FARGO CITY COMMISSION AGENDA
Monday, February 22, 2010 - 5:00 P.M.

CITY COMMISSION MEETINGS ARE BROADCAST LIVE ON TV FARGO 12 (Channel 12). They are rebroadcast each Monday at 5:00 p.m., Thursday at 7:00 p.m. and Saturday at 8:00 a.m.; and are also included in our video archive at www.cityoffargo.com/commission

A. Pledge of Allegiance.

B. Roll Call.

C. Approve Order of Agenda.

D. Minutes (Regular Meeting, February 8, 2010).

* * * Consent Agenda - Approve the Following * * *

a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 2/8/10:
   (1) Relating to Issuance and Transfer of Licenses (requiring that Class "E" Alcoholic Beverage Permit applications be received 7 days prior to event).
   (2) Relating to Dogs and Cats (potentially dangerous and dangerous dogs).
   (3) Relating to Ordinance Violations.
   (4) Relating to Noise Control and Radio Interference (engine compression brakes).
   (5) Relating to States of Emergency – Declaration and Duration.
   (6) Rezoning Certain Parcels of Land Lying in Osgood Villas Fourth Addition.
   (7) Rezoning Certain Parcels of Land Lying in Kirkham's 2nd Addition.

b. Expenditure of Neighborhood Stabilization Program funds for the acquisition of 1362 16th Avenue South for $69,900.00 and 1806 5th Street North for $89,000.00.

c. Funding agreements for $71,000.00 in Job Access and Reverse Commute (JARC) funds and $68,885.00 in New Freedom (NF) funds.

d. Contract with the North Dakota Department of Human Services for the Refugee Program (Contract #600-07863 Amendment "A").

e. Purchase of Service Agreement with the North Dakota Department of Health for HIV counseling, testing and referral program (CFDA #93.943).

f. Health Department budget adjustment in the amount of $3,000 and grant agreement with the North Dakota Department of Health to support the Moving More, Eating Smarter community program (CFDA #93.991).

g. Applications for 5-year property tax exemptions for improvements made to buildings:
   (1) Curtis Goroski, 2847 Edgewood Drive.
   (2) Gary and Sally Nelson, 809 North 27th Street.
   (3) Bryce and Heidi Livingston, 34 18th Avenue North.
   (4) Kathryne Gerst, 712 3rd Street North.

h. Applications for Games of Chance:
   (1) Annabelle Hannig Benefit for a raffle on 3/6/10; Public Spirited Resolution.
   (2) MDA "Old Fashioned Motorcycle Run" for a raffle on 6/5/10.
   (3) Hunt of a Lifetime Foundation for a raffle on 3/13/10; Public Spirited Resolution.
   (4) Clara Barton Hawthorne PTA for bingo on 3/6/10.
   (5) The Saddle & Sirloin Club for a raffle on 4/8/10.

i. Bid award for lighting upgrades at the Island Park Ramp, GTC and Solid Waste Transfer building to Bergstrom Electric, Inc. in the amount of $108,100.

j. Acceptance of Titan Machinery quote in the amount of $74,999 annual rental rate and $480,370 total five-year cost of a new landfill compactor.

k. Resolution authorizing submittal of an application to the North Dakota Department of Health for a loan for the wastewater stabilization pond improvements under the Clean Water State Revolving Fund program.

l. Temporary license agreement with Northern States Power Company (Xcel Energy) in connection with Improvement District No. 5700.

m. NDDOT Agreement for Safe Routes to School Infrastructure Improvements (Project No. 5919-02).

n. Cost Participation, Construction and Maintenance Agreements with the NDDOT for flood damage repairs on various streets (Project No. 5900-1).

o. Cost Participation and Maintenance Agreement with the NDDOT for Project No. 5839.

p. Change Order No. 1 for an increase of $9,192.41 for Project No. 5828.

q. NDDOT bid concurrence for Improvement District No. 5700.

r. Bid award for Project No. 5657.

s. Bid advertisement for Project No. 5919-01.

t. Bills.

u. Create Improvement District No. 5913.

* * * Regular Agenda * * *

1. Extension of the noise ordinance to 11:00 p.m. for live entertainment for the Rib Fest & More event at the Fargodome from June 9 through June 13, 2010 and for low level sound until midnight.

2. Commissioning services proposal for the Main Library.

3. <u>Public Hearings - 5:15 p.m.:</u>
   a. Application filed by ALBA, Inc. d/b/a Green Market Kitchen & Green Market Catering for a Class "F" Alcoholic Beverage License at 69 North Fourth Street.

   b. Application filed by Genesis, Inc. d/b/a Jalapenos for a Class "F" Alcoholic Beverage License at 2901 Main Avenue.

c. Plat of Rocking Horse East Second Addition (5301 through 5675 51st Ave. S., 4802 Veterans Blvd. S., 6202 47th Ave. S. and 5801 52nd Ave. S.).
   (1) Approval recommended by the Planning Commission on 1/12/10.

d. Veterans Park First Addition; approval recommended by the Planning Commission on 2/10/10 (4802 Veterans Blvd. S.; between 53rd St. S. and Veterans Blvd. and between 47th Ave. S. and 50th Ave. S.):
   (1) Petition for a zoning change from AG, Agricultural to the following: SR-3, Single-Dwelling on Lots 2-19 of Block 1, Lots 1-10 and Lots 12-24 of Block 2 and Lots 1-13 of Block 3; to SR-4, Single-Dwelling on Lots 15-34 of Block 3, Lots 1-26 of Block 4 and Lots 2-25 and 27-58 of Block 5; and to P/I, Public and Institutional on Lot 1 of Block 1, Lot 11 of Block 2, Lot 14 of Block 3 and Lots 1, 26 and 59 of Block 5.
   (2) 1st reading of rezoning Ordinance.
   (3) Plat of Veterans Park First Addition.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 241-1310 or TDD 241-8258. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo Web site at www.cityoffargo.com/commission

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 25-1508 OF ARTICLE 25-15
OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
RELATING TO ISSUANCE AND TRANSFER OF LICENSES

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;

NOW, THEREFORE,

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

Section 1. Amendment.

Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-1508. Issuance and transfer of licenses--Restrictions--Hearing required.—

A. No license, other than a Class "E" license, shall be issued or transferred without approval of the commission. A Class "E" license may be issued by the city auditor, without notice or hearing, provided, however that, application must be made seven (7) days before the planned event unless such requirement is waived for good cause shown.

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Section 2. Effective Date.

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

_____
Dennis R. Walaker, Mayor

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Reading:

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OFFICE OF THE CITY ATTORNEY
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ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 12-0104, 12-0105 AND 12-0111, REPEALING AND RE-ENACTING SECTION 12-0112, REPEALING SECTION 12-0113 AND ENACTING SECTIONS 12-0113 THROUGH 12-0117 OF ARTICLE 12-01 AND AMENDING SECTIONS 12-0201 AND 12-0203 OF ARTICLE 12-02, ALL IN CHAPTER 12 OF THE FARGO MUNICIPAL CODE RELATING TO DOGS AND CATS

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

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement revisions to the City of Fargo dog and cat ordinances by the adoption of this ordinance;

NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amend.

Section 12-0104 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0104. Animal must have collar with rabies tag and license tag attached. Upon payment of the license fee provided for in § 12-0102, the chief of police shall issue to the owner a license certificate and a metallic tag for each dog and cat so licensed. The shape of the tag shall be changed every year and the tag shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Each owner shall be required to provide each dog and cat with a collar to which the license tag must be affixed and shall see that the collar and tag are constantly worn. The collar may not exceed two pounds in weight and must be made of durable material strong enough to hold the animal for which it is intended. A collar may not be used in a

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manner that causes injury or sickness to the animal. Collars may not be equipped with any type of sharp prongs on the inside of the collar or weighted devices that may cause injury or discomfort to the animal's neck. Blunt pronged training collars are only permitted if the collar is properly fitted to the animal and it has not been altered from the manufactured design. In case a tag is lost or destroyed, a duplicate will be issued by the chief of police upon presentation of a receipt showing the payment of the license fee for the current year and the payment of a $.50 fee for such duplicate. Tags shall not be transferable from one animal to another and no refunds shall be made on any license fee because of death of the animal or the owners leaving the city before expiration of the license period. The metal rabies inoculation tag shall also be kept affixed to the animals collar at all times. The provisions of this ordinance shall not apply to dogs owned by the city of Fargo or any other political subdivision and used for law enforcement purposes.

Section 2. Amend.

Section 12-0105 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0105. Running at large prohibited.--

A. Every person having the custody or control of any dog or cat shall prevent said animal from leaving the property limits of its owner or keeper without being effectively restrained by a chain or leash not exceeding six feet in length, or, within a vehicle being driven or parked on the street. In the event any such dog or cat is found at large, the owner, custodian or keeper of such animal shall be guilty of a violation of this section.

B. Every person having custody or control of a leashed animal on property other than his own shall be equipped to, and collect said animal's solid waste when eliminated.

~~C. The owner of every fierce, dangerous, or vicious dog shall confine such animal within a building or secure enclosure and such dog shall not be taken out of such building or enclosure unless the dog is securely muzzled.~~

~~D~~C. Every female dog or cat in heat shall be kept confined in a building or secure enclosure or in a veterinary hospital or boarding kennel in such manner that such dog or cat cannot come in contact with another dog or cat except for breeding purposes.

~~E~~D. ~~Any dog or cat that is determined by the Fargo police department to be fierce, dangerous, or vicious and is not confined as required in subsection (C) of this section; or a~~Any dog or cat that is determined by the Fargo police department to be habitually at large is declared to be a public nuisance. The owner, custodian or keeper of any such animal shall be notified of said determination in writing and, upon request of the humane officer, shall

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surrender such animal for purposes of placement or destruction; provided, however, any said owner, custodian or keeper of any such animal shall have ten days from the receipt of notification to appeal to the Fargo municipal court and a hearing shall be held. In the event that the court affirms the determination of the police department, the court shall:

1. Order the confinement of such animal within a building or secure enclosure, said animal not to be removed from such building or enclosure without being effectively restrained by chain or leash not exceeding six feet in length; or
2. Order the surrender of such animal to the humane society or other animal placement organization for purposes of placement or destruction.

~~F~~E. The owner, custodian or keeper of any animal which has bitten or scratched a human being or other animal, or which is suspected by the humane officer, health officer, or other appropriate city official, of having rabies, shall, in addition to any action or remedy otherwise provided in this article,:

1. At the request of such official, confine any said animal for 10 days in a suitable secure enclosure or, if deemed necessary by said official, in the animal pound.
2. Immediately notify the Fargo police department if any said animal escapes during the above-mentioned 10-day period.
3. Make any and all reports requested in reference to the general health and medical history of said animal.
4. Surrender any said animal for such medical tests as are deemed necessary and submit said animal to treatment, or in the alternative, for destruction.

~~G~~F. The provisions of this ordinance shall not apply to any dogs owned by the city of Fargo or any other political subdivision and used for law enforcement purposes.

Section 3. Amend.

Sections 12-0111 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0111. Procedure for complaint.--An individual who wishes to make a complaint regarding violations of sections of this article, excluding § 12-0112 regarding ~~habitually barking, crying or howling dogs or cats,~~animals disturbing the peace, must contact the Fargo police department and state his name, address, nature and circumstances of the violation. This individual must appear before the judge of municipal court and sign the complaint.

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Section 4. Repeal and Re-enact.

Section 12-0112 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is repealed and re-enacted to read as follows:

12-0112. Animals - Disturbing the peace . --

A. It shall be unlawful for any person to own, keep, have in possession, or harbor any animal or animals which make any noise to the reasonable annoyance of another person or persons. The phrase "to the reasonable annoyance of another person or persons" shall include, but not be limited to: the creation of any noise by any animal or animals which can be heard by any person, including an animal control officer or a law enforcement officer, from a location outside of the building or premises where the animal or animals are located and which animal noise occurs repeatedly over at least a five-minute period of time with no more than a one-minute lapse of time between each animal noise during the five minute period. Any such animals found to be disturbing the peace due to a reasonable annoyance of another person or persons are hereby declared a public nuisance.

B. A law enforcement officer or animal control officer may make a request to stop the annoyance. If after such request to stop or prevent the annoyance, the person violating this section fails or refuses to comply with the request to stop or prevent the annoyance within twenty-four hours of the request or in the event the law enforcement officer or animal control officer determines it necessary to stop the annoyance, the police officer or animal control officer may take custody of the animal or animals. Any animal or animals taken by a law enforcement officer or animal control officer may be reclaimed by the owner of said animal or animals upon payment of a fee in an amount up to $500 for each animal, said fee to be established by resolution of the board of city commissioners. If the animal is not redeemed, said animal may be put up for adoption or, if no suitable home can be found for the animal or animals, euthanized.

Section 5. Repeal.

Section 12-0113 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is repealed in its entirety.

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Section 6. Enact.

Sections 12-0113 through 12-0116 of Article 12-01 of Chapter 12 of the Fargo Municipal Code are enacted to read as follows:

12-0113. Animals - shelter requirements. -- No person shall keep an animal outdoors on any premises without providing proper containment and shelter for said animal at all times. Proper containment and shelter is defined as: (a) the animal has access to the owner's home through a door during all times spent outside; (b) the animal is at all times in the company of a human being; or (c) the animal is at all times provided access to an enclosed building, a house designed for the animal, or a similar structure. The term proper containment and shelter shall also mean that the animal must have sufficient space within the containment area that is outside the shelter to move about and be able to relieve itself away from its shelter. Said containment and shelter must be such that:

A. The shelter must have at least three sides, a roof and a floor;

B. The shelter must have a floor raised off the ground, free of cracks, depressions, and rough areas where insects, rodents, or eggs from parasites may lodge;

C. The containment area and shelter must be cleaned and maintained in a manner designed to insure the best possible sanitary conditions. Excreta shall be removed from the containment area and shelter as often as necessary, and rugs, blankets, and/or other bedding shall be kept clean and dry.

D. Both the containment area and shelter must be of adequate size to allow the animal to stand up and turn about freely, stand easily, sit and lie in a comfortable and normal position.

E. The shelter must have a floor constructed so as to protect the animal's feet and legs from injury.

F. The containment area and shelter must allow animals kept outdoors to remain dry during rain or snow.

G. The containment area and shelter must have sufficient clean bedding material and/or other means of protection from the weather and elements.

H. The containment area and shelter must provide sufficient shade to allow the animals kept outdoors to protect themselves from the direct rays of the sun, when sunlight is likely to cause overheating and/or discomfort.

I. The containment area and shelter must be structurally sound and maintained in good repair to protect the animal from injury.

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J. The containment area and shelter must be constructed and maintained so that the animal contained therein has convenient access to clean food and water.

12-0114. Animals - Food and water requirements. --

A. Food. No person shall keep an animal on any premises, unless the animal is provided sufficient food daily to maintain proper body weight and good health.

1. The animal shall be provided food, which shall be free to contamination, and be wholesome, palatable, and of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal.
2. Food receptacles shall be accessible to the animal and shall be located so as to minimize contamination by excreta and insects. Feeding pans shall be durable and kept clean. Disposable food receptacles may be used but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food, and shall be sanitized regularly to prevent molding, deterioration, or caking of feed. Spoiled or contaminated food shall be disposed of in a sanitary manner.

