00

The review committee consisting of Scott Olson, Dave Rheault, and Tom Ganje evaluated three (3) proposals and determined that one proposal was compliant. Sanitation Products met all required specifications and the price was within expected parameters. This item was approved during the FAHR Staff Meeting and City Commission Meeting on April 15, 2024. Funding for this project is included in the 2025 Solid Waste Budget

Our recommendation is to purchase two (2) Auto Side Load Refuse Trucks based on the proposal from Sanitation Products.

SUGGESTED MOTION:

I/we hereby move, based on the proposal from Sanitation Products, to approve the purchase of two (2) Auto Side Load Refuse Trucks for the total purchase price of \$612,298.00.

Respectfully Submitted,

Tom Ganje  
Fleet Purchasing Manager

**2025 Solid Waste - (2) Auto Side Load Refuse Trucks**  
**RFP24269**  
**7/30/2024**

	<b>Sanitation Products</b>	<b>Northern Truck Equipment</b>	<b>Northland Truck</b>
Chassis Make	Freightliner	Freightliner	Freightliner
Chassis Model	M2 106 Plus	SD108	M2 106 Plus
Body Make	Labrie	Heil	New Way
Body Model	Atomizer	Rapid Rail	31 yd Sidewinder
Price for (1) Auto Side Load Refuse Truck	\$308,649.00	\$303,319.00	\$316,920.00
Price for (2) Auto Side Load Refuse Trucks	\$617,298.00	\$606,638.00	\$633,840.00
Trade Value (Unit 176)	\$5,000.00	\$7,500.00	\$10,000.00
Total Price For (2) Auto Side Load Refuse Trucks minus Trade Value	\$612,298.00	\$599,138.00	\$623,840.00
Meets Specifications	YES	No	No



# FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

*OFFICE OF THE CHIEF*

## MEMORANDUM

**COPY**

35

**To:** City Commissioners

**From:** Chief David B. Zibolski *DZ*

**Date:** August 1, 2024

**RE:** **Joint Powers of Agreement between the City of Fargo for the benefit of its Police Department and the Fargo Public School District**

Dear Commissioners,

Earlier this year the Fargo School District as part of The U.S. Department of Education audit requested that we update our Joint Powers Agreement for School Resource Officers (SRO) to clarify that our officers are only utilized to enforce law or ordinance violations and are not used to enforce school rules. Appendix A of the update to the Joint Powers Agreement addresses that concern.

In addition, the Department requested that the school district cover the cost of the actual officers assigned as SRO's versus a standard lower step pay rate. Further, the school district will be paying that rate at 75% of the total to account for the nine months of the school year in which the SRO is assigned to a school. As a result of this agreement, additional revenue of \$109,000 will be paid to the city.

Legal counselors for both the school district and the City of Fargo have reviewed the agreement and have no concerns. Once approved by the Fargo City Commission the agreement will go before the Fargo School District Board at their next scheduled meeting.

**Suggested Motion:**

Approve the amended agreement to the City of Fargo and Fargo School District School Resource Officer Joint Powers Agreement.



**JOINT POWERS AGREEMENT  
FOR SCHOOL RESOURCE OFFICERS**

**Appendix A & B**

**AMENDMENT NUMBER ONE**

This Amendment is made to Appendix A & B of the Joint Powers Agreement (“Agreement”) entered into on December 14, 2021, by and between the City of Fargo, North Dakota, for the benefit of its Police Department (“Department”), and the Fargo Public School District (“District”).

The Parties agree to the following terms and conditions and expressly agree that if any of the following terms and conditions conflict with any of the terms and conditions of the Agreement, then, notwithstanding, any term in the Agreement, the following terms and conditions govern and control the rights and obligations of the Parties.

The Parties agree to amend Appendix A of the Agreement as follows:

**Appendix A. Section G. Rules and Guidelines.**

Section G, Rules and Guidelines, is updated to include two additional paragraphs:

- The District and the Department agree student behavior will be managed exclusively by District personnel unless the situation arises to the level of criminal activity.
- SRO’s will not engage in the enforcement of school policies or disciplinary matters. In order to accomplish a legitimate law enforcement purpose, an SRO shall only use force in accordance with Fargo Police Department Policy 300 – Use of Force.

The Parties agree to amend Appendix B of the Agreement as follows:

**Appendix B (2024) Estimated Annual Cost of seven School Resource Officers – Total Salary & Benefits.**

- The District and Department agree to amend paragraph 4 of the Agreement entitled Compensation to more accurately reflect the costs incurred by the Department in participating in Agreement to provide School Resource Officers to the District.
- Paragraph 4 shall read as follows: Compensation. Department agrees to provide, on a yearly basis, an Appendix B identifying the number of personnel dedicated to the District, including supervisory personnel. District agrees to pay 75% of the full annual cost, reflecting a nine (9) month school year. Department shall provide District a monthly

**SIGNATURES**

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

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

\_\_\_\_\_  
Date

Attest:

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

**Fargo Police Department**

\_\_\_\_\_  
David Zibolski  
Chief of Police

\_\_\_\_\_  
Date

**Board of Education of the City of Fargo**

\_\_\_\_\_  
Katie Christianson Mineer  
President

\_\_\_\_\_  
Date

**Fargo Public School District**

\_\_\_\_\_  
Dr. Rupak Gandhi  
Superintendent

\_\_\_\_\_  
Date

**Appendix B (2024)**

Estimated Annual Cost of seven School Resource Officers – Total Salary & Benefits

• Salary	\$ 620,693
• Health Insurance (City’s share of Family Plan)	121,222
• Dental Insurance (City’s share of Employee Plan)	3,822
• Disability Insurance (.002%)	1,241
• Medicare Tax (1.45%)	9,000
• Pension (14.2%)	<u>88,138</u>