B. Water. No person shall keep an animal on any premises unless the animal has fresh, potable water at all times, said water to be contained in such a manner that prevents the water from freezing during cold temperatures. Clean potable water shall be made available to the animal unless restricted by a veterinarian as a treatment for a specific medical or surgical condition and:

1. If the water is kept in a container, this container shall be of such design as to prevent leaking, tipping or spilling of the water contained therein. If necessary to accomplish this, the container shall be secured to a solid structure or secured to the ground. Watering containers shall be kept clean, kept out of the sun, and must be emptied and refilled with fresh water at least once a day; or,
2. If water for the animal is provided through an automatic or on-demand device, the water supply connected to the device must function twenty-four hours a day and the water receptacle and bowl must be cleaned regularly.

12-0115. Chains, kennels, tethers, and tie outs. -- Chains, tethers, or tie outs must be at least three times the length of the animal secured to it and may not exceed ten pounds in total weight. Such chains, tethers or tie outs must be of durable material, that is strong enough to hold the animal being chained, tethered or tied-out. Any animal secured with a tie

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out must be so secured in an area that does not allow the animal to become tangled around objects and, thus, preventing the animal from having access to water and shelter. Chains, tethers and tie outs must be placed in such a location as to preclude or prevent the animal secured from reaching a public sidewalk, street or alley. The chain, tether or tie out must not allow the secured animal access to any neighboring property unless written permission has been obtained from the property owner. Animals restrained by a chain, tether, or other tie out device, shall not be secured to any stationary object for more than two consecutive hours, with at least a two-hour rest or relief period between each chaining, and no more than four two-hour chaining periods in a twenty-four hour period. Kennels and pulley/cable run systems shall be exempt from the two-hour restriction provided that:

A. The length of the pulley system is at least twelve feet and the attached tether has a swivel at both ends;

B. The height of the pulley system is mounted at least seven feet above the ground;

C. The space provided inside the kennel is at least thirty-two square feet;

D. The kennel floor is made of solid material, such as cement, brick, durable plastic or other suitable material, not including, however, wood ;

E. The animal or animals so confined or secured to a kennel or pulley system are not confined in it, or to it, for more than ten consecutive hours in a twenty-four hour period.

12-0116. Number of Dogs and/or Cats - Limitation. --

A. It shall be unlawful to keep, harbor, own, or in any way possess more than six dogs and cats over six months of age upon or about the premises of any dwelling unit, within the corporate limits of the City of Fargo. The maximum number of dogs and cats, combined, may not exceed six.

B. Exception - A person may request a permit from the Fargo Police Department to keep more than six dogs and cats as part of a qualified home used by organizations for rescue or sheltering of abandoned or lost animals. For purposes of this section, a "qualified home" shall mean a home which has received written approval to house abandoned or lost animals by or on behalf of a bona fide organization involved in the rescue or sheltering of abandoned or lost animals, and which organization has been in existence within the United States of America and operating for at least one year. The permit shall be for a period of one year, and may be renewed annually, provided there have been no violations of the provisions of this chapter resulting in an administrative penalty, infraction, or criminal violation being imposed on the holder of said permit. The fee for the permit shall be set and reviewed from time to time by the board of city commissioners.

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Section 7. Penalty.

A person who willfully violates Sections 1 through 6, above, of this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $500; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 8. Enact.

Section 12-0117 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is enacted to read as follows:

12-0117. Potentially dangerous and dangerous dogs.--

A. Designation.

1. Any dog inside the Fargo city limits may be designated as a potentially dangerous dog if the dog:
   a. When unprovoked, bites a human or domestic animal on public or private property;
   b. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
   c. Has a known propensity, tendency, or disposition to attack, unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
2. Any dog within the Fargo city limits may be designated as a dangerous dog if the dog has:
   a. Inflicted substantial bodily injury on a human being or a domestic animal on public or private property;
   b. Killed a domestic animal while off the owner's property; or
   c. Been found to be potentially dangerous, and after the owner has been notified that the dog has been designated as being potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

B. Procedure for designating a dog as potentially dangerous or dangerous.

1. Whenever there is reasonable cause to believe that a dog is dangerous or potentially dangerous, an application may be presented to the municipal court for a finding that the dog is dangerous or potentially dangerous. After receiving evidence at a hearing on the

matter, the municipal court shall enter an order containing the court's findings, established by a preponderance of the evidence, whether the dog is dangerous or potentially dangerous and the court shall be authorized to order compliance by the owner of the dog with the provisions of this section and any other conditions which are necessary to ensure the health and safety of others. Such conditions may include, but are not limited to:

a. That the owner not sell or transfer ownership of the dog.
b. That the owner advise the court if the dog bites anyone else.
c. That the owner advise the court if the dog dies or becomes injured.
d. That the dog undergo obedience training.
e. That the owner post the property with warnings about a dangerous animal.
f. That the dog not be allowed outdoors during certain times, such as between 7:30-9:30 a.m. and 2:00-4:00 p.m. (i.e. times when school age children may be present), or the time when it is known that the postman delivers the mail every day.
g. Compliance with all other requirements of this section.

2. When a dog is designated to be potentially dangerous or dangerous, the owner shall be notified in writing of such designation.

3. Any dog deemed dangerous or potentially dangerous by another jurisdiction and subsequently brought into the city shall be deemed a dangerous or potentially dangerous dog and abide by the provisions of this chapter to notify the police department and meet the registration requirements.

C. Registration Requirements. No potentially dangerous dog or dangerous dog shall be kept in the city of Fargo unless the owner, at his or her own cost, has implanted a microchip in the dog, completed an application to register the dog as potentially dangerous or a dangerous dog and submitted said application to the police department. Prior to acceptance of an application, a city representative will retrieve and verify from said microchip and record the microchip information. In addition, the owner shall be required to post a sign, satisfactory to the municipal court judge, at the owner's or any caretaker's residence notifying the public of the presence of a dangerous or potentially dangerous dog.

D. Application contents.

1. The application to register the dog as a potentially dangerous dog shall include the following:

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a. The owner's address and home, work and cell telephone number and the implanted microchip identification number, as well as the backup contact person and number;
b. Proof that said dog has been sterilized and has current vaccinations;
c. A yearly registration fee of $200.

2. The application to register the dog as a dangerous dog shall include the following:
a. The owner's address and home, work and cell telephone number; the implanted microchip identification number and the address, home, work and cell telephone number designated by the owner as a back-up contact person;
b. Proof of continuing liability insurance in a single incident amount of $300,000 for bodily injury to or death of any person or persons or for damage to property owned by the persons which may result from the ownership, keeping, or maintenance of dogs designated as dangerous;
c. Proof that said dog has been sterilized and has current vaccinations;
d. A yearly registration fee of $500.

E. Yearly registration requirement. All dogs designated as potentially dangerous dogs or dangerous dogs shall file a new application each year with the accompanying registration fees no later than the third Monday of each year.

F. Removal of designation of potentially dangerous dog. The owner of a potentially dangerous dog may apply to the municipal court judge to have the designation removed once the following criteria have been met:
1. Minimum of 16 weeks of dog training classes attended and providing a certificate of completion signed by training instructor at approved training facility;
2. Successfully passing of the Canine Good Citizen Test approved by the American Kennel Club, or an equivalent test adopted by a similar nationally recognized organization; and providing a certificate of completion;
3. No complaints about the dog have been received by the City of Fargo within the previous 12 months as confirmed by the chief of police or designee of the chief.

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G. A dog designated as potentially dangerous must be leashed and be under the control of a competent adult at all times when off the owner's property or the property of a caretaker of the dog.

H. Additional requirements for dangerous dogs. In addition to filing a yearly application to register a dangerous dog and paying the accompanying fee of $500, the owner of a dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside an enclosure, it must be securely muzzled and restrained by a chain or leash no longer than 6 feet under the physical restraint of a competent adult.

I. Potentially dangerous and dangerous dogs brought into the city. Any dog designated as potentially dangerous or dangerous by another jurisdiction must be registered within 24 hours of being brought into the city limits of Fargo. Such registration shall be with the police department. A dog declared potentially dangerous by another jurisdiction may be brought into the city limits of Fargo provided the owner:

1. Notifies the police department of the dog's microchip number, location where the animal will be kept, owner contact information and length of stay;
2. Complies with all the requirements established by said jurisdiction, including the laws and applicable court order from said jurisdiction;
3. Removes the dog from the city after a period of no more than 14 days.

J. Remedies and Enforcement.

1. It shall be a Class B misdemeanor offense to:
   a. Be an owner of, or be in possession of, a potentially dangerous dog in violation of the registration requirements set forth in subsection C of this ordinance; or,
   b. Allow a dangerous dog to "run at large" as prohibited by subsection C of this ordinance;
2. Dogs in violation of registration requirements may be impounded immediately by the police department and held until brought into compliance. If the dog is found running at large, and is not brought into compliance within 14 days of notification of its designation as a potentially dangerous dog, the dog will be impounded and held until brought into compliance with this section. If not brought into compliance within 5 working days after impoundment, the dog may be euthanized. The owner of said dog is responsible for boarding and expenses associated with this process.
3. No person may own a dog in the city of Fargo if the person has been convicted of a violation of this section, or of an equivalent ordinance

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or statute of another state or political subdivision, more than once. If any member of a household is prohibited from owning a dog pursuant to this section, unless specifically approved with or without restrictions by the police department, no person in the household is permitted to own a dog.

Section 9. Amend.

Section 12-0201 of Article 12-02 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0201. Unlawful to keep vicious animal.--Any person or persons in the city, being the owner or keeper of any dangerous, vicious, mischievous, or unruly animal and knowing said animal to be such, ~~must comply with the specific requirements and conditions set out in § 12-0105 prohibiting such an animal~~ shall allow or permit the same to be or run at large; provided, however, that dangerous or potentially dangerous dogs are subject to the provisions of Section 12-0117.

* * *

Section 10. Amend.

Section 12-0203 of Article 12-02 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0203. Unlawful to keep farm animals within city limits-- Public nuisance--Exceptions.--It shall be unlawful for the owner or owners of any farm animal mentioned in § 12-0213 to allow the same to be kept within the limits of the city, except that such farm animals may be kept on property which is classified as "AG-Agricultural District" under the zoning ordinances of the city of Fargo. It shall further be unlawful to allow any such farm animal to run at large on the streets, avenues, alleys, parks, or public grounds of the city, or to be tethered or staked out on the streets, parks, or public grounds of the city, or to be tethered or staked in such a manner as to go upon any street, sidewalk, crosswalk, or public ground within the city. Any such animals found within the corporate limits of the city except on property zoned with an "AG-Agricultural District" zoning classification as herein provided, are declared to be public nuisances. This section shall not apply to the owners of any farm animals kept as a part of any state educational institution or the owners of any farm animals temporarily exhibited at any fair or agricultural exhibition, provided said animals are stabled and cared for in a sanitary manner approved by the health department.

* * *

Section 11. Penalty.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

A person who willfully violates Subsections C or G of Section 12-0117 of this ordinance pertaining to owning or possessing a dangerous dog or potentially dangerous dog or allowing a dangerous dog to run at large is guilty of a Class B misdemeanor. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed $1,000, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 11. Effective Date.

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

_____
Dennis R. Walaker, Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1-0305.A
OF ARTICLE 1-03 OF CHAPTER 1
OF THE FARGO MUNICIPAL CODE
RELATING TO ORDINANCE VIOLATIONS

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code is hereby amended to read as follows:

1-0305. Classification of ordinance violations.--

A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as hereinabove provided:

1. Section 8-0305(A)(1) (cancelled or revoked registration), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence), section 8-0314 (reckless driving), section 8-0320 (driving without liability insurance - $150.00 minimum fine), section 8-0803 (accidents involving damage to vehicle),

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. Effective Date.

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

_____
Dennis R. Walaker, Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

94

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 11-0205 OF
ARTICLE 11-02 OF CHAPTER 11 OF THE
FARGO MUNICIPAL CODE RELATING TO
NOISE CONTROL AND RADIO INTERFERENCE

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

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement revisions to the City of Fargo dog and cat ordinances by the adoption of this ordinance;

NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amend.

Section 11-0205 of Article 11-02 of Chapter 11 of the Fargo Municipal Code is amended to read as follows:

ARTICLE 11-02

NOISE CONTROL AND RADIO INTERFERENCE

Section

11-0205 Motorized vehicles—compression brakes prohibited.

* * *

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

11-0205. Motorized vehicles—compression brakes prohibited.--It shall be unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in Table 2, as follows:

TABLE 2. LIMITING NOISE LEVELS FOR MOTOR VEHICLES

A. Trucks, buses, construction equipment, or any motor vehicle with a gross weight rating of 10,000 pounds or more: Maximum allowable limit: 88 dB(A) measured at or corrected to 25 feet.

B. Passenger cars, pickups, vans, motorcycles, snowmobiles, or any motor vehicle with a gross weight rating less than 10,000 pounds: Maximum allowable limit: 80 dB(A) measured at or corrected to 25 feet.

C. Interstate Motor Carrier:
Maximum allowable limit:

1. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of 35 mph or less.

2. 92 dB(A) measured at or corrected to 25 feet when traveling on roadways with speed limits of more than 35 mph.

D. Notwithstanding any other provision of the Fargo Municipal Code, it shall be unlawful for any person within the city limits to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor.

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $500; the court to have power to suspend said sentence and to revoke the suspension thereof.

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 and approval.

_____
Dennis R. Walaker, Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

95

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 10-0318 OF ARTICLE 10-03 OF CHAPTER 10 OF THE FARGO MUNICIPAL CODE RELATING TO STATES OF EMERGENCY - DECLARATION AND DURATION

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

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

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

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement revisions to the City of Fargo ordinance addressing states of emergency in the city by the adoption of this ordinance;

NOW, THEREFORE, Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amend.

Section 10-0318 of Article 10-03 of Chapter 10 of the Fargo Municipal Code is amended to read as follows:

10-0318. State of emergency--~~[~~Declaration and duration~~.]~~.--

A. The ~~president of the city commission~~mayor or commissioner acting for the ~~president~~mayor, is authorized, if he finds that the city or any part thereof is suffering or is in imminent danger of suffering civil disturbance, disorder, riot or other occurrence, including danger of flooding of the city, or any part of the city, which will seriously and substantially endanger the health, safety and property of the citizens, to declare a STATE OF EMERGENCY and take the following specified measures throughout the city or any part thereof; the declaration shall be made in a proclamation which shall be delivered to the chief of police, who shall then see that said proclamation is delivered to the news media within the city and who shall use public address systems throughout the city, electronic notification systems

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

or other means deemed appropriate by the chief of police and immediately notify the public of said proclamation~~ and warn the public that any violation shall be deemed a misdemeanor and violators will be arrested~~.