Total Cost of Salary & Benefits 844,116

Uniforms and Equipment 7,000  
Police Vehicle 7,000

Total Annual Cost for seven School Resource Officers \$ 858,116

**Estimated amount due from Fargo Public Schools  
Utilized for nine months (75%) \$ 643,587**

Estimated Annual Cost of one School Resource Officer Sergeant – Total Salary & Benefits

• Salary	\$ 108,409
• Health Insurance (City’s share of Family Plan)	17,317
• Dental Insurance (City’s share of Employee Plan)	546
• Disability Insurance (.002%)	217
• Medicare Tax (1.45%)	1,572
• Pension (14.2%)	<u>15,394</u>

Total Cost of Salary & Benefits 143,455

Uniforms and Equipment 1,000  
Police Vehicle 1,000

Total Annual Cost per School Resource Sgt. \$ 145,456

**Estimated amount due from Fargo Public Schools  
Utilized for nine months (75%) \$ 109,091**

**Estimated total cost for 7 SROs and 1 SGT for one school year \$ 752,678**

Note – This does not include summer school or special events. Monthly billings will be based on actual expenses occurred, plus a monthly amount for the Uniforms and Equipment and Police Vehicles.



36

July 23, 2024

City Commission  
225 N 4th Street N  
Fargo, ND 58102

Dear Commissioners:

Attached are the North Dakota State University transit service agreements for the academic year 2024-2025.

Recommended motion is to approve the attached agreements.

Sincerely,

A handwritten signature in black ink, appearing to read "Cole Swingen".

Cole Swingen  
Assistant Transit Director – Operations  
City of Fargo

**Agreement for Transit Services  
Between  
The City of Fargo, North Dakota  
and  
North Dakota State University**

This Agreement, dated July 2, 2024, is by and between the City of Fargo (“CITY”) and North Dakota State University (“NDSU”).

**WHEREAS**, NDSU wishes to provide transit services for the benefit of students using the regular fixed route system serving the Fargo-Moorhead metropolitan area, and three circulator shuttle routes and one on-demand service, serving the NDSU campus and vicinity, and;

**WHEREAS**, The CITY, through its Transit Division, in partnership with the City of Moorhead, Minnesota, provides bus service within the Fargo-Moorhead metropolitan area, and;

**WHEREAS**, The CITY has the infrastructure, vehicles, staffing, funding, and operational capacity to provide these services to NDSU in accordance with the articles in this agreement.

**NOW, THEREFORE**, it is mutually understood and agreed as follows:

**ARTICLE 1 – GENERAL PURPOSE**

The purpose of this agreement is to provide public transportation opportunities for NDSU students while reducing traffic congestion in the City of Fargo. This Agreement will allow NDSU students to ride any bus route within the Fargo-Moorhead Metropolitan Area Transit system free of charge in accordance with Article 3.1 below. Students must swipe a current NDSU ID card when boarding any non-circulator route. In addition to use of the regular fixed route system, four circulator shuttle routes will be maintained to increase student mobility in and around the NDSU campus.

**ARTICLE 2 – SERVICE**

- 2.1 Route: The CITY will maintain service on Route 13 which connects the NDSU campus to the Ground Transportation Center where connections are made to routes serving the Fargo-Moorhead area. The CITY will also maintain three circulator routes and one on-demand service in and around the NDSU campus, to be funded in accordance with Article 2.2 below.
- 2.2 Service: The following three circulator shuttle routes and one on-demand service will utilize a total of five (5) vehicles and operate in and around the NDSU main and downtown campus. Each will operate on routes/schedules determined by the CITY. Circulator shuttle routes and the on-demand service will operate on days which NDSU classes are in session, the day prior to NDSU class starting each semester, and during NDSU finals week of each semester, except on State Holidays. NDSU will have operating hours each day NDSU classes are in session, the day prior to NDSU class starting each semester, and during NDSU finals week of each semester, except on State Holidays.

**ARTICLE 3 – PAYMENT**

3.1 U-Pass Program: All enrolled NDSU students regardless of full or part-time status, class standing, or location of residence shall be authorized to ride any fixed route within the Fargo-Moorhead Metropolitan Area Transit system free of charge. This service is referred to as the “U-Pass Program”, or simply as “U-Pass.” To be eligible for participation, students must swipe a current NDSU ID at the time of boarding. In exchange, NDSU will pay the CITY an annual amount of \$93,669.69 for the U-Pass Program, which is in effect starting July 2, 2024 and ending June 30, 2025.

The U-Pass cost is calculated by taking the average operational cost per passenger (Ridership/Fixed Route Operating Cost = Operational Cost Per Passenger) from the previous year and multiplying it by the total number of full-time on-campus students from the previous year.

Fixed Route Operational Costs	
Fargo	\$5,645,214.38
Moorhead/Dilworth	\$3,565,814.99
West Fargo	\$331,830.55
Total	\$9,542,859.92
Fixed Route Ridership (Excluding NDSU Circulators)	960,697
Cost Per Passenger	\$9.93

U-Pass Cost	2023 Full-Time On-Campus Students	Rate Per Enrolled Student	Total
	9,433	\$9.93	\$93,669.69

3.2 NDSU will pay to the CITY an estimated amount of \$591,539.95 over the term of this Agreement. City shall bill, on a monthly basis, in accordance with the proposed Cost Share Allocation which provides for NDSU to be responsible for fixed route and on demand services by total ridership, revenue hours and revenue miles by proportion to cumulative MATBUS service provided.

3.3 Credits: Monthly billings will reflect the actual service hours performed. Credits due from previous years’ Agreements shall be reflected in the first month invoice from this Agreement.

NDSU 2023-2024 Closings (Missed Service due to weather)	Hours	Rate	Total
2/26/24 – Closed	57.01	\$80.06	\$4,564.22
		TOTAL	\$ 4,564.22

Payments & Schedule:

Description	Payment Due	Amount
U-Pass	August 26, 2024	\$93,669.69

Circulator Service 2024-2025 Academic Year (Estimated)		\$596,104.17
Credits from 2023-2024 Academic Year		\$4,564.22
Total Circulator Service (Estimated)		\$591,539.95

**ARTICLE 4 – ROUTE/SERVICE ADJUSTMENTS**

The CITY will closely monitor NDSU student ridership statistics, patterns, and other information to create quarterly reports for NDSU. NDSU will consult with students on the usefulness of the transit service, and provide this information to the CITY. Based on this information, the parties may jointly make adjustments to the routes and transit schedule. Both parties acknowledge that any such adjustments must comply with all applicable federal, state and local rules and regulations regarding transit operations, and with basic safety requirements pertaining to the operation of public transit vehicles.

**ARTICLE 5 – INSURANCE**

The CITY shall maintain and provide casualty, liability, body injury, collision and comprehensive insurance on the buses and equipment it deems necessary, and NDSU shall have no responsibility to provide such coverage. The CITY is authorized to self-insure for such risks, subject to the liability limits of the State of North Dakota.

**ARTICLE 6 – FORCE MAJEURE**

Neither Party shall be held responsible for delays or lack of performance caused by events or acts beyond their control. Such events and acts include, but are not limited to, acts of God, inclement weather, strikes and labor disputes, lack of fuel, road closures, and changes in government regulation, war, insurrection or civil unrest.

**ARTICLE 7 – TERM OF AGREEMENT**

This Agreement shall become effective July 2, 2024, and shall remain in full-force and effect until June 30, 2025 unless terminated earlier as herein provided. The U-Pass portion of the agreement is in effect for the term of this agreement, and the shuttle service portions of the agreement that reference days that class is in session are in effect for the NDSU Fall 2024 and Spring 2025 semesters.

**ARTICLE 8 – TERMINATION OF AGREEMENT**

- 8.1 Changes in City Cost, Funding, or Service: The CITY may terminate or reduce the amount of service in this Agreement if there is, in the opinion of a majority of the City Commission, a significant increase in local costs; or insufficient local, state or federal funding available for the service. In such an event the CITY will provide NDSU a written notice ninety (90) days prior to any changes in the service.
- 8.2 NDSU Initiated Termination of U-Pass Program: NDSU may terminate the portion of this Agreement with the CITY that allows NDSU students to ride for no charge by providing written notice ninety (90) days prior to the termination of the Agreement. Any monies paid by NDSU to the CITY will be reimbursed on a prorated basis in which the numerator is the length of time from the beginning of the term to the termination date and the denominator is the length of time from the beginning of the term to May 16, 2025. NDSU understands that termination of the

U-Pass program may result in the termination of the shuttle services due to required compliance with federal rules and regulations.

**ARTICLE 9 – GENERAL PROVISIONS**

- 9.1 Safety and Environmental Codes: All practices, materials, supplies, and equipment shall comply with the Federal Occupational Safety and Health Act as well as any pertinent federal, state and local safety or environmental codes.
- 9.2 Compliance with Applicable Rules and Regulations: This Agreement shall be subject to, governed by, and construed according to all applicable administrative codes and laws of the City of Fargo, State of North Dakota, and federal government.
- 9.3 Severability Clause: In the event that any provision of the Agreement is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect in any manner the legality or the remaining provisions of the Agreement, and each provision of the Agreement will be, and is deemed to be separate and severable from each other provision.
- 9.4 By the 30<sup>th</sup> day of each semester start, NDSU will provide the City a complete list of all active NDSU student, faculty and staff ID card numbers ensuring only active students are riding under the U-Pass program.



**ARTICLE 10 – AUTHORITY TO AMEND FINANCIAL TERMS OF AGREEMENT**

The City and NDSU shall be authorized to adjust the financial terms of this agreement and the term of agreement as they mutually agree, from time to time.

**ARTICLE 11 – DISPUTES**

In the event of a dispute regarding the performance of, or adherence to the provisions of this Agreement by either party to the Agreement, the CITY and NDSU shall select a representative(s) who will attempt to resolve the dispute. If the representatives are unable to resolve the dispute, the issue will be presented to the City’s Administrator. If the City Administrator cannot resolve the dispute, then it will be referred to the Fargo City Commission. If the Fargo City Commission’s decision does not resolve the dispute, the parties have such remedies as provided by law.

**ARTICLE 12 – NOTICES**

All notices herein required and any communications with respect to this Agreement shall be effected upon the mailing thereof, and addressed as follows:

**NDSU**

Mr. Mike Ellingson  
Director, Facilities Management  
North Dakota State University  
Box 6050  
Fargo, ND 58105


**City of Fargo**

Ms. Julie Bommelman  
Transit Director  
Metro Area Transit Garage  
650 23<sup>rd</sup> St. N.  
Fargo, ND 58102

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective July 2, 2024.

**North Dakota State University**

**City of Fargo**

  
\_\_\_\_\_  
Mr. Bruce Bollinger  
Vice President for Finance and Administration

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

Date: 7/16/24

Date: \_\_\_\_\_

Attest:

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

**2024-2025 Amendment to  
Joint Powers Agreement for Transit Support  
Between  
The City of Fargo, North Dakota  
and  
North Dakota State University**

This Amendment to Agreement (attachment A) is effective July 2, 2024, and is by and between the City of Fargo (“CITY”) and the North Dakota State Board of Higher Education on behalf of North Dakota State University (“NDSU”).