1. Require evacuation of all or any portion of the city. The chief of police shall have the authority to order the evacuation of residential or commercial buildings or other structures whenever, in the opinion of the chief of police, it is necessary in order to maintain the peace or to protect the health, safety or property of the city or its citizens from the danger for which the state of emergency was declared.
2. ~~Prohibit or limit the number of persons who way gather or congregate upon the public highways or public sidewalks, or in any outdoor place, except persons who are awaiting transportation, engaging in recreational activities at a usual and customary place, or peaceably entering or leaving buildings~~Prohibit or limit the movement of persons or hours of operation of businesses, by curfew or otherwise, within the designated disaster or emergency area, and the occupancy of premises therein.
3. Halt access or exit upon public highways to or from the city or any part thereof.
4. Suspend operations at municipal airport.
5. Halt the movement of trains, or other vehicles into, within, or from the city.
6. ~~Establish a curfew limiting the hours when persons may go upon~~Limit or ~~travel the public streets, sidewalks or other public rights of way.~~
7. ~~Require the closing of taprooms and bars and~~ prohibit the sale, dispensing or ~~service~~transportation of alcoholic beverages~~ in any hotel, restaurant, club or other establishment.~~
8. ~~Prohibit the sale of~~, explosives, gasoline or other flammable liquids.
9. ~~Prohibit~~7. Limit or ~~P~~prohibit the sale, carrying or possession on the public sidewalks or public streets,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

or in any public park, of weapons including, but not limited to, firearms, bows and arrows, air rifles, slingshots, knives, razors, or missiles of any kind.

~~10.~~ 8. The city engineer shall have the authority to go upon the property of another to establish a temporary flood control dike of earthen or other material whenever, in the opinion of the city engineer, it is necessary in order to maintain or protect the health, safety or property of the city or citizens from flooding or the effects of flooding. In forming such opinion, the city engineer may consider the effect that floodwaters would have upon the city's system of storm or sanitary sewers, or upon other of the city's infrastructure system.

~~11~~9. The mayor or chief of police shall have the authority to close any and all streets, alleys, levees, dikes or other flood protection barriers and other public ways in the city of Fargo to the public and to prohibit persons from being on, walking on or driving on the same whenever, in the opinion of the chief of police, it is necessary in order to maintain the peace of the community or to safeguard the same.

~~12~~10. Every person remaining present at the place of any riot or unlawful assembly after the same has been ordered to disperse by the police or any other lawful authority, except the public officers and persons assisting them in the dispersing of same, shall be guilty of a misdemeanor.

B. Unless noted otherwise in this section, any person who willfully violates any provision of this section or a declaration issued by the mayor pursuant to this section is guilty of an infraction.

C. Duration. The STATE OF EMERGENCY declared by the ~~president of the city commission~~mayor shall ~~exist for~~ continue until the mayor determines that the threat of an emergency has passed or the ~~period set forth in~~disaster has been dealt with to the ~~proclamation but~~ extent that emergency conditions no longer exist; however, such declaration may not ~~in excess~~extend for a period of more than 30 days without

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

approval of ~~two weeks. However, the STATE OF EMERGENCY may be extended for additional periods of two weeks~~the board of city commissioners. The STATE OF EMERGENCY may be terminated at any time by the board of city commissioners.

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $500.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 3. Effective Date.

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

_____
Dennis R. Walaker, Mayor

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

(a6)

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN OSGOOD VILLAS FOURTH ADDITION TO THE CITY OF FARGO

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on November 12, 2009; and,

WHEREAS, the rezoning changes were approved by the City Commission on February 8, 2010,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One through Eight (1-8), Block Two (2), Osgood Villas Fourth Addition to the City of Fargo, County of Cass and State of North Dakota,

is hereby rezoned from "SR-3", Single-Dwelling, District to "SR-5", Single-Dwelling, District.

Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

_____
Dennis R. Walaker, Mayor

(SEAL)
Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

a7

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND LYING IN KIRKHAM'S 2ND ADDITION, TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the proposed rezoning of certain parcels of land lying in Kirkham's 2nd Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on January 13, 2010; and,

WHEREAS, the rezoning changes were approved by the City Commission on February 8, 2010,

NOW, THEREFORE,

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

Section 1. The following described property:

The East 40 feet of Lot Four (4), Lot Seven (7) and the South 15 feet of Lot Eight (8), the North 45 feet of Lot Eight (8) and Lot Ten (10), Block Ten (10); the North 50 feet of Lot One (1) and the West 25 feet of the North 50 feet of Lot Two (2) and Lot Twenty-two (22), Block Eleven (11); Lots Twenty (20) and Twenty-two (22) of Block Thirteen (13); and Lots Four (4) and Five (5), Block Fourteen (14), Kirkham's 2nd Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from "MR-2", Multi-Dwelling, District to "SR-3", Single-Dwelling, District;

AND

Lot Twenty-one (21) and the North 5 feet of Lot Twenty-two (22) and the South 45 feet of Lot Twenty-two (22), Block Twelve (12); the South Half of Lots Five (5) and Six (6) and Lot Nine (9), Block Thirteen (13); and Lot Nine (9), Block Fourteen (14), Kirkham's 2nd Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from "MR-3", Multi-Dwelling, District to "SR-3", Single-Dwelling, District.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

_____
Dennis R. Walaker, Mayor

(SEAL)
Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

CITY OF Fargo

PLANNING AND DEVELOPMENT
200 Third Street North
Fargo, North Dakota 58102
Phone: (701) 241-1474
Fax: (701) 241-1526
E-Mail: planning@cityoffargo.com
www.cityoffargo.com

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MEMORANDUM

DATE: February 18, 2010

TO: City Commission

FROM: Dan Mahli, Senior Planner, Community Development

RE: Neighborhood Stabilization Program – Acquisition of property

Last year, the City of Fargo was approved to receive $5.01M in Neighborhood Stabilization Program (NSP) grant funds from the 2008 Housing and Economic Recovery Act. The NSP allocation is being passed through the State of ND Department of Commerce. The funding identified in the City's NSP plan includes targeting the Federal assistance toward acquisition and redevelopment of foreclosed, vacant and abandoned properties in Fargo. The goal is to help stabilize neighborhoods and preserve Fargo's older, affordable housing stock.

Two vacant and foreclosed homes, located in Fargo's older neighborhoods, have been deemed as good candidates for Neighborhood Stabilization Program (NSP) funding. The intent is to purchase these properties and renovate/re-sell as owner-occupied homes under the Neighborhood Stabilization Program rules.

1362 16th Ave South

Property Information
Owner – Fannie Mae
Assessed value - $92,500
Acquisition price - **$69,900**

1806 5th Street North

Property Information
Owner – HUD
Assessed value - $96,900
Acquisition price - **$89,000**

Recommended Action. Approve the expenditure of Neighborhood Stabilization Program funds for the acquisition of 1362 16th Ave S for $69,900 and 1806 5th St N for $89,000.

EQUAL HOUSING OPPORTUNITY

Printed on Recycled paper.

CITY OF Fargo

Metropolitan Area Transit
650 23rd Street N
Fargo, ND 58102
Phone: 701-241-8140
Fax: 701-241-8558

February 18, 2010

Board of City Commissioners
City Hall - 200 N 3rd Street
Fargo, ND 58102

Dear Commissioners:

The State of North Dakota Department of Transportation has awarded the City of Fargo $71,000 in Job Access and Reverse Commute (JARC) funds and $68,885 in New Freedom (NF) funds.

The JARC award will be utilized to continue staffing of the additional dispatcher positions at the Ground Transportation Center and transportation programs to employment and employment related activities, for low income individuals. The NF award will be utilized to fund the Mobility Management activities and the part time paratransit dispatcher in the Transit Department. Matching funds for these awards are included in the Transit budget. A copy of each of the ND DOT agreements is attached.

The requested motion is to approve the state JARC and NF funding agreements.

Sincerely,

Julie Bommelman
Transit Administrator
City of Fargo

Attachment

North Dakota Department of Transportation
SECTION 5316 TRANSIT GRANT AGREEMENT

CONTRACT NO. N/A

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.516	CFDA Title: Job Access Reverse Commute
Award Name: Job Access Reverse Commute (JARC)	Awarding Fed. Agency: FTA
NDDOT Program Mgr.: Bruce Fuchs	Telephone: 701-328-2194

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

This contract is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and City of Fargo, a governmental body, hereinafter referred to as the Contractor, whose address is 650 23rd Street North, Fargo, North Dakota 58102.

WHEREAS, Section 5316 of the Transportation Equity Act of 1998 (TEA-21), provides for grants for the specific purpose of assisting in providing transportation services to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to get and keep jobs.

WHEREAS, the Governor of the state of North Dakota, in accordance with a request by the Federal Transit Administration (FTA), has designated NDDOT to evaluate and select projects and to coordinate the grant applications; and

WHEREAS, NDDOT and the Contractor desire to secure and utilize grant funds for the transportation needs of welfare recipients and low-income persons of the state of North Dakota; now

THEREFORE, in consideration of the mutual interests herein set forth, NDDOT and the Contractor agree as follows:

Section 1. Purpose of Agreement. The purpose of this agreement is to provide grant funds for use in providing transportation services for welfare recipients and low-income individuals, hereinafter referred to as the project. The grant amount is $ 71,000.

Section 2. Project Obligation. The Contractor shall undertake and complete the project as described in the attached Project Description and Budget (Attachment A), and as described in the Contractor's approved grant application, on file with NDDOT.

Section 3. Period of Performance. This agreement shall begin on March 1, 2010 and terminate on June 30, 2011.

Section 4. Project Participation. Participation in the project costs shall be as indicated in the attached Project Description and Budget. The Contractor will provide sufficient non-federal funds which together with the grant will pay the project costs. In the event that the actual project costs are less than what is shown in the project budget or if a rebate is given, this reduction in cost shall be applied to the Contractor and NDDOT in proportion to the participation rates of each.

Section 5. Purchase of Project Equipment. The purchase of all project equipment financed, in whole or in part, pursuant to this agreement shall be undertaken by the Contractor in accordance with NDDOT's procurement procedures and 49 CFR 18 (Common Rule).

Section 6. Use of Project Equipment. The Contractor agrees that the project equipment shall be used for providing transportation service in accordance with the project description in the grant application. Such equipment shall be used for the duration of its useful life. If any project equipment is not used in this manner or is withdrawn from service before the end of its useful life, the Contractor shall immediately notify NDDOT of that condition.

Section 7. Subcontracting. The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

Section 8. Assignments. Unless authorized in writing by NDDOT, the Contractor shall not assign any portion of the work or equipment and vehicles under this agreement; execute any contract, amendment, or change order thereto; or obligate in any manner with a third party with respect to rights and responsibilities under this agreement.

Section 9. Subcontract Provisions. The Contractor shall include in all subcontracts entered into, pursuant to this agreement, all of the above-required sections. In addition, the following statement of financial assistance shall be included in any advertisement or invitation to bid for any procurement under this agreement:

> "This contract is subject to a financial assistance contract between the state of North Dakota and the USDOT."

Section 10. Records and Reports.

a. The Contractor shall submit project operational data and information as requested by NDDOT.

b. The Contractor shall also submit financial statements, data, records, contracts, and other documents related to the project as requested by NDDOT.

c. All charges to the project account shall be supported by executed invoices, contracts, or vouchers showing the nature of the charges. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified; readily accessible; and, to the extent feasible, kept separate and apart from all other such documents.

d. The Contractor shall maintain all accounting and project records NDDOT may require. Such records shall be made available to NDDOT and the federal government for inspection and audit during the agreement term and for three years after the date of final payment, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.

Section 11. Audit and Inspection. The Contractor shall permit NDDOT, the comptroller general of the United States, and the secretary of the US Department of Transportation or their authorized representatives to inspect all vehicles, facilities, and equipment used by the Contractor as part of the project and all relevant project data and records. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

Section 12. Termination.

a. This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' notice, in writing and delivered by certified mail or in person.

b. In addition, NDDOT may terminate this contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by NDDOT, under any of the following conditions:

(1) If NDDOT funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.

(2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

(3) If any license or certificate required by law or regulation to be held by the Contractor to provide the services required by the contract is for any reason denied, revoked, or not renewed.

Any such termination of this contract under (1), (2), or (3), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

c. NDDOT, by written notice to the Contractor, may terminate the whole or any part of this agreement:

(1) If the Contractor fails to provide services called for by this contract within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from NDDOT, fails to correct such failures within ten days or such longer period as NDDOT may authorize.

Section 13. Action Upon Termination. The Contractor agrees to dispose of the project equipment in accordance with 49 CFR 18.32 (Common Rule) and NDDOT's program policy, copies of which will be made available by NDDOT upon request.

Section 14. Contract Changes. All modifications of this agreement shall be made in writing and agreed upon by both parties.

Section 15. Prohibited Interest. No member, officer, or employee of the Contractor during his tenure or for one year thereafter shall have any personal interest, direct or indirect, in this contract or the proceeds thereof.

Section 16. Civil Rights. The Contractor will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the United States Department of Transportation (USDOT), 49 CFR 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the Contractor fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

a. Withholding of payments to the Contractor under the agreement until the Contractor causes compliance, or

b. Cancellation, termination, or suspension of the agreement, in whole or in part.

Section 17. Disadvantaged Business Enterprise. The Contractor will comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Contractor of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et. seq.).

The Contractor will include the following paragraph verbatim in any subcontracts they sign relative to this project:

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the NDDOT deems appropriate.

Section 18. Other Provisions. The Contractor acknowledges the following provisions and agrees to cooperate with NDDOT in abiding by them:

Safety Jurisdiction. FTA's authority in the area of transit safety is set forth in section 22 of the Federal Transit Act Amendments of 1991. Under this section, FTA may withhold further financial assistance from any private nonprofit agency recipient who fails to correct any condition which FTA believes "creates a serious hazard of death or injury."

Section 19. Statement of Financial Assistance. This contract is subject to a financial assistance contract between the state of North Dakota and the USDOT.

Section 20. Eligibility of Contractor. The Contractor is advised that the signature on this contract or agreement certifies that the company or any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

Section 21. Nondiscrimination – Compliance with Laws. The Contractor agrees to comply with all applicable laws and rules, including, but not limited to, those relating to nondiscrimination, accessibility, and civil rights.

Section 22. Applicable Law. Indemnity. Contractor shall comply with all applicable federal, state, and local laws, rules, and ordinances at all times in the performance of this agreement, and conduct its activities so as not to endanger any person or property.

Section 23. Charter Service Operations. The Contractor agrees to comply with 49 USC 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

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Section 25. Buy America. (Applies only if purchase is over $100,000.) The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15-passenger vans and 15-passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than $100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

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any federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to the recipient.

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Section 34. Disputes. 49 CFR Part 18, FTA Cir. 4220.1E. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NDDOT Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Director shall be binding upon the Contractor, and the Contractor shall abide by the decision.

Section 35. Merger and Waiver. This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Contractor, by the signature below of its authorized

representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Section 36. No Obligation by the Federal Government. The purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Section 37. Risk Management. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

EXECUTED the date last below signed.

WITNESS:

Steve Sprague, City Auditor
NAME (TYPE OR PRINT)

SIGNATURE

CONTRACTOR:

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

Mayor, City of Fargo
TITLE

DATE

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED as to substance by:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

DOT 1071 (Div. 38)
L.D. Approved 8-21-08; 9-09

Risk Management Appendix

Routine* Transit Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: State – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, their agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against the Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

North Dakota Department of Transportation
SECTION 5317 TRANSIT GRANT AGREEMENT

CONTRACT NO. N/A

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.521	CFDA Title: New Freedom Program
Award Name: New Freedom Program	Awarding Fed. Agency: FTA
NDDOT Program Mgr.: Bruce Fuchs	Telephone: 701-328-2194

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

This contract is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and City of Fargo, a governmental body, hereinafter referred to as the Contractor, whose address is 650 23rd Street North, Fargo, North Dakota 58102.