**WHEREAS**, CITY and NDSU entered into a Joint Powers Agreement for Transit Support dated August 19, 2003; and,

**WHEREAS**, Article 11 of said Joint Powers Agreement stated that the CITY and NDSU shall be authorized to adjust the financial terms of said agreement and the term of said agreement as they mutually agree in writing, from time to time; and,

**WHEREAS**, the CITY and NDSU wish to make such adjustments for the school year 2024-2025.

**NOW, THEREFORE**, it is mutually understood and agreed as follows:

A. Article 3, entitled “Payment” shall be amended to read as follows:

**ARTICLE 3 – PAYMENT**

3.1 NDSU will pay to the CITY an estimated amount of \$591,539.95 over the term of this agreement. City shall bill, on a monthly basis, in accordance with the proposed Cost Share Allocation which provides for NDSU to be responsible for fixed route and on demand services by total ridership, revenue hours and revenue miles by proportion to cumulative MATBUS service provided.

B. Article 6, entitled “Term of Agreement” shall be amended to read as follows:

**ARTICLE 7 – TERM OF AGREEMENT**

This Agreement shall become effective July 2, 2024 and shall remain in full-force and effect for until June 30, 2025, unless terminated earlier as provided in the joint powers agreement (attachment A).

C. Article 11, entitled “Notices” shall be amended to read as follows:

**ARTICLE 11 – NOTICES**

All notices herein required and any communications with respect to this Agreement shall be effected upon the mailing thereof, and addressed as follows:

**NDSU**

Mr. Mike Ellingson  
Director of Facilities Management

**City of Fargo**

Ms. Julie Bommelman  
Transit Director

North Dakota State University  
Box 6050  
Fargo, ND 58105


Metro Area Transit Garage  
650 23<sup>rd</sup> St. N.  
Fargo, ND 58102

D. In all other respects, the Joint Powers Agreement for Transit Support shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective July 2, 2024.

**North Dakota State University**

**City of Fargo**

  
\_\_\_\_\_  
Mr. Bruce Bollinger  
Vice President for Finance and Administration

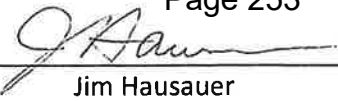
\_\_\_\_\_  
Dr. Timothy J. Mahoney, Mayor

Date: 7/16/24

Date: \_\_\_\_\_

\_\_\_\_\_  
Attest: City Auditor      Date





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Jim Hausauer  
Water Reclamation Utility Director

ATTEST:


C: Mayor Mahoney  
Commissioner Strand  
Commissioner Piepkorn  
Commissioner Turnberg



**MEMORANDUM**

August 5, 2024

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**To: Utility Committee**  
**From: Jim Hausauer, Water Reclamation Utility Director**   
**Re: Project #WW1701 Change Order #4**  
**Emergency Repairs to West Side Interceptor**

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**Background**

In 2014, the City of Fargo completed a Water Reclamation Facility (WRF) Plan to review the existing facilities condition & capacity. The facility plan assessed all process equipment and structural components of the WRF, as well as deficiencies associated with capacity, condition, and future regulations. The Facility Plan recommendations were prioritized via a phased approach based on immediate needs and deficiencies, with a goal to adequately treat projected hydraulic and organic loading over the next 20-plus years. The Phase II recommendations in the Facility Plan focused on expansion needs to meet the 20 year capacity requirements for Fargo growth and regionalization. A Preliminary Engineering Report (PER) in 2017 identified the basis of design for the facility improvements, recommended treatment technologies and opinions of probable costs.

**Phase IIB Improvements**

Components of the Phase IIB design include a combined head works building, hybrid Integrated Fixed Film Activated Sludge (IFAS) for biological treatment, final clarifiers, blower building, return and waste activated sludge (RAS/WAS) pump station, thickening building, primary digester, odor control, and ancillary pumps, vaults and piping. Once operational the facility will double its capacity to treat 29 million gallons per day, serving a regional population of 270,700.

The Hybrid Integrated Fixed Film Activated Sludge (IFAS) technology utilizes three stages

1. An anaerobic zone to reduce biological phosphorus
2. An anoxic zone for denitrification
3. An oxygen/aerobic zone w/media to reduce biochemical oxygen demand (BOD) and ammonia.

**Funding**

The Water Reclamation Utility has a placeholder in the 20 year CIP for the Phase II Expansion. The project is funded with a 30-year/2% Clean Water State Revolving Fund (CWSRF) loan. The debt is programmed to be repaid with rate & infrastructure sales tax funds and is included in our Revenue Adequacy Model. The CWSRF loans are broken into two components (construction \$151,500,000 & engineering \$21,229,000) as requested by the NDDEQ. Phase IIA is complete, and Phase IIB is now over 90% complete.

Loan forgiveness funds are available within the CWSRF Program in North Dakota. The Project WW1701 Construction Loan 380715-05 has been determined to be eligible for this loan forgiveness in the amount of \$4,348,770. In order to ensure that loan forgiveness funds are used expeditiously, we are required to use all loan forgiveness funds by June 30, 2026.

**Project WW1701-Change Order #4**

During construction activities on July 2<sup>nd</sup>, 2024, the West Side Interceptor (WSI) experienced a major collapse/sink hole just south of the Water Reclamation Facility. Failures of Manholes #12 & #14 were discovered. These manholes are part of the WSI and receive filtrate flow from Belt Filter Presses, the waste stream from the Effluent Reuse Facility, various plant sewer lines as well as a portion of the city's collection system entering the plant. A temporary repair was immediately completed to allow the WRF to continue functioning. The WSI is one of three major wastewater interceptors that convey wastewater to the treatment facility.