WHEREAS, Section 5317 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, provides for grants for the specific purpose of assisting in providing transportation services meeting the special needs of elderly and disabled persons for whom mass transportation services are unavailable, insufficient, or inappropriate; and

WHEREAS, the Governor of the state of North Dakota, in accordance with a request by the Federal Transit Administration (FTA), has designated NDDOT to evaluate and select projects and to coordinate the grant applications; and

WHEREAS, NDDOT and the Contractor desire to secure and utilize grant funds for the transportation needs of the elderly and disabled citizens of the state of North Dakota; now

THEREFORE, in consideration of the mutual interests herein set forth, NDDOT and the Contractor agree as follows:

Section 1. Purpose of Agreement. The purpose of this agreement is to provide grant funds for use in providing transportation services for the elderly and disabled citizens, hereinafter referred to as the project. The grant amount is $ 68,885.

Section 2. Project Obligation. The Contractor shall undertake and complete the project as described in the attached Project Description and Budget (Attachment A), and as described in the Contractor's approved grant application, on file with NDDOT.

Section 3. Period of Performance. This agreement shall begin on March 1, 2010 and terminate on June 30, 2011.

Section 4. Project Participation. Participation in the project costs shall be as indicated in the attached Project Description and Budget. The Contractor will provide sufficient non-federal funds which together with the grant will pay the project costs. In the event that the actual project costs are less than what is shown in the project budget or if a rebate is given, this reduction in cost shall be applied to the Contractor and NDDOT in proportion to the participation rates of each.

Section 5. Purchase of Project Equipment. The purchase of all project equipment financed, in whole or in part, pursuant to this agreement shall be undertaken by the Contractor in accordance with NDDOT's procurement procedures and 49 CFR 18 (Common Rule).

Section 6. Use of Project Equipment. The Contractor agrees that the project equipment shall be used for providing transportation service in accordance with the project description in the grant application. Such equipment shall be used for the duration of its useful life. If any project equipment is not used in this manner or is withdrawn from service before the end of its useful life, the Contractor shall immediately notify NDDOT of that condition.

Section 7. Subcontracting. The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

Section 8. Assignments. Unless authorized in writing by NDDOT, the Contractor shall not assign any portion of the work or equipment and vehicles under this agreement; execute any contract, amendment, or change order thereto; or obligate in any manner with a third party with respect to rights and responsibilities under this agreement.

Section 9. Subcontract Provisions. The Contractor shall include in all subcontracts entered into, pursuant to this agreement, all of the above-required sections. In addition, the following statement of financial assistance shall be included in any advertisement or invitation to bid for any procurement under this agreement:

> "This contract is subject to a financial assistance contact between the state of North Dakota and the USDOT."

Section 10. Records and Reports.

a. The Contractor shall submit project operational data and information as requested by NDDOT.

b. The Contractor shall also submit financial statements, data, records, contracts, and other documents related to the project as requested by NDDOT.

c. All charges to the project account shall be supported by executed invoices, contracts, or vouchers showing the nature of the charges. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified; readily accessible; and, to the extent feasible, kept separate and apart from all other such documents.

d. The Contractor shall maintain all accounting and project records NDDOT may require. Such records shall be made available to NDDOT and the federal government for inspection and audit during the agreement term and for three years after the date of final payment, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.

Section 11. Audit and Inspection. The Contractor shall permit NDDOT, the comptroller general of the United States, and the secretary of the US Department of Transportation or their authorized representatives to inspect all vehicles, facilities, and equipment used by the Contractor as part of the project and all relevant project data and records. NDDOT requires

contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

Section 12. Termination.

a. This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' notice, in writing and delivered by certified mail or in person.

b. In addition, NDDOT may terminate this contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by NDDOT, under any of the following conditions:

(1) If NDDOT funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.

(2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

(3) If any license or certificate required by law or regulation to be held by the Contractor to provide the services required by the contract is for any reason denied, revoked, or not renewed.

Any such termination of this contract under (1), (2), or (3), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

c. NDDOT, by written notice to the Contractor, may terminate the whole or any part of this agreement:

(1) If the Contractor fails to provide services called for by this contract within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from NDDOT, fails to correct such failures within ten days or such longer period as NDDOT may authorize.

Section 13. Action Upon Termination. The Contractor agrees to dispose of the project equipment in accordance with 49 CFR 18.32 (Common Rule) and NDDOT's program policy, copies of which will be made available by NDDOT upon request.

Section 14. Contract Changes. All modifications of this agreement shall be made in writing and agreed upon by both parties.

Section 15. Prohibited Interest. No member, officer, or employee of the Contractor during his tenure or for one year thereafter shall have any personal interest, direct or indirect, in this contract or the proceeds thereof.

Section 16. Civil Rights. The Contractor will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the United States Department of Transportation (USDOT), 49 CFR 21, and Executive Order 11246, relative to the

employment practices under any engineering contract awarded in conjunction with this agreement. If the Contractor fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

a. Withholding of payments to the Contractor under the agreement until the Contractor causes compliance, or

b. Cancellation, termination, or suspension of the agreement, in whole or in part.

Section 17. Disadvantaged Business Enterprise. The Contractor will comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Contractor of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et. seq.).

The Contractor will include the following paragraph verbatim in any subcontracts they sign relative to this project:

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the NDDOT deems appropriate.

Section 18. Other Provisions. The Contractor acknowledges the following provisions and agrees to cooperate with NDDOT in abiding by them:

Safety Jurisdiction. FTA's authority in the area of transit safety is set forth in section 22 of the Federal Transit Act Amendments of 1991. Under this section, FTA may withhold further financial assistance from any private nonprofit agency recipient who fails to correct any condition which FTA believes "creates a serious hazard of death or injury."

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EXECUTED the date last below signed.

WITNESS:

Steve Sprague, City Auditor

NAME (TYPE OR PRINT)

SIGNATURE

CONTRACTOR:

Dennis R. Walaker

NAME (TYPE OR PRINT)

SIGNATURE

Mayor, City of Fargo

TITLE

DATE

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED as to substance by:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

DOT 1072 (Div. 38)
L.D. Approved 8-21-08; 9-09

VMD

Risk Management Appendix

Routine* Transit Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, their agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against the Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

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Fargo, ND 58102
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Fax 701-241-8559
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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: RUTH BACHMEIER
DIRECTOR OF PUBLIC HEALTH

DATE: FEBRUARY 16, 2010

RE: CONTRACT WITH THE NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES FOR THE REFUGEE PROGRAM CONTRACT NO. 600-07863 AMENDMENT "A"

This is a request to approve the Grant Agreement with the North Dakota Department of Human Services for refugee and entrant assistance.

No budget adjustment is required for this contract.

If you have questions, please contact Ruth Bachmeier at 241-1380.

Suggested Motion: Move to approve the Grant Agreement with North Dakota Department of Human Services for the refugee health nursing agreement.

RB/LA
Enclosures

CONTRACT #600-07863

GRANT AGREEMENT

The State of North Dakota, acting through its North Dakota Department of Human Services (DHS), Children and Family Services Division (Grantor), has determined the services identified in the Scope of Service paragraph below form an appropriate basis for the expenditure of funds allocated to Grantor.

City of Fargo (Grantee), 401 3rd Avenue N, Fargo, ND 58102-4811, proposes to provide those services.

Grantor and Grantee therefore enter into the following:

1. TERM OF GRANT

This grant runs from October 1, 2009, through September 30, 2010. This grant may be terminated at any time by mutual consent of both parties, or upon 30-days' written notice by either party, with or without cause.

2. SCOPE OF SERVICE

Grantee shall provide comprehensive preventive health services to Cass County refugees in the first year of resettlement.

3. COMPENSATION

Grantor, upon receipt and approval of SFN 1763 Request for Reimbursement or other form required by Grantor, shall reimburse Grantee for allowable expenses incurred. "Allowable expenses" are defined by the OMB Circulars cited under Section 8 of this grant. The total amount paid under this grant may not exceed $60,000. No funds will be paid for services until they have been provided. Grantee shall submit its request for reimbursement to Grantor monthly. Grantee shall submit its final reimbursement request to Grantor no later than 30 days after the expiration or termination of this grant. Grantor may not pay Grantee until Grantee signs and returns to Grantor the Certification of the OMB Circular Information Guide, which is made a part of this grant by reference here.

Payment for services under this grant may include federal monies. Anticipated funding at the time this grant is executed is listed below. The funding source of actual payments and the federal program can be verified by contacting DHS' Fiscal Administration Division.

Anticipated Funding:

Federal	$60,000.00	Other	$0.00
State	$0.00	Unknown	$0.00

Catalog of Federal Domestic Assistance Number 93.576, Department of Health and Human Services, Refugee and Entrant Assistance: Discretionary Grants.

4. GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

Grantee understands that this grant is a one-time grant, and acknowledges that it has received no assurances that this grant may be extended beyond its expiration date.

5. GRANTEE ASSURANCES

Grantee agrees to comply with the applicable assurances set forth in the Grantee Assurances found in Attachment A which is part of this grant.

6. AUTHORITY TO CONTRACT

Grantee may not contract for or on behalf of, or incur obligations on behalf of, Grantor. Grantee may subcontract with qualified providers of services, provided that any subcontract acknowledges the binding nature of this grant, and incorporates this grant, together with its attachments as appropriate. Grantee agrees to be solely responsible for the performance of any subcontractor. Grantee may not assign or otherwise transfer or delegate any right or duty without Grantor's express written consent.

7. INDEPENDENT ENTITY

Grantee shall perform as an independent entity under this grant. Grantee, its employees, agents, or representatives are not employees of Grantor for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workers' Compensation Act. No part of this grant may be construed to represent the creation of an employer/employee relationship between Grantor and Grantee. Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out Grantee's activities and responsibilities under this grant.

8. AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

Grantee agrees to keep financial records necessary to fully disclose the complete financial status of the grant. Grantee must submit documentation supporting requests for reimbursement for review by Grantor or its agents, upon request. If Grantee has expended federal funds (when considering all sources) during Grantee's fiscal year at the amount specified in OMB Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations, which is made a part of this grant by reference here, that Circular must be followed pursuant to the Single Audit Act of 1984, Public Law 98-502; and the Single Audit Act Amendments of 1996, Public Law 104-156. Grantee agrees to file a copy of the "Reporting Package" as described by the Circular referenced above with DHS' Fiscal Administration Division within the time frame identified in that Circular.

Additionally, Grantee agrees to spend all federal assistance received from Grantor in accordance with applicable laws and regulations such as: the Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government; and OMB Circular A-87, Cost Principles for State,

Local and Indian Tribal Governments, which are made a part of this grant by reference here.

9. RETENTION OF RECORDS

Grantee agrees to retain financial records for three years from the date of submission of the final expenditure report or if subject to audit, from the date the audit is completed and closed, whichever occurs later. Grantee must provide Grantor, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Grantee that are pertinent to the services provided under this grant. Program records must be maintained for a period of six years or until an audit is completed and closed, whichever occurs later.

10. TERMINATION OF GRANT FOR CAUSE

Grantor by written notice of default to Grantee may terminate all or any part of this grant if:

a) Grantee fails to provide services required by this grant within the time specified or within any extension agreed to by Grantor; or
b) Grantee fails to perform any of the other provisions of this grant, or fails to pursue the work in a way that endangers performance of this grant in accordance with its terms.

The rights and remedies of Grantor provided in the above clause related to defaults by Grantee are not exclusive and are in addition to any other rights and remedies provided by law or under this grant.

11. TERMINATION FOR LACK OF FUNDING OR AUTHORITY

Grantor may terminate this grant effective upon delivery of written notice to Grantee or on any later date stated in the notice, if:

1) Funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or for the indicated term. The grant may be modified by mutual consent of the parties in writing to accommodate a reduction in funds.

2) Federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this grant or are no longer eligible for the funding proposed for payments authorized by this grant.

3) Any license, permit, or certificate required by law or rule, or by this grant, is for any reason denied, revoked, suspended, or not renewed.

Any termination of this grant under this section is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

12. CONTINGENT LIABILITY

During the term of this grant, and for three years after this grant expires or is terminated, Grantee agrees to reimburse Grantor for any claims submitted by Grantor for federal financial participation in the cost of this grant to the extent those claims are disallowed by any federal agency for failure on the part of Grantee to comply with this grant or any federal or state statutory or regulatory provisions which govern the source of funding. Grantor agrees to give Grantee prompt written notice of any disallowed claims subject to reimbursement by Grantee. Any amount disallowed as described is a debt owing to Grantor. Action may be brought by Grantor as allowed by law.

13. INDEMNITY

The State and Grantee each agree to assume their own liability for any and all claims of any nature including all costs, expenses, and attorneys' fees which may in any manner result from or arise out of this agreement.

14. INSURANCE

Grantee shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of $250,000 per person and $1,000,000 per occurrence.
2) Professional errors and omissions, including a three year "tail coverage endorsement," with minimum liability limits of $1,000,000 per occurrence and in the aggregate.
3) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of $250,000 per person and $500,000 per occurrence.
4) Workers compensation coverage meeting all statutory requirements.

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

1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Grantee. The amount of any deductible or self retention is subject to approval by the State.
2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
3) The insurance required in this agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State representative.

4) The Grantee shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement.
5) Failure to provide insurance as required in this agreement is a material breach of contract entitling State to terminate this agreement immediately.

15. NOTICE

Any notice or other communication required under this grant must be given by registered or certified mail and is complete on the date mailed when addressed to the parties at the following addresses:

City of Fargo 401 3rd Avenue N Fargo, ND 58102-4811	OR	ND Department of Human Services Children and Family Services Division 600 E. Boulevard Avenue, Dept. 325 Bismarck, ND 58505-0250

Notice provided under this provision does not meet the notice requirements in N.D.C.C. § 32-12.2-04(1).

16. INTEGRATION, MODIFICATION, AND SEVERABILITY

This grant constitutes the entire grant between Grantee and Grantor. No alteration, amendment, or modification of this grant is effective unless it is reduced to writing, signed by the parties, and attached to the grant. If any term of this grant is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the grant does not contain the illegal or unenforceable term.

17. COLLATERAL CONTRACTS

If any inconsistency exists between this grant and other provisions of collateral contractual agreements that are made a part of this grant by reference or otherwise, the provisions of this grant control.

18. APPLICABLE LAW

This grant is governed by and construed according to the laws of the State of North Dakota. Any action to enforce this grant must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota.

19. ASSIGNMENT

Neither party may assign this grant or the party's rights under this grant without the written approval of the other party. Approval to assign may not be unreasonably withheld. This grant is equally binding on the respective parties, and their successors and assigns.

20. WORK PRODUCT, EQUIPMENT, AND MATERIALS

All work product, equipment, and materials created or purchased under this grant belong to Grantor and must be delivered to Grantor at Grantor's request upon expiration or termination of this grant. Grantee agrees that all materials prepared under this grant are "works for hire" within the meaning of copyright laws of the United States and assigns to Grantor all rights and interests Grantee may have in the materials it prepares under this grant, including any right to derivative use of the material. Grantee shall execute all necessary documents to enable Grantor to protect its rights under this section. Grantor must provide written approval of Grantee's use of work product or materials for purposes outside the scope of this grant.

21. COMPLIANCE WITH PUBLIC RECORDS LAWS

Grantee understands that, except for disclosures prohibited in Section 24, Grantor must disclose to the public upon request any records it receives from Grantee. Grantee further understands that any records obtained or generated by Grantee under this grant, except for records that are confidential under Section 24, may be open to the public upon request under certain circumstances under the North Dakota open records law. Grantee agrees to contact Grantor immediately upon receiving a request for information under the open records law and to comply with Grantor's instructions on how to respond to the request.

22. ATTORNEY FEES

If a lawsuit is filed by Grantor to obtain performance due under this grant, and Grantor is the prevailing party, Grantee shall pay Grantor's reasonable attorney fees and costs in connection with the lawsuit except when prohibited by N.D.C.C. § 28-26-04.

23. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

Grantor does not agree to binding arbitration, mediation, or any other form of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. Grantor does not waive any right to a jury trial.

24. CONFIDENTIAL INFORMATION

Grantee agrees not to use or disclose any information that is confidential or exempt from mandatory public disclosure which it receives from Grantor under this grant except as necessary to carry out the purposes of this grant or as authorized in advance by Grantor. Grantor agrees not to disclose any information it receives from Grantee which Grantee has previously identified as confidential and which Grantor determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law found in N.D.C.C. chapter 44-04. The duty of Grantor and Grantee to maintain confidentiality of information under this section continues beyond the term of this grant, including any extensions or renewals.

Dated this 1st day of October, 2009.

By Ruth Bahmen

Its Director of Public Health

CITY OF FARGO

By

Its Mayor, City of Fargo

45-6002069
Grantee's Federal Taxpayer Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By
TARA LEA MUHLHAUSER
DIRECTOR, CHILDREN AND
FAMILY SERVICES DIVISION

By
TARA SKJEIE-HOFFMAN
CONTRACT OFFICER
Approved for form and content

GRANTEE ASSURANCES

A. In connection with furnishing supplies or performing work under this grant, persons who contract with or receive funds to provide services to Grantor are obligated and agree to comply with all local, state, and federal laws, regulations and executive orders related to the performance of this grant including the following: Fair Labor Standards Act, the North Dakota Human Rights Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment and Rehabilitation Act of 1970, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Drug-free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse and Mental Health Administration Reorganization Act of 1992 and the Pro-Children Act of 1994.

B. Unless otherwise authorized by federal law, the charges to be made by Grantee do not include costs financed by federal monies other than those generated by this grant.

C. By signing this grant, Grantee certifies that neither Grantee, Subcontractor, nor their principals, are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with State or Federal Government by any Department or Agency of the State or Federal Government.

D. Grantee must be an approved vendor with the Office of Management and Budget within the State of North Dakota as required by N.D.C.C. § 54-44.4-09.

E. Grantee assures that:

1) No Federal funds from this agreement will be paid by or on behalf of Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract; the making of any Federal grant, the making of any Federal loan, the entering of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2) If any grant funds other than Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, Grantee agrees to complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3) Grantee shall require that the language of the Grantee Assurances in this Attachment be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall comply with these Grantee Assurances.

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www.cityoffargo.com/health

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: RUTH BACHMEIER
DIRECTOR OF PUBLIC HEALTH

DATE: FEBRUARY 16, 2010

RE: PURCHASE OF SERVICE AGREEMENT FOR HIV COUNSELING, TESTING AND REFERRAL
NORTH DAKOTA DEPARTMENT OF HEALTH
CONTRACT NO. PF09-095 CFDA NO. 93.943

The attached Purchase of Service Agreement with the North Dakota Department of Health is for an HIV counseling, testing and referral program.

If you have any questions please contact me at 241-1380.

Suggested Motion: Move to approve the HIV counseling, testing and referral contract.

RB/LA
Enclosure

Contract No. PF09-095	**CFDA No.** 93.943	North Dakota Department of Health 600 East Boulevard Ave-Dept. 301 Bismarck, ND 58505-0200
Contract Period From: January 1, 2010	Through: December 31, 2010	**Type: Purchase of Service Agreement (SFN53772)**

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

Title of Project/Program: HIV Counseling, Testing and Referral (HIV CTR) **Health Dept. Grant Code:** HLH037

Contractor Name and Address:	**North Dakota Department of Health Program Director:**
Fargo Cass Public Health 401 – 3rd Avenue North Fargo, ND 58102-4839 Contact Name: Ruth Bachmeier, Director of Public Health Telephone: 701.241.1360	Krissie Guerard, HIV/AIDS/TB Program Director ND Department of Health Division of Disease Control 2635 E. Main Ave Bismarck, ND 58506-5520 Telephone: 701.328.4555

Financial Information	**Dept of Health Cost Share**	**Contractor Cost Share**	**Total Project/Program Costs**
Amount of Financial Assistance	See Remarks	$0	See Remarks
Previous Funds Awarded	$0	$0	$0
Total Funds Awarded to Date	See Remarks	$0	See Remarks

Scope of Service: The contractor agrees to: (1) Collect and provide oral fluid or blood specimens to the Department of Health Laboratory Services Division-Microbiology using the most recent HIV Serology Form; (2) Collect blood specimens for rapid HIV testing; (3) provide pre-test and post-test counseling to individuals requesting HIV testing at a time and place appropriate for both provider and client; (4) submit the *HIV Reimbursement Form* to the HIV/AIDS Program no later than 15 days after the end of each month; (5) file necessary records consistent with the HIV/AIDS Program Security Policy; (6) conduct evaluative activities as requested by the health department; (7) participate in HIV CTR site meetings, trainings and other activities as requested by the HIV/AIDS Program.

Reporting Requirements: Monthly expenditure and progress reports are due 15 days after the end of each month. Reimbursement will be processed upon Department approval of expenditure and progress reports. The expenditure report for the period ending June 30, 2010 must be received by July 15, 2010. **The final expenditure report ending December 31, 2010 must be received by February 15, 2011.**

Special Conditions:
See attachment.

$88,125 has been allocated for reimbursement for HIV CTR services rendered by all contract sites throughout the contract period.

Financial obligation of the Department is contingent upon funds being made available by the US Department of Health and Human Services.

This contract is subject to the terms and conditions incorporated either directly or by reference in the following:
(1) Requirements for Contracts issued by ND Dept. of Health as signed by Contractor for the period July 1, 2009 to June 30, 2011 [Accounting Use Only ☐ Requirements Received] (2) applicable Federal and State regulations.

Evidence of Contractor's Acceptance		**Evidence of Departmental Acceptance**	
Signature: Ruth Bachmeier	Date: February 16, 2010	Signature	Date
Typed Name and Title of Authorized Representative Ruth Bachmeier Director of Public Health		**Typed Name and Title of Authorized Representative** Arvy Smith, Deputy State Health Officer	
Signature	Date	Signature	Date
Typed Name and Title of Authorized Representative Dennis R. Walaker Mayor, City of Fargo		**Typed Name and Title of Authorized Representative** Kirby Kruger, Director Division of Disease Control	

Contractor: All attachments if referenced in the scope of service must be returned with the signed contract. If you did not receive attachments as indicated in the scope of service, please contact the Program Director identified above.

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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: RUTH BACHMEIER
DIRECTOR OF PUBLIC HEALTH

DATE: FEBRUARY 4, 2010

RE: NOTICE OF GRANT AWARD WITH NORTH DAKOTA DEPARTMENT OF HEALTH
CONTRACT NO. G09-591 CFDA NO. 93.991

The attached grant agreement with the North Dakota Department of Health for $3,000 is to support a Moving More, Eating Smarter community program. The following budget adjustments are required:

Expenses		
Marketing	101-6035-451-34-20	$ 500
Other Services	101-6035-451-38-99	$2,500
Revenue		
Move More	101-0000-331-12-38	$3,000

If you have any questions please call me at 241-1380.

Suggested Motion: Move to approve the grant agreement with the North Dakota Department of Health to support the Moving More, Eating Smarter community program.

RB/LA
Enclosure

Contract No. G09-591	**CFDA No.** 93.991	North Dakota Department of Health 600 East Boulevard Ave-Dept. 301 Bismarck, ND 58505-0200 **Type: NOTICE OF GRANT AWARD (SFN53771)**
Contract Period From: 3/1/2010	Through: 9/30/2010	

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

Title of Project/Program: Moving More, Eating Smarter Communities Program **Health Dept. Grant Code:** 4561 HLH014 06

Contractor Name and Address:	**North Dakota Department of Health Program Director:**
Fargo Cass Public Health 401 3rd Avenue N. Fargo, ND 58102-4839 Contact Name: Kim Lipetzky Telephone: 701.241.8195	Deanna Askew Division of Nutrition and Physical Activity 600 E. Boulevard Ave – Dept 301 Bismarck, ND 58505-0200 Telephone: 701.328.4568 Fax: 701.328.1412

Financial Information	**Dept of Health Cost Share**	**Contractor Cost Share**	**Total Project/Program Costs**
Amount of Financial Assistance	$3,000	$0	$3,000
Previous Funds Awarded	$0	$0	$0
Total Funds Awarded to Date	$3,000	$0	$3,000

Scope of Service:
Contractor agrees to use grant funds solely to support the local healthy eating and physical activity coalition in implementing the following program goals: 1.) To encourage North Dakotans to move more on most days of the week and 2.) To encourage North Dakotans to make smart choices from every food group. Contractor also agrees to maintain or build local capacity and to enhance and/or expand their local healthy eating and physical activity community activities. Contractor agrees to use funds according to their budget as approved by the North Dakota Department of Health.

Reporting Requirements:
Expenditure report for the period ending June 30, 2010 must be received by July 15, 2010. Contractor agrees to submit a written report of completed activities/projects by November 15, 2010. Final expenditure report for the period ending September 30, 2010 must be received by November 15, 2010. Reimbursement will be processed after Department approval of expenditure report and activities/projects report.

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

This contract is subject to the terms and conditions incorporated either directly or by reference in the following:
(1) Requirements for Contracts issued by ND Dept. of Health as signed by Contractor for the period July 1, 2009 to June 30, 20011 [Accounting Use Only ☑ Requirements Received] (2) applicable Federal and State regulations.

Evidence of Contractor's Acceptance		**Evidence of Departmental Acceptance**	
Signature	February 3, 2010 Date	Signature	Date
Typed Name and Title of Authorized Representative Ruth Bachmeier Director of Public Health		**Typed Name and Title of Authorized Representative** Arvy Smith, Deputy State Health Officer	
Signature	Date	Signature	Date
Typed Name and Title of Authorized Representative Dennis R. Walaker Mayor, City of Fargo		**Typed Name and Title of Authorized Representative** Colleen Pearce, Director Division of Nutrition and Physical Activity	

Contractor: Attachments if referenced in the scope of service must be returned with the signed contract. If you did not receive attachments as indicated in the scope of service, please contact the Program Director identified above.

CITY OF Fargo

ASSESSMENT DEPARTMENT

February 11, 2010

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements as submitted Curtis Goroski. A description of the property involved, type of improvements to be made, and assessment information is indicated on the application.

It is my opinion that the value of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2010, 2011, 2012, 2013, 2014. The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $1,100 with the City of Fargo's share being $145.

Sincerely,

Ben Hushka
City Assessor

tla

attachment

404 - 4th Avenue N. • Fargo, ND 58102 • Phone (701) 241-1340 • Fax (701) 241-1339

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Curtis Goroski Phone No. 701-280-1483
2. Address of Property 2847 Edgewood Dr
   City Fargo State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed
   Edgewood 1st Lot 32 BLK 5
4. Parcel Number 01-0720-00800-000
5. Mailing Address of Property Owner 2847 Edgewood Dr
   City Fargo State ND Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Addition of about 139 Sq ft. with Kitchen Remodel (Addition use to be a covered Patio)
7. Building Permit No. 20091478 8. Year built if residential property 1963
9. Date of commencement of making the improvement 8-25-09
10. Estimated market value of property before improvement $ 165,300
11. Cost of making the improvement (all labor, material and overhead) $ 64,000
12. Estimated market value of property after improvement $ 200,000

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
    Applicant's Signature Curtis P. Goroski Date 2-9-2010

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☐ has not ☐ met the qualifications for exemption for the following reason(s): 5 YEARS
    Assessor's Signature [signature] Date 2/12/10

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐
    Approval subject to the following conditions:
    Chairman of Governing Body Date

24840 (Rev. 10-95)

CITY OF Fargo

ASSESSMENT DEPARTMENT

9 2

February 9, 2010

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements as submitted Gary & Sally Nelson. A description of the property involved, type of improvements to be made, and assessment information is indicated on the application.

It is my opinion that the value of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2010, 2011, 2012, 2013, 2014. The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $1,030 with the City of Fargo's share being $135.

Sincerely,

Ben Hushka
City Assessor

tla

attachment

404 - 4th Avenue N. • Fargo, ND 58102 • Phone (701) 241-1340 • Fax (701) 241-1339

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Gary E & Sally Nelson Phone No. 701-232-5875
2. Address of Property 809 N 27th St
   City Fargo State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed
   College 2nd Lot 17 Block 18
4. Parcel Number 01-0480-02190-00
5. Mailing Address of Property Owner 809 N 27th St
   City Fargo State ND Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remove old Foundation - raise 13½" - replace with wood foundation - finish basement
7. Building Permit No. 20091378 20100039 8. Year built if residential property 1958
9. Date of commencement of making the improvement 8-10-2009
10. Estimated market value of property before improvement $ 75,200
11. Cost of making the improvement (all labor, material and overhead) $ 68,000
12. Estimated market value of property after improvement $ 140,000

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
    Applicant's Signature Gary E. Nelson Date 2-2-10

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☑ has not ☐ met the qualifications for exemption for the following reason(s): 5 YEARS
    Assessor's Signature Glen Huskka Date 2/9/10

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐
    Approval subject to the following conditions:
    Chairman of Governing Body Date

24840 (Rev. 10-95)

CITY OF Fargo

ASSESSMENT DEPARTMENT

9 3

February 9, 2010

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements as submitted Bryce & Heidi Livingston. A description of the property involved, type of improvements to be made, and assessment information is indicated on the application.

It is my opinion that the value of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2010, 2011, 2012, 2013, 2014. The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $785 with the City of Fargo's share being $100.

Sincerely,

Ben Hushka
City Assessor

tla

attachment

404 - 4th Avenue N. • Fargo, ND 58102 • Phone (701) 241-1340 • Fax (701) 241-1339

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Bryce & Heidi Livingston Phone No. 701-412-7972
2. Address of Property 34 18th Ave N
   City Fargo State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed
   LT29 BLK 4 McDermotts
4. Parcel Number 01-1890-00780-0001
5. Mailing Address of Property Owner — Same as Above —
   City State Zip Code

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). commercial property changed to Residential Property
7. Building Permit No. 99935
8. Year built if residential property 1953
9. Date of commencement of making the improvement Previous Owner
10. Estimated market value of property before improvement $ ~~$16,600~~ 78,800
11. Cost of making the improvement (all labor, material and overhead) $ ~~Previous Owner~~ 45,800
12. Estimated market value of property after improvement $ 124,600

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature Date 12-29-09

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☑ has not ☐ met the qualifications for exemption for the following reason(s): 5 YEARS

Assessor's Signature Date 2/9/2010

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐

Approval subject to the following conditions:

Chairman of Governing Body Date

24640 (Rev. 10-95)

CITY OF Fargo

ASSESSMENT DEPARTMENT

94

February 16, 2010

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements as submitted Kathryne Gerst. A description of the property involved, type of improvements to be made, and assessment information is indicated on the application.

It is my opinion that the value of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2010, 2011, 2012, 2013, 2014. The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about $195 with the City of Fargo's share being $25.