Change order #4 includes emergency and permanent repair of these manholes to continue operation for the next 3 to 5 years until the WSI can be fully inspected and a capital improvement plan is in place and budgeted for. The NDDEQ has approved these repairs to be funded with the current plant CWSRF Loan as these two manholes are impacted by the project.

**Recommended Motion**

Approve attached Change Order #4 from PKG Construction in the amount of \$127,486 to complete the emergency repairs to the West Side Interceptor for Project WW1701 (Phase II B Improvements).

August 5, 2024

Mr. James Hausauer  
City of Fargo  
3400 North Broadway  
Fargo, ND 58102

RE: Fargo Wastewater Treatment Facility  
Phase IIB Expansion  
Apex Project No. 18.102.0114  
Change Order #4

Dear Mr. Hausauer,

The Phase IIB Expansion Project at the Wastewater Treatment Facility has been under construction since May of 2020. The work to date in the Headworks, IFAS, Final Clarifiers, Thickening Building, underground utilities and Storm Lift Station areas has put the project at about 90% complete. There has been 3 change order to date for this \$123,950,000 project, which shifted remaining work from the Phase IIA project to this project for construction sequencing purposes, added \$52,443 to the contract for changes necessary due to a deeper storm water pipe than expected and a time extension due to supply chain delays related to the COVID-19 pandemic.

During construction activities in early July of 2024, a catastrophic failure of Manholes #12 and #14 was discovered. These manholes are part of the West Side Interceptor and receive filtrate flow from Belt Filter Presses, the waste stream from the Effluent Reuse Facility, various plant sewer lines as well as a portion of the city's collection system entering the plant. A temporary fix was immediately completed to allow the WRF to continue functioning. This change order #4 includes emergency repair of these manholes to continue operation for the next 3 to 5 years until the West Side Interceptor can be fully inspected and a capital improvement project for a long term solution can be budgeted.

Apex agrees with this proposed Change Order #4. These manholes are critical to the operation of the plant and the collection system and should be repaired immediately.

If approved, please sign the attached Change Order 4 form and return to me for processing.

Apex Engineering Group, Inc.



Karla Olson, PE  
Project Manager

CC: Mark Miller – City of Fargo  
Elizabeth Tokach-Duran, NDDEQ



Date of Issuance: August 5, 2024	Effective Date: August 5, 2024
Owner: City of Fargo, ND	Owner's Contract No.: WW1701
Contractor: PKG Contracting	Contractor's Project No.: 1811
Engineer: Apex Engineering Group	Engineer's Project No.: 18.102.0114
Project: Fargo WWTF Expansion Phase IIB	Contract Name: Phase IIB Expansion

The Contract is modified as follows upon execution of this Change Order:

**Description:** Increase in contract price for labor, equipment and materials required to repair the Water Reclamation Facility West Side Interceptor Manhole #12 and Manhole #14. During construction of the Phase IIB Expansion project, it was discovered the manholes had catastrophically failed and were in need of immediate emergency repair. The manholes receive filtrate flow from the belt filter presses and plant sewer flow, which are critical for facility operations.

**Attachments:** PKG PCO 10

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price:  \$ <u>123,950,000.00</u>	Original Contract Times: Substantial Completion: <u>December 31, 2023</u> Ready for Final Payment: <u>May 31, 2024</u> days or dates
[Increase] [ <del>Decrease</del> ] from previously approved Change Orders No. <u>1</u> to No. <u>3</u> :  \$ <u>92,743.00</u>	[Increase] [ <del>Decrease</del> ] from previously approved Change Orders No. <u>1</u> to No. <u>3</u> : Substantial Completion: <u>April 30, 2025</u> Ready for Final Payment: <u>June 1, 2025</u> days
Contract Price prior to this Change Order:  \$ <u>124,042,743.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>April 30, 2025</u> Ready for Final Payment: <u>June 1, 2025</u> days or dates
[Increase] [ <del>Decrease</del> ] of this Change Order:  \$ <u>127,486.00</u>	[Increase] [ <del>Decrease</del> ] of this Change Order: Substantial Completion: <u>N/A</u> Ready for Final Payment: <u>N/A</u> days or dates
Contract Price incorporating this Change Order:  \$ <u>124,170,229.00</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>April 30, 2025</u> Ready for Final Payment: <u>June 1, 2025</u> days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____ Engineer (if required)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title: <u>Mayor</u>	Title: <u>Project Manager</u>
Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_



July 30, 2024

APEX Engineering Group  
 4733 Amber Valley Parkway South  
 Fargo, ND 58104

Attn: Karla Olson

RE: Fargo Wastewater Treatment Facility - Phase IIB  
 City of Fargo Project Number: WW1701

SUBJECT: Proposed Change Order No. 10

This itemized proposal is for changes in the Contract Sum and/or Time incidental to the proposed modifications described herein.

PCO No. 09 This change order is for providing labor, equipment, and materials as necessary to make repairs to West Side Interceptor MH # 12 and #14 Per drawing provided by Mark Miller and E-Mail from Mark Miller dated July 5th 2024. No Coatings included in this repair.