Sincerely,

Ben Hushka
City Assessor

tla

attachment

404 - 4th Avenue N. • Fargo, ND 58102 • Phone (701) 241-1340 • Fax (701) 241-1339

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

North Dakota Century Code ch. 57-02.2

(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Kathryne Gerst Phone No. (701) 306-3764
2. Address of Property 712 3rd St N
   City Fargo State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed
   LOT 8 BLK 3 ADDN #0580 DEWITTS
4. Parcel Number 01-0580-00240-000
5. Mailing Address of Property Owner 712 3rd St N
   City Fargo State ND Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). replace sheetrock, update electrical, replace insulation, plywood underlayment on floor
7. Building Permit No. 20091289
8. Year built if residential property 1893
9. Date of commencement of making the improvement 8-10-09
10. Estimated market value of property before improvement $ 53,100
11. Cost of making the improvement (all labor, material and overhead) $ 11,413
12. Estimated market value of property after improvement $

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
    Applicant's Signature Kathryne E Gerst Date 2-10-10

Assessor's Determination

14. The local assessor finds that the improvements in this application has ☐ has not ☐ met the qualifications for exemption for the following reason(s): 5 YEARS
    Assessor's Signature [signature] Date 2/16/2010

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied ☐ Approved ☐
    Approval subject to the following conditions:
    Chairman of Governing Body Date

24840 (Rev. 10-95)

Ob 2-16-10
Ck# 4109
25.00

APPLICATION FOR A LOCAL PERMIT

City of Fargo
Rev. 12-09

Name of Non-profit Organization: Annabelle Hannig Benefit		Date(s) of Activity: March 6, 2010 to March 6, 2010	
Person Responsible for the Gaming Operation: Lead: Tara Morris 2nd: Karissa Flieth / Mindy Johnson		Title: Lead Benefit Planner	Business Phone Number: 701-729-1257
Business Address: 1812 29th Ave S	City: Fargo	State: ND	Zip Code: 58103
Mailing Address (if different): 1812 29th Ave S	City: Fargo	State: ND	Zip Code: 58103
Name of Site Where Game(s) will be Conducted: El Zagal Shrine	Site Address: 1429 3rd St N		
City: Fargo	State: ND	Zip Code: 58102	County: Cass

Check the Game(s) to be Conducted: ☐ Bingo ☑ Raffle ☐ Calendar Raffle ☐ Sports Pool

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED See attached list

Game Type	Description of Prize	Retail Value of Prize
		$

Game Type	Description of Prize	Retail Value of Prize
		$

Total: (Limit $12,000 per year) $ 5,841.80

Intended uses of gaming proceeds: Fundraising for the Annabelle Hannig Benefit. Funds will go to the Hannig Family to cover medical related expenses

Does the organization presently have a state gaming license? ☑ No ☐ Yes - If "Yes," the organization is not eligible for a local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? ☑ No ☐ Yes - If "Yes," indicate the total value of all prizes previously awarded: $_____. *This amount is part of the total prize limit of $12,000 per year.*

PRIZE RESTRICTIONS:

A single cash prize cannot exceed $4,000 and the total cash prizes for a raffle cannot exceed $4,000 in one day.

The retail value of a merchandise prize cannot exceed $6,000.

The total of all cash prizes and retail value of all merchandise prizes for all games cannot exceed $12,000 per year.

If the value of the planned cash and merchandise prizes exceeds $12,000, the organization must reduce the prizes to this limit or apply for a state license with the Office of Attorney General

Signature of Organization's Top Executive Official	Date	Title	Day time Phone Number
Tara R Morris	2/16/10	Lead Benefit Planner	701-729-1257

Pd 25.00 2-16-10
V# 1014

APPLICATION FOR A LOCAL PERMIT

City of Fargo
Rev. 12-09

(2)

Name of Non-profit Organization: MDA "Old Fashioned Motorcycle Run"		Date(s) of Activity: June 5th 2010 to	
Person Responsible for the Gaming Operation: Laura Hochsprung		Title: MDA Program Director	Business Phone Number: 701-235-1988
Business Address: 3002 Fiechtner drive #B	City: Fargo	State: ND	Zip Code: 58103
Mailing Address (if different):	City:	State:	Zip Code:
Name of Site Where Game(s) will be Conducted: Old Broadway Grill - Outside in West Parking lot	Site Address: 22 Broadway		
City: Fargo	State: ND	Zip Code: 58102	County: Cass

Check the Game(s) to be Conducted: ☐ Bingo ☒ Raffle ☐ Calendar Raffle ☐ Sports Pool

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize
Raffle	Driving Experience	$ 750.00
Raffle	Night out on the Town	$400.00
Raffle	Nintendo DSi	$190.00

Game Type	Description of Prize	Retail Value of Prize
		$

Total: $ 1340.00 (Limit $12,000 per year)

Intended uses of gaming proceeds: Raise money for Muscular Dystrophy Association (MDA)

Does the organization presently have a state gaming license? ☒ No ☐ Yes - If "Yes," the organization is not eligible for a local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? ☒ No ☐ Yes - If "Yes," indicate the total value of all prizes previously awarded: $_____. *This amount is part of the total prize limit of $12,000 per year.*

PRIZE RESTRICTIONS:

A single cash prize cannot exceed $4,000 and the total cash prizes for a raffle cannot exceed $4,000 in one day.

The retail value of a merchandise prize cannot exceed $6,000.

The total of all cash prizes and retail value of all merchandise prizes for all games cannot exceed $12,000 per year.

If the value of the planned cash and merchandise prizes exceeds $12,000, the organization must reduce the prizes to this limit or apply for a state license with the Office of Attorney General

Signature of Organization's Top Executive Official	Date	Title	Day time Phone Number
Mike Hensley	2/16/10	President - Old Fashioned Motorcycle Run	701-238-3573

Pd 2-17-10
Ck# Cash
h3

APPLICATION FOR A LOCAL PERMIT

City of Fargo
Rev. 12-09

Name of Non-profit Organization: Hunt of A Lifetime Foundation		Date(s) of Activity: 3-13-10 to 3-13-10	
Person Responsible for the Gaming Operation: Brian Solum		Title: ND. Ambassador	Business Phone Number: 701 361-1888
Business Address: 415 38th St. S. Suite B	City: Fargo	State: ND	Zip Code: 58103
Mailing Address (if different):	City:	State:	Zip Code:
Name of Site Where Game(s) will be Conducted: Ramada Plaza Suites Crystall Ballroom	Site Address: 1635 42nd St. S.		
City: Fargo	State: ND	Zip Code: 58103	County: Cass

Check the Game(s) to be Conducted: ☐ Bingo ☒ Raffle ☒ Calendar Raffle ☐ Sports Pool

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize
~~Calender~~ Board Raffle	Pheasant Print	$ 350.00
Womens Raffle	Outdoor Misc.	700.00
Mens Raffle	Outdoor Misc.	1,400.00
Gen. Raffle	Outdoor Misc.	500.00

Game Type	Description of Prize	Retail Value of Prize
		$

Total: (Limit $12,000 per year) $2,950.00

Intended uses of gaming proceeds: To help pay for banquet + pay for hunting + fishing trips for youths with cancer.

Does the organization presently have a state gaming license? ☒ No ☐ Yes - If "Yes," the organization is not eligible for a local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? ☒ No ☐ Yes - If "Yes," indicate the total value of all prizes previously awarded: $_____. *This amount is part of the total prize limit of $12,000 per year.*

PRIZE RESTRICTIONS:

A single cash prize cannot exceed $4,000 and the total cash prizes for a raffle cannot exceed $4,000 in one day.
The retail value of a merchandise prize cannot exceed $6,000.
The total of all cash prizes and retail value of all merchandise prizes for all games cannot exceed $12,000 per year.
If the value of the planned cash and merchandise prizes exceeds $12,000, the organization must reduce the prizes to this limit or apply for a state license with the Office of Attorney General

Signature of Organization's Top Executive Official	Date	Title	Day time Phone Number
Brian Solum	2-17-10	ND. Ambassador	701 361-1888

$25 Con.

Paid 25.00 2-18-10
V#5500

APPLICATION FOR A LOCAL PERMIT

City of Fargo
Rev. 12-09

Name of Non-profit Organization: Clara Barton Hawthorne PTA		Date(s) of Activity: March 6, 10 to March 6, 10	
Person Responsible for the Gaming Operation: Stephanie Knuttila		Title: Carnival Coordinator	Business Phone Number: 446-4400
Business Address: 1417 6th St S	City: Fargo	State: ND	Zip Code: 58103
Mailing Address (if different):	City:	State:	Zip Code:
Name of Site Where Game(s) will be Conducted: Clara Barton School	Site Address: 1417 6th St S		
City: Fargo ND	State: ND	Zip Code: 58103	County: Cass

Check the Game(s) to be Conducted: ☒ Bingo ☐ Raffle ☐ Calendar Raffle ☐ Sports Pool

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize
		$
Bingo	See attached list	

Game Type	Description of Prize	Retail Value of Prize
		$

Total: (Limit $12,000 per year) $ 832.00

Intended uses of gaming proceeds: Help fund School Activities

Does the organization presently have a state gaming license? ☒ No ☐ Yes - If "Yes," the organization is not eligible for a local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? ☒ No ☐ Yes - If "Yes," indicate the total value of all prizes previously awarded: $_____. *This amount is part of the total prize limit of $12,000 per year.*

PRIZE RESTRICTIONS:

A single cash prize cannot exceed $4,000 and the total cash prizes for a raffle cannot exceed $4,000 in one day.

The retail value of a merchandise prize cannot exceed $6,000.

The total of all cash prizes and retail value of all merchandise prizes for all games cannot exceed $12,000 per year.

If the value of the planned cash and merchandise prizes exceeds $12,000, the organization must reduce the prizes to this limit or apply for a state license with the Office of Attorney General

Signature of Organization's Top Executive Official	Date	Title	Day time Phone Number
Stephanie Knuttila	2-17-10	Carnival Coodinator	701-866-6974

PAID $25 CL VISA

NDSU STUDENT ORGANIZATION APPLICATION FOR A LOCAL PERMIT TO CONDUCT GAMING

City of Fargo, Auditors Office - Gaming
200 N 3rd Street, Fargo, ND 58102
Phone: 701-241-1304
Rev. 12-09

2/18/10

Name of Student Organization: The Saddle + Sirloin Club	Date(s) of Activity: April 8, 2010 to April 8, 2010
Person Responsible for the Gaming Operation: Sharnae Fry	Time of Event: 2:30 ☐ a.m. ☑ p.m.
Street Address of Student Organization: 1301 Albrecht Ave	City: Fargo; State: ND; Zip Code:
Name of Site Where Game(s) will be Conducted: Shepperd Arena	Street Address: Albrecht Ave.
City: Fargo	State: ND; Zip Code: 58102; County: Cass

Check the Game Types to be Conducted: ☐ Bingo ☑ Raffle ☐ Calendar Raffle ☐ Sports Pool

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize
Raffle	Cash	$1000

Game Type	Description of Prize	Retail Value of Prize
		$

(Limit $12,000 per year) $ 1000

Intended uses of gaming proceeds: $1000 will go to Farm Rescue + $1,000 will go to the winner of paddy Drop

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? ☑ No ☐ Yes
If "Yes," indicate the total value of all prizes previously awarded: $ _____ . *This amount is part of the total prize limit of $12,000 per year.*

ACKNOWLEDGEMENT BY NDSU - Must be signed by the Associate Director of Student Activities or Coordinator of Greek Life and Student Organizations located in the Student Activities Office - Room 120 in Memorial Union.

I acknowledge that the Saddle + Sirloin Club student organization is registered by the Administration of North Dakota State University.

Signature	Title	Date	Business Phone Number
Amy [illegible]	Assoc Dir MU	2/18/10	231-7799

The policy of North Dakota State University requires that a student organization obtain a signed acknowledgment by its administration that the applicant is a registered student organization of NDSU.

Signature of Contact Person	Title	Date	Business Phone Number
Sharnae Fry	Fundraising Chair	2-16-09	(701) 870-1519

(i)

CITY OF Fargo

Memorandum

Date: 17 February 2010

To: Board of Commissioners, City of Fargo

From: Robert C. Stein

Re: Bids for Lighting Upgrades

At its October 19, 2009 meeting, the Fargo City Commission authorized staff to begin implementation of energy efficiency and conservation activities approved by the Department of Energy and fully funded by Fargo's Energy Efficiency and Conservation Block Grant (EECBG). The scope of work required contractors to provide and install energy efficient lighting upgrades in the Island Park Ramp, GTC Garage and Solid Waste Transfer Building.

Bids were received on February 10 and a copy of the tally sheet is attached. The apparent low bid of $106,485 was submitted by Bergstrom Electric, Inc. The contractor also provided an alternate bid of $1,615 for modification to existing lighting control of stairwell lighting and exterior mounted lighting at the Island Park Ramp that will also be pursued. The energy efficient upgrades installed by Berstrom Electric, Inc. will total $108,100.

Suggested Action: to award Bergstrom Electric, Inc. the bid for: construction of lighting upgrades at the Island Park Ramp (including the alternate), GTC Garage and Solid Waste Transfer Building, and to authorize staff to develop an agreement with this Contractor.

City of Fargo, Department of Planning and Development
200 North 3rd Street, Fargo, ND 58102
Phone: 701-241-1474

Ulteig

Energy | Water | Built-Environment

Jill Eggl LC
701.280.8526
jill.eggl@ulteig.com

February 12, 2010

Mr. Bob Stein
Senior Planner Downtown/Parking
Planning and Development Department
200 North 3rd Street
Fargo, ND 58102

Subject: Lighting Upgrade Project
Fargo Island Park Parking Ramp, GTC Garage and Waste Transfer Station Garage

UEI Project No. R09.00465

Dear Mr. Stein,

On February 10, 2009 the City of Fargo received nine sealed bids for the subject project. The bids were for completing work in Phase I-Island Park Parking Ramp, Phase II-GTC Garage and Phase III-Waste Transfer Station Garage along with Alternate IP-1 for additional work at the Island Park Parking Ramp.

After reviewing the Bids, it is our recommendation that the City of Fargo award the Contract to Bergstrom Electric, Inc. which is the low bidder. A tabulation of the bids is attached for your reference.

If you have any questions, please call me at 701.280.8526.

Sincerely,

Jill Eggl

Jill Eggl LC
Project Manager

Cc: Steve Sprague, City of Fargo
Kim Citrowski, City of Fargo

Enclosure

Ulteig

TABULATION OF BIDS

Project Name: Lighting Upgrade Project
Fargo Island Park Parking Ramp, Fargo GTC Garage, and
Fargo Waste Transfer Station Garage

Project No. 09.00465

Engineer: Ulteig Engineers, Inc.

Bid Opening Date: February 10, 2010
Time: 11:30 a.m.

Contractor	Phase I	Phase II	Phase III	Total Bid (Not including Alternate)	Alt. No. Al-1
Bergstrom Electric	$72,385	$19,900	$14,200	$106,485	$1,615
Rick Electric Moorhead, MN	$71,300	$23,600	$13,600	$108,500	$1,500
Sun Electric Fargo, ND	$85,000	$35,000	$20,000	$140,000	$7,000
Dakota Electric Construction	$105,770	$27,020	$15,820	$148,610	$6,400
Fargo Electric Construction Fargo, ND	$96,500	$36,000	$26,500	$159,000	$1,500
Modern Electric	$100,500	$55,500	$55,000	$211,000	$5,000

THIS IS TO CERTIFY THAT THE BIDS TABULATED HEREIN WERE PUBLICLY OPENED AT **11:30A.M., FEBRUARY 10, 2010,** AT FARGO CITY HALL, FARGO, ND. **THERE WERE 9 BIDS RECEIVED AND 3 BIDS REJECTED.**

Jill E. Eggl, LC
Ulteig Engineers, Inc.