A.)	<b>1. PKG Labor: (including burden/lodging/per diem)</b>	26,980.00	
	<i>Subtotal Section A.1</i>		\$26,980.00
	<b>2. PKG Material: (including tax):</b>	46,580.00	
	<i>Subtotal Section A.2</i>		\$46,580.00
	<b>3. PKG Equipment/Rentals: (including fuel/oil/expendables)</b>	14,680.00	
	<i>Subtotal Section A.3</i>		\$14,680.00
	<b>4. 15% Fee (Overhead &amp; Profit on items A.1,2,3)</b>		\$13,236.00
	<i>Subtotal Section A</i>		\$101,476.00
B.)	<b>1. Subcontractor:</b>		
	- Core Drilling , Hydro Seeding, Coating replacement Barre	14,818.00	
	<b>2. 5% Fee (Overhead &amp; Profit on Item B.1)</b>	740.90	
	<i>Subtotal Section B</i>		\$15,558.90
C.)	<b>Supplemental Costs:</b>		
	1. Small Tools/Equip. & Expendables (10% of A.1)	2,698.00	
	2. Safety Expense (4% of A.1)	1,079.20	
	3. Temporary Construction Facilities (4% of Section A, B & C.1)	4,789.32	
	<i>Subtotal C.1, C.2.C.3</i>		\$8,566.52
	4. Bonding & Insurance (1.50% of Section A,B,C)		\$1,884.02
	<i>Subtotal of Section A,B,C</i>		\$127,485.44
	<b>TOTAL CHANGE REQUEST</b>		<b>\$127,486.00</b>
	<b>TOTAL CHANGE IN CONTRACT TIME (working days)</b>		<b>TBD</b>

Should you need additional information, please do not hesitate to contact me.

Thank you,

PKG Contracting, Inc.

John Givold  
 Project Manager

cc: 2005 PCO file  
 attachments

Office: 701.232-4373  
 Fax: 701.232-8945

410 S University Drive  
 Fargo, ND 58103

www.pkg-inc.com

Winning in Water

**James Hausauer**

---

**From:** John Gisvold <johng@pkg-inc.com>  
**Sent:** Friday, July 26, 2024 1:09 PM  
**To:** Mark Miller; James Hausauer; Matthew Moltzan  
**Cc:** Karla.Olson@ApexEngGroup.com; Jake Schmidt  
**Subject:** Repairs to MH #12 and 14 Westside Interceptor  
**Attachments:** 4533\_001.pdf

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

Mark,

Per your request and attached. PKG proposes to make request repairs to the west side interceptor MH #12 and MH #14. We figured working closely with the city on these repairs to keep everything on line as much as possible. We would ask the City to help control flows to the westside when work is being completed. Also assisting with Vac Truck to help remove clay and concrete that is in the line and once the MH is removed. Pkg has figured complete site restoration once repairs are complete. This price also includes time and material used earlier with Park Construction and Replacing a coated barrel used with Park Construction. PKG has requested locates for the area around MH #12 and #14 Excavation can not start till Aug 1<sup>st</sup> after locates are completed I would figure 2-weeks to complete the work and site restoration.

Let me know if you have any questions call my cell phone any time. I will be traveling Monday July 29<sup>th</sup> and will be available by cell phone.

PKG Cost to Complete this work is \$127,487.00

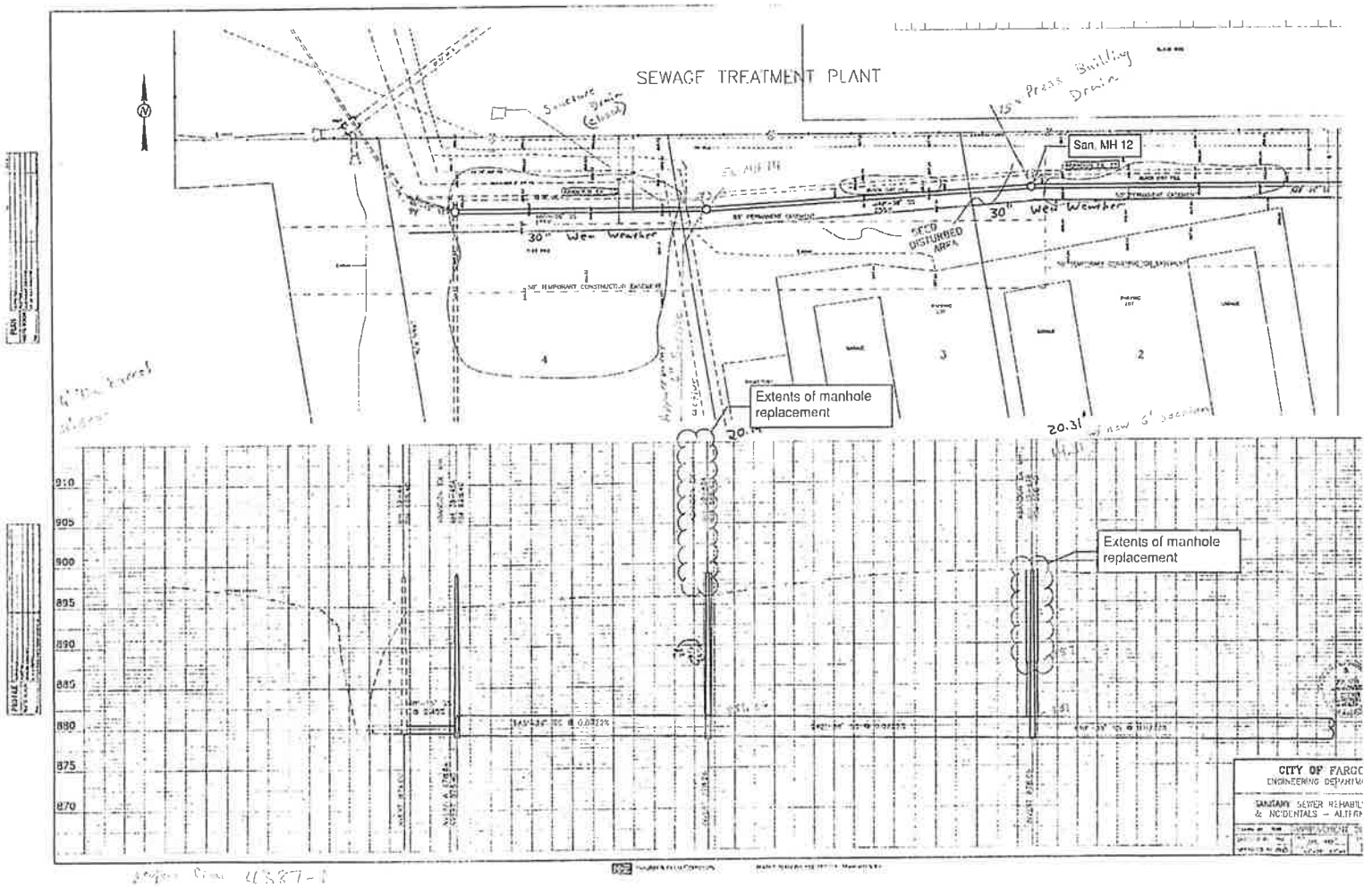
Thanks,

John Gisvold | Project Manager/Estimator  
PKG Contracting, Inc. | General/Municipal Contractors  
4301 South University Drive | Fargo, ND 58104  
w (701) 232-3878 | f (701) 232-3935 | c (701) 866-2652 | [johng@pkg-inc.com](mailto:johng@pkg-inc.com)



Confidentiality Note: This e-mail message and any attachments to it are intended only for the named recipients and may contain confidential information. If you are not one of the intended recipients, please do not duplicate or forward this e-mail message and immediately delete it from your computer.

**From:** Scanner <scanner@pkg-inc.com>  
**Sent:** Friday, July 26, 2024 1:44 PM  
**To:** John Gisvold <johng@pkg-inc.com>  
**Subject:** Attached Image