CITY OF Fargo

Division of Solid Waste
2301 8th Avenue North
Fargo, North Dakota 58102
Phone: 701-241-1449
Fax: 701-241-8109

February 10, 2010

Honorable Board of City Commissioners
City of Fargo
Fargo, ND 58102

RE: Request for Rental of 2010 Landfill Compactor

Dear Commissioners:

On Wednesday, February 3rd, 2010, proposals were received for rental of a new landfill compactor. Proposals were received from three (3) vendors as follows:

COMPANY NAME	MAKE / MODEL
Titan Machinery	Bomag BC772
Butler Machinery	Cat 826H
Al-jon Manufacturing	Al-jon 500C1

Please be advised that Solid Waste staff have reviewed and evaluated the proposals as reflected on the attached tabulation sheet.

In consideration of the selection criteria as shown on the attached, this office recommends acceptance of the five (5) year rental quote of $74,999 per year (as shown in equal annual payments) and total quote of $480,370 from Titan Machinery and furthermore to ***not*** accept the proposed Preventative Maintenance (PM) Service Rate of $13,000/year based on 2000 hours of usage. Funds for rental of the equipment have been included in the 2010 Solid Waste Budget.

Your consideration in this matter is greatly appreciated.

SUGGESTED MOTION:
Accept the quote from Titan Machinery in the amount of $74,999 (as yearly rental quote) and $480,370 total cost, and to furthermore ***not*** accept the Preventative Maintenance Rate of $13,000 per year.

Respectfully Submitted,

Terry Ludlum
Solid Waste Utility Manager

cc: Pat Zavoral, City Administrator
Bruce Grubb, Enterprise Director
Duane Haugen, Landfill Supervisor

City of Fargo
Division of Solid Waste
2010 Landfill Compactor

Equipment Vendor	Make	Model	First Year Rental Rate	Five Year Rental Rate	Buyout	Total	Annual PM Rate
Titan Machinery	Bomag	BC772	$74,999	$374,995	$105,375	$480,370	$13,000.00
Butler Machinery	Caterpillar	826H	$56,248	$401,240	$150,000	$551,240	$9,500.00
Al-jon Manufacturing	Al-jon	500C1	$120,188	$600,941	$76,805	$677,746	$12,440.00

CITY OF Fargo

ENGINEERING DEPARTMENT
200 3rd Street North
Fargo, North Dakota 58102
Phone: (701) 241-1545
Fax: (701) 241-8101
E-Mail: feng@cityoffargo.com

February 17, 2010

K

Honorable Board of City Commissioners
City of Fargo
200 3rd Street North
Fargo, ND 58102

Re: Clean Water State Revolving Fund (CWSRF) Loan Application
Wastewater Treatment Facility Improvements (WWSP Improvements)

Dear Commissioners:

The 2010 capital improvements budget for the City's wastewater collection system includes funding for improvements to the wastewater stabilization ponds (WWSP). The improvements will consist of the replacement of existing valves, new perimeter fencing, slope repairs, new gravel road, and a new berm constructed around pond #5. The project is estimated at $4 million and is scheduled to be funded through the Clean Water State Revolving Fund (CWSRF) loan program. It is anticipated that the loan will be repaid through infrastructure sales tax revenues.

A project requirement to qualify for CWSRF funding is the submittal of a formal facility plan and loan application. To-date, the facility plan has been completed and submitted to the North Dakota Department of Health (NDDH) leaving the submittal of the loan application as the remaining task. Therefore, please find the attached Resolution authorizing the filing of an application with the NDDH for a loan under the Clean Water Act. It is the recommendation of this office that the Resolution authorizing submittal of a formal loan application be approved as described herein.

Your consideration in the matter is greatly appreciated.

SUGGESTED MOTION:
Approve the attached Resolution authorizing submittal of a formal application to the North Dakota Department of Health for a loan for the wastewater stabilization pond improvements under the Clean Water State Revolving Fund program.

Sincerely,

Brenda E. Derrig, PE

Brenda E. Derrig, PE
Senior Engineer

C: Bruce Grubb, Enterprise Director
Pat Zavoral, City Administrator
James Hausauer, Wastewater Utility Manager
Tom Welle, Ulteig Engineers

RESOLUTION OF GOVERNING BODY OF APPLICANT
(Suggested Format)

RESOLUTION NO._____

Resolution authorizing filing of application with the North Dakota Department of Health for a Loan under the Clean Water Act.

WHEREAS, under the terms of the Clean Water Act, the United States of America has authorized the making of Loans to authorized applicants to aid in the construction of specific public projects:
Now, Therefore, Be It Resolved Fargo City Commission
(Governing Body of Applicant)

1. That Steve Sprague be and is hereby authorized to execute
(Designate Official)
and file an application on behalf of City of Fargo, ND with the North
(Legal Name of Applicant)
Dakota Department of Health for a Loan to aid in the construction of Wastewater Stabilization Pond Improvements
(Brief Project Description)

2. That Steve Sprague, City Auditor, be and is
(Name of Authorized Representative) *(Title)*
hereby authorized and directed to furnish such information as the North Dakota Department of Health may reasonably request in connection with the application which is herein authorized to be filed, to sign all necessary documents, and, on behalf of city, to accept Loan offer and receive payment of Loan funds.

CERTIFICATE OF RECORDING OFFICER

The undersigned duly qualified and acting City Auditor of the
(Title of Officer)
City of Fargo, ND does hereby certify:
(Legal Name of Applicant)
That the attached resolution is a true and correct copy of the resolution, authorizing the filing of application with the North Dakota Department of Health, as regularly adopted at a legally convened meeting of the Fargo City Commission duly held on the day of
(Name of Governing Body of Applicant)
_____, 20_____; and further that such resolution has been fully recorded in the journal of proceedings and records in my office.

In Witness Whereof, I have hereunto set my hand this _____day of_____, 20___.

(SEAL)
If applicant has an official seal, impress here.

_____
(Signature of Recording Officer)

_____
(Title of Recording Officer)

CITY OF Fargo

ENGINEERING DEPARTMENT
200 3rd Street North
Fargo, North Dakota 58102
Phone: (701) 241-1545
Fax: (701) 241-8101
E-Mail: feng@cityoffargo.com

February 10, 2010

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

Re: Northern States Power Company – (Xcel Energy)
Temporary License Agreement
Improvement District #5700

Dear Commissioners:

Enclosed and delivered to the Commission Office are (3) original temporary license agreements from Northern States Power Company (Xcel Energy) in association with Improvement District #5700.

RECOMMENDED MOTION: I/we hereby move to approve the temporary license agreement with Northern States Power Company (Xcel Energy) in association with Improvement District #5700.

Please return the signed originals.

Respectfully submitted,

Shawn G. Bullinger
Engineering Specialist

Enclosures
C: Gary Stewart
Cody Eilertson
Mark Bittner

TEMPORARY LICENSE AGREEMENT

THIS TEMPORARY LICENSE AGREEMENT, (the "License") dated effective the 20th day of January, 2010, is by and between NORTHERN STATES POWER COMPANY, a Minnesota corporation, d/b/a Xcel Energy with an address of 414 Nicollet Mall, Minneapolis, Minnesota 55401 (hereinafter referred to as "Licensor") and the City of Fargo, with an office located at 200 3rd St. N., Fargo, ND, 58102 (hereinafter referred to as "Licensee")

WITNESSETH

WHEREAS, Licensee desires access to and use of a portion of Licensor's property known as Sheyenne Substation located at 4402 32nd Ave S, Fargo, ND 58108 for the purpose of road grading thereon; and

WHEREAS, Licensor is willing to grant such access to and use of a portion of Licensor's property subject to the terms and conditions of this License; and

WHEREAS, Licensor and Licensee desire to enter into this License setting forth the terms and conditions pursuant to which Licensee shall have such access to and use of a portion of Licensor's property for such purpose.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, Licensor and Licensee agree as follows:

1. Grant of Right of Entry. Licensor hereby grants to Licensee the non-exclusive right to enter upon and use a portion of the property owned by Licensor known Sheyenne Substation located at 4402 32nd Ave S, Fargo, ND 58108 and as restricted to and further depicted in Exhibit "A" attached hereto and made a part hereof (the "Property"). Such right of entry is granted only during the term of this License as set forth in Section 2 below, and only for the purpose of road grading.

2. Term. The term of this license shall be for the term beginning January 21st, 2010; and ending December 31st, 2010, unless terminated earlier or further extended as provided below. Licensor may terminate this license for Licensee's breach of any of the terms and conditions of this License.

3. Allowed Uses/Restrictions.

(a) Use of Property:

i. Licensor shall use the Property for the purpose of road grading (hereinafter referred to as the "Permitted Use").

ii. Licensee shall ensure that any of Licensor's personal property removed or relocated from the Property or any real property disturbed due to the Permitted Use will be properly replaced or repaired to substantially the same condition, excepting normal wear and tear, and in service on the Property by December 31st, 2010 end date.

iii. Licensee shall ensure all of the Property is kept free of rubbish, waste, debris and the Property is kept in a neat, safe and orderly condition. Licensee shall also ensure that Property and the surrounding areas will be returned to Licensor in a cleaned and respectable condition by December 31st, 2010. Licensor shall have the right to inspect the cleanup after the completion of the Permitted Use and Licensee agrees to complete any additional cleanup that may be reasonably requested by Licensor following such inspection by January 31ST , 2011. If the Licensee should fail to restore the Property to the condition requested by Licensor by, the Licensor may restore the Property at the expense of the Licensee.

iv. The grant to Licensee and the terms and conditions of this License shall extend to its employees, licensees, agents, independent contractors, subcontractors and suppliers.

v. The Property shall not be used in any manner or form inconsistent with the allowed use of the Property stated herein.

4. **Default.** If any default is made by Licensee in any of the agreements contained herein, it shall be lawful for the Licensor to declare the term ended, and to enter the Property, either with or without legal process, and to remove the Licensee or any other person or persons occupying the Property, using such force as may be necessary, without being liable for prosecution, or for damages, and to repossess the Property free and clear of any rights of Licensee. If, at any time, this License is terminated under this paragraph, the Licensee agrees to peacefully surrender the Property to Licensor immediate upon termination, and if the Licensee remains in possession of the Property, the Licensee shall be deemed guilty of forcible entry and detainer, and waiving notice, shall be subject to forcible eviction with or without process of law.

5. **Insurance.** Licensee shall purchase and maintain commercial general liability insurance coverage in the amount of ($2,000,000.00 aggregate) and will name Licensor as an additional insured, which coverage shall be evidenced by a Certificate of Insurance provided to Licensor prior to access to and occupation of the Property. In addition, Licensee shall maintain worker's compensation coverage at statutory limits.

6. **Rights Reserved by Licensor.** Licensor hereby specifically reserves unto itself, its successors and assigns the continuing right to use any or all of the Property for Licensor's own purposes.

7. **Right to Sell.** Licensor hereby specifically reserves unto itself, its successors and assigns the continuing right to sell any or all of the Property.

8. **Continued Use by Licensee.** Licensor hereby specifically reserves the right to discontinue use of the Property by Licensee, upon 30 days written notice.

9. **Compliance with Laws, Rules & Regulations.** At its sole cost and expense, Licensee shall give all necessary notices and obtain all required permits, licenses, authorizations and approvals and shall comply and ensure that all of its

employees, agents, independent contractors, subcontractors, suppliers, invitees and representatives comply with all applicable federal, state and local laws, ordinances, governmental rules and regulations relative to the operations under this License, including those relating to the preservation of the public health and safety, employment laws, environmental laws, zoning, ordinances, rules and regulations and those within the Occupational Safety and Hazard Act (OSHA). Licensee shall be liable for any fines or assessments levied thereunder against Licensee resulting from its acts or omissions hereunder.

10. **Licensed Interest Only.** This License does not convey an interest in real property.

11. **Non-Transferable Right.** This License shall not pass with title to Licensee's personal property or improvements and shall not run with the Licensed Premises.

12. **Safety.** Licensee shall identify all hazardous and potentially hazardous areas on or about the Premises and shall control its employees, contractors, invitees and members of the public so as to safeguard against any and all hazards or other safety risks.

13. **Costs.** Licensee shall timely pay all fees, taxes, wages and other charges and expenses in any manner associated with this License.

14. **Security.** Licensee shall provide all security or reimburse Licensor for its costs in providing security necessary pursuant to this License, including that necessary for its vehicles, improvements, machinery, equipment, sets, facilities and supplies and Licensor shall have no liability, except due to Licensor's gross negligence or willful misconduct, for any injury, loss or damage arising out of Licensee's failure to properly provide such security. Licensee shall provide all security or reimburse Licensor for its costs for providing all security necessary pursuant to this License, to protect Licensor's personal and real property and any of Licensor's personnel made available to Licensee.

15. **Partnership or Joint Venture.** Nothing in this License shall be interpreted or construed as a partnership or joint venture between Licensor and Licensee concerning Licensee's operations on the Property.

16. **Indemnification.**

(a) (i) As used in this License, the term "Claims" means (1) losses, liabilities, and expenses of any sort, including attorney's fees; (2) fines and penalties; (3) environmental costs, including, but not limited to, investigation, removal, remedial and restoration costs, and consultant and other fees and expenses; and (4) any and all other costs or expenses.

(ii) As used in this License, the term "Injury" means (1) death, personal injury, or property damage; (2) loss of profits or other economic injury; (3) disease or actual or threatened health effect; and (4) any consequential or other damages.

(b) The Licensee covenants and agrees to at all times protect, indemnify, hold harmless, and defend the Licensor, its directors, officers, agents, employees, successors, assigns, parents, subsidiaries and affiliates from and against any and all Claims arising from, alleged to arise from, or related to any injury allegedly or actually occurring, imposed as a result of, arising from, or related to (1) this License; (2) the Licensee's or any other person's presence at the Licensed Premises as a result of or related to this License; (3) any act or failure to act by Licensee, its employees, agents or persons on the Premises at the invitation of the Licensee.

(c) The Licensee's duty to protect, indemnify, hold harmless, and defend hereunder shall apply to any and all Claims and Injury, including, but not limited to:

i. Claims asserted by any person or entity, including, but not limited to employees of the Licensee or its contractors, subcontractors, or their employees;

ii. Claims arising from, or alleged to be arising in any way from the existence at or near the Property of (1) electric power generation, transmission, distribution, or related facilities; (2) electricity or electromagnetic fields; (3) natural gas gathering, storage, transmission, distribution, or related facilities; (4) asbestos or asbestos containing materials; (5) any Hazardous Materials, regardless of origin; or

iii. Claims arising from, or alleged to be arising in any way from, the acts or omissions of the Licensee, its employees, licensees, agents, contractors, invitees and other persons.

15. **Liens and Encumbrances.** Licensee shall keep the Property free of all liens and encumbrances arising out of the Licensee's interest in or activities on the Property.