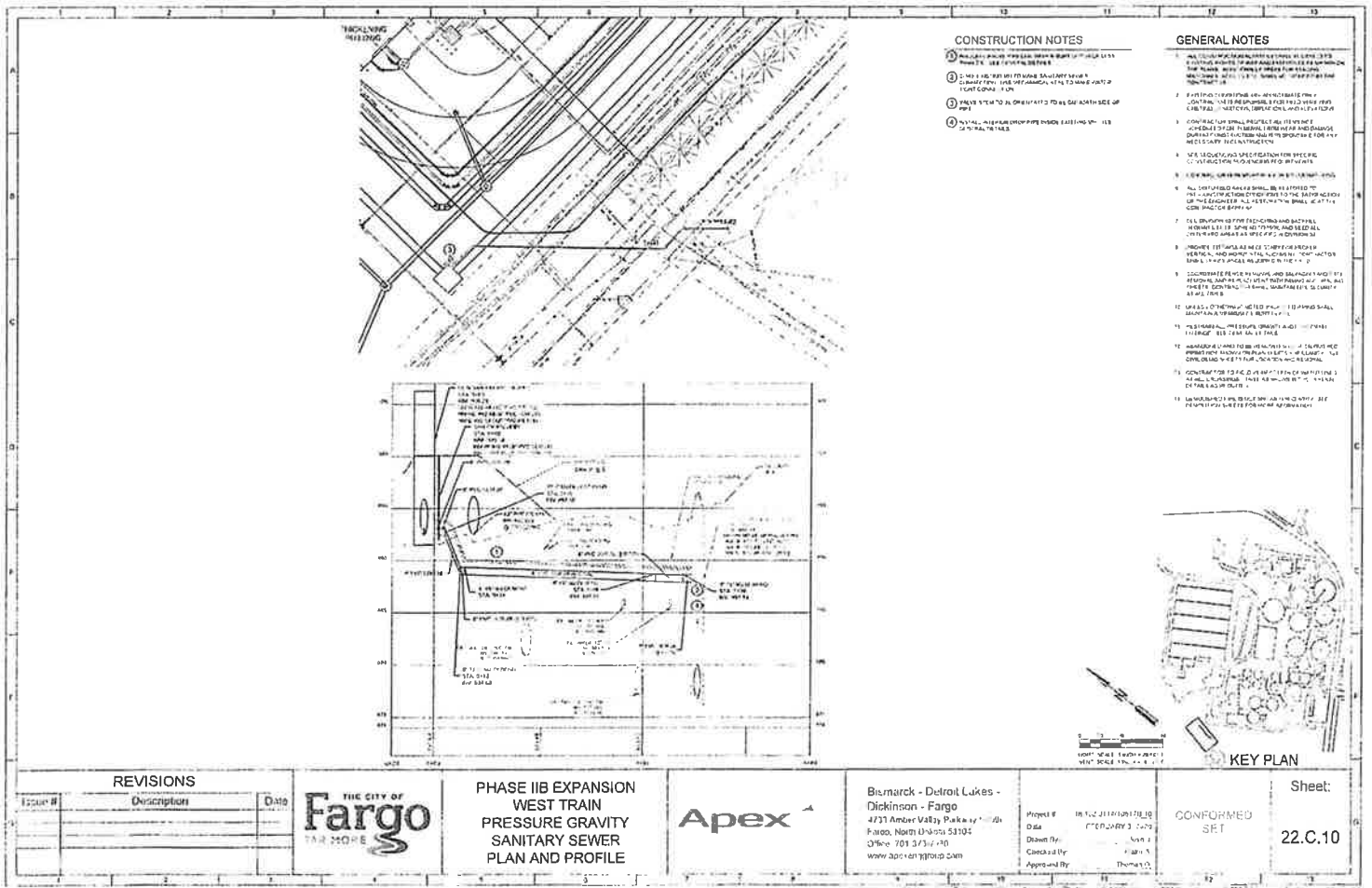


Project Cross 4887-1

100% NORTH FALLS COMPANY

DATE: 10/12/10 10:11 AM

CITY OF FARGO  
ENGINEERING DEPARTMENT  
SANITARY SEWER REPAIRS  
& INCIDENTALS - ALIEN

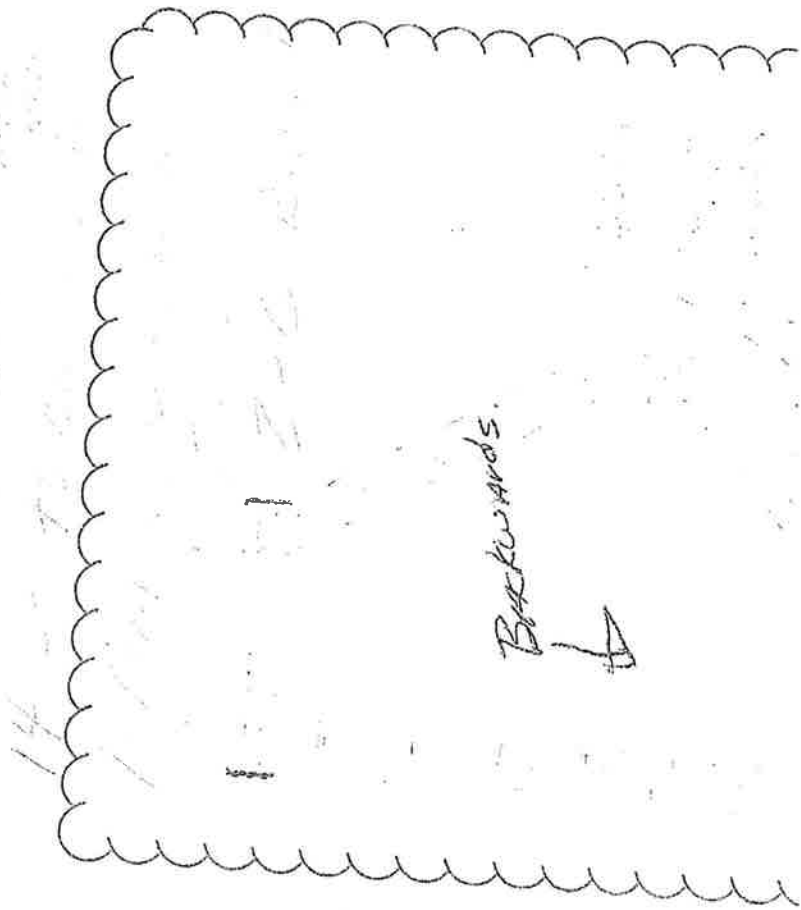


San. MH 12 ~~12~~ 14

- Supply new barrel sections on top of bottom barrel, from roughly 881.26 to 898.40, along with casting and solid cover. 17'
- Reinstall 6" sanitary service from apartments at same invert, roughly 883.88.
- Coordinate to keep 6" service functional while working on MH 12.
- Existing 10" water line runs directly west of manhole, coordination needed during excavation.
- Reinstall 8" sanitary drain from San. MH 50, invert ~887.94, line is dead so no bypass needed.
- Get new barrels once installed with Key's mainstay product.
- Manhole is already partially compromised on the east side of bottom barrel. Care will need to be taken to limit any additional clay or concrete from falling into bottom pipe.

San. MH ~~14~~ 12


- Supply new barrel sections on top of 6' section placed by Park, from roughly 887 to 898.40, along with casting and solid cover. 12'
- Remove temporary Fernco installed by Park on 15" sanitary line from BFP/Thickening, and hard pipe into new barrel with vertical standpipe per detail below, invert ~887.30.
- Shutdown of 15" sanitary to be kept to a minimum since Belt Filter Press and Thickening Buildings can not operate during shutdown.
- Coat new barrels and barrel installed by Park with Key's mainstay product.



177  
 1111  
 Casting  
 3-5




## EMERGENCY PURCHASE REQUEST FORM (EM)

Requested by:	James Hausauer	Department:	Water Reclamation Utility
Date of Request:	7-29-2024	Phone Number:	701 241 1454
E-mail:	jhausauer@fargond.gov		
Dept Head Signature:		Estimated Amount of Purchase:	\$127,487

## Product or Service description:

On July 2nd/2024 the West Side Interceptor (WSI) experienced a major collapse/sink hole just south of the Water Reclamation Facility. The WSI is one of three major wastewater interceptors that convey wastewater to the treatment facility. The WSI is over 50 years old and is showing signs of deterioration. PKG conducted immediate repairs to get the facility operational for the July 4th weekend and to this date. The Utility also asked PKG to provide a price to replace/repair the collapsed manhole as well as an upstream manhole that is in very bad shape. These two manholes receive the press building drain (high ammonia) and flow from lift station #61 (very turbulent). PKG is onsite and is the contractor for the current plant expansion. The NDDEQ has stated that the repairs can be reimbursed through the CWSRF Loan for Project WW1701, as these two manholes are impacted by the project. Attached you will see a quote from PKG Contr. Inc. for 127,487 for time/materials for temporary & permanent repairs to the WSI, along with site restoration. This amount will be included in the

Is a Contract required? Yes  No

Vendor Name: PKG Contracting Inc.			
Address: 4301 South University Drive			
City: Fargo	State: North Dakota	Zip Code: 58104	
Contact Person: John Gisvold	Title: Project Manager/Estimator		
Telephone: 701 232 3878	Email: johng@pkg-inc.com		
Purchasing Manager Approval:			
Emergency Purchase Number (EM):	EM24282		



Jim Hausauer, Director  
Water Reclamation Utility  
City of Fargo