16. **Disclaimer of Warranty.** Licensee has conducted its own investigation and inspection of the Property and is familiar with the physical condition of the Property and surrounding terrain, and is fully informed as to the existing conditions and limitations. Licensor makes no representation as to the sustainability of the Property for use by Licensee and no such representation, or any other representations, are made by Licensor or shall be implied by operation of law or otherwise.

17. **Covenant Not to Sue.** Licensee, for itself and its representatives, successors, and assigns, does hereby covenant and agree not to sue or bring any action (whether legal or not) against Licensor for Injury sustained to Licensee's person and property or the person and property of Licensee's employees, licensees, agents, contractors, subcontractors, invitees, suppliers, representatives and other persons due to or in anywise growing out of or connected directly or indirectly with associated activities and presence in and about the Property.

18. **Hazardous Materials.** Except with the express written permission of the Licensor, the Licensee shall not bring onto the Property, or permit to be brought

onto the Premises, any hazardous or toxic substance or material (including petroleum) regulated by the State of Minnesota, the United States government, or any other government authority with applicable jurisdiction ("Hazardous Materials"). In the event Licensee brings Hazardous Materials onto the Property (with or without permission by Licensor), the Licensee shall comply with all applicable laws, ordinances, and regulations of federal, state and local government agencies related to such Hazardous Materials. The Licensee shall remove such Hazardous Materials from the Property immediately upon request of the Licensor. The Licensee shall bear all costs related to environmental investigation, clean-up, removal, or restoration of any water, air, groundwater, natural resources, soil, or land, including, but not limited to, the Property, or arising out of the acts or omissions of the Licensee, its employees, licensees, agents, contractors, subcontractors, invitees, suppliers and other persons.

19. **Licensee's Sole Risk and Expense.** Licensee agrees that use of the Property by Licensee hereunder, or its employees, licensees, agents, contractors, subcontractors, invitees, suppliers and other persons, shall be at the sole risk and expense of Licensee.

20. **Assignment.** Licensee shall not assign, sell, delegate, subcontract or otherwise transfer or encumber in any manner whatsoever, all or any portion of the rights, duties or obligations under this License. Any such transfer or encumbrance shall be null and void and shall permit Licensor to terminate this License immediately without written notice.

21. **Entire Agreement.** This License and any Exhibits attached hereto and by this reference incorporated herein, constitute the full and complete understanding of the parties regarding the subject matter hereof. This Agreement shall supercede and replace all prior or contemporaneous oral or written agreements, correspondence or understandings. Any modification or amendment of this License must be made in writing and executed by both parties hereto.

22. **Amendment.** This License may be amended only by a written amendment signed by both parties.

23. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Minnesota.

24. **Binding Effect.** All the terms, conditions and covenants of this License shall be binding and shall inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this License the dates indicated below:

NORTHERN STATES POWER COMPANY,
a Minnesota corporation, d/b/a Xcel Energy

By:_____
Greg P. Chamberlain
Director, Portfolio Delivery & Integration
Xcel Energy Services Inc.
As Authorized Agent for Northern States Company, MN

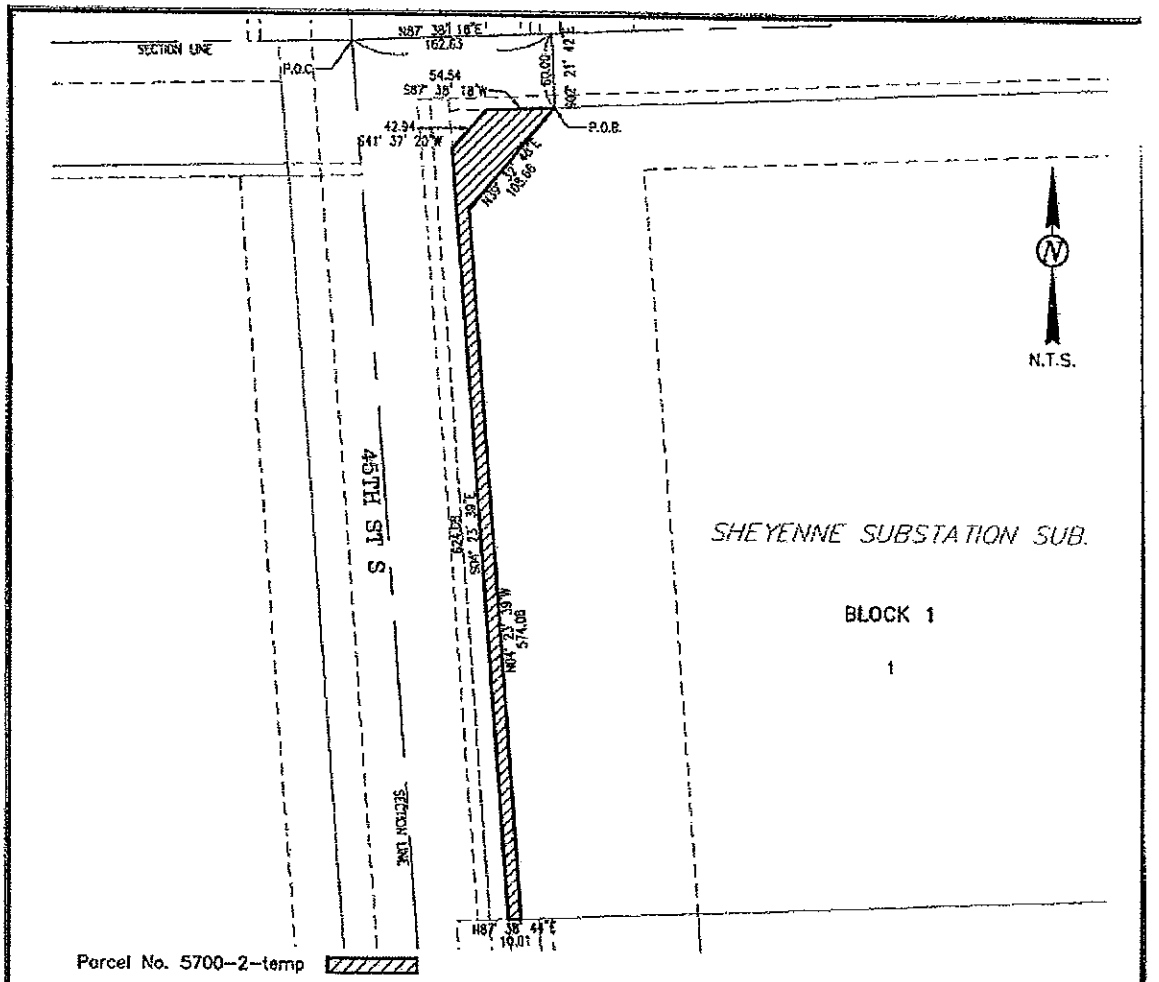
CITY OF FARGO, ND

By:_____

Its:_____
City of Fargo
200 3rd St. N.
Fargo, ND, 58102

Agreed to and accepted by the Licensee this _____ day of _____, 2010.

Exhibit "A"



Parcel No. 5700-2-temp

Type: Temporary Construction Easement
Area: 9123 SF = 0.21 Acres
Owner: Xcel Energy
Box 2747
Fargo, ND 58108-2747

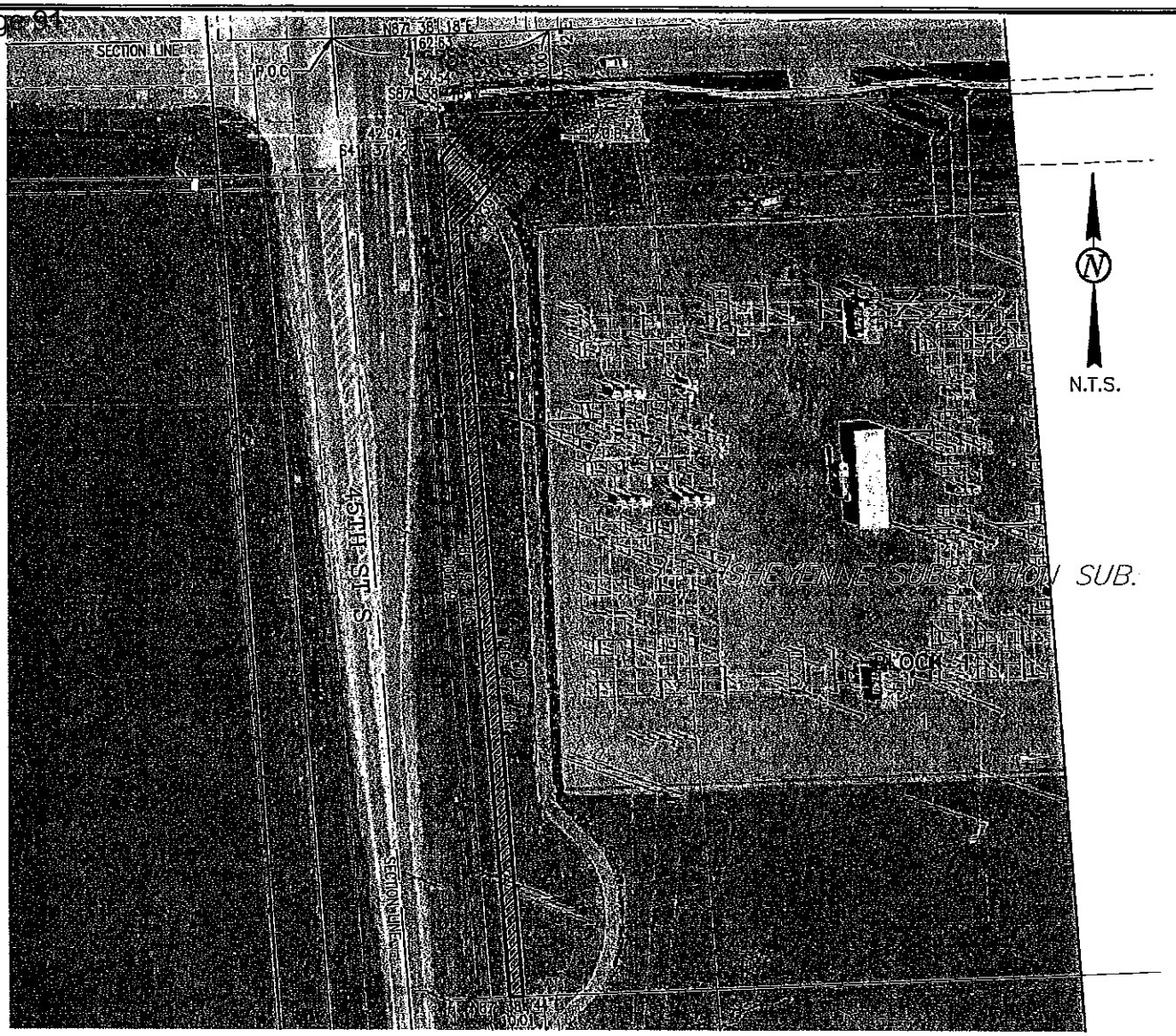
Property Description:

A tract of land located in Lot 1, Block 1, Sheyenne Substation Subdivision, Section 27, Township 139 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the Northwest corner of said Section 27; thence N87°38'18"E along the north line of said Section 27 a distance of 162.63 feet; thence S02°21'42"E a distance of 60.00 feet to the Point of Beginning on the south line of a Permanent Street & Utility Easement as described in document #951746, filed at the Cass County Recorder's Office; thence S87°38'18"W along the south line of said Permanent Street & Utility Easement a distance of 54.54 feet to a point on the southeast Right of Way line, as described in document #741978, filed at the Cass County Recorder's Office; thence S41°37'20"W along said southeast Right of Way line a distance of 42.94 feet to a point on the east line of a Permanent Street & Utility Easement as described in document #951371, filed at the Cass County Recorder's Office; thence S04°23'39"E along said east line a distance of 624.08 feet to a point on the south line of said Lot 1; thence N87°38'44"E along the south line of said Lot 1, a distance of 10.01 feet; thence N04°23'39"W, parallel with and offset 10.00 feet east of said east line, a distance of 574.08 feet; thence N39°32'48"E a distance of 108.66 feet to the Point of Beginning.

Said tract contains 0.21 acres, more or less.

10/28/09 11:31:48AM T:\Engineering\Projects\Current\5700\5700\Easements\5700_Esmnts.dwg



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Said tract contains 0.21 acres, more or less.

M

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

District No. 5919-02
SRU-8-984(121)124

Type: Infrastructure Agreement (SRTS w/NDDOT)

Location:

Date of Hearing: 2/16/10

Routing	Date
City Commission	2/22/10
PWPEC File	X
Project File	Jeremy Gorden
Petitioners	
David W. Johnson	

The Committee reviewed the correspondence from the NDDOT for the Fargo SRTS Program. Jeremy Gorden indicated the program would provide for pedestrian "count-down" signal heads at school crossing sites.

On a motion by Bruce Grubb, seconded by Norm Scott, the Committee recommended approval of the Agreement with the NDDOT that provides for the safe routes to school (SRTS) infrastructure improvements.

RECOMMENDED MOTION
Approve NDDOT Agreement (SRU-8-984(121)124) for Safe Routes to School infrastructure improvements.

PROJECT FINANCING INFORMATION:
Recommended source of funding for project: 100% Federal (to max $46,500)

	Yes	No
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
50% escrow deposit required	N/A	

COMMITTEE

	Present	Yes	No	Unanimous
Pat Zavoral, City Administrator				X
Jim Gilmour, Planning Director				
Bruce Hoover, Fire Chief				
Mark Bittner, City Engineer	X	X		Norm Scott
Bruce Grubb, Enterprise Director	X	X		Dave Johnson
Al Weigel, Director of Operations	X	X		
Steve Sprague, City Auditor				
	X	X		

ATTEST:

David W. Johnson
Deputy City Engineer

North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

January 26, 2010

Jeremy M. Gorden
Traffic Engineering Department
City of Fargo
200 3rd Street N
Fargo, ND 58102

FARGO – SAFER ROUTES TO SCHOOL USING ADVANCED TECHNOLOGIES
SRU-8-984(121)124 PCN 18319

Enclosed are the Safe Routes to School Infrastructure Agreement for the Fargo SRTS project. Please review and execute both agreements and send them back to my attention. If you have any questions, please feel free to contact me at 701-328-4787.

Pam Wenger

PAM WENGER-SRTS PROGRAM COORDINATOR-SAFETY DIVISION

enclosures

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
SAFE ROUTES TO SCHOOL

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205	CFDA Title: Highway Planning and Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Pam Wenger	Telephone: 701-328-4787

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

Project: SRU-8-984(121)124 City of Fargo

Type of Improvement: Safer Routes to School Using Advanced Technologies

The state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and Fargo, North Dakota, hereinafter referred to as the City, hereby agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code. Federal funds obligated for this project shall not exceed 100 percent of the total eligible project construction cost up to a maximum of $46,500.

The balance of the project cost is the obligation of the City. The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

2. To comply with the requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract. Changes to the plans shall meet the requirements of 23 CFR.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. The City will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of streets, inconvenience to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. NDDOT will:

   a. Evaluate the bids as to the sufficiency of DBE participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Utilization of Disadvantaged Business Enterprises* and 49 CFR Part 26, participation by Minority Business Enterprise in DOT Programs. NDDOT shall have exclusive authority in evaluating the adequacy of DBE participation.

   b. Concur in the award of the contract for the sole purpose of enabling the City to procure federal aid for the construction of the project.

3. The City will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

b. Tabulate the bids for determination of the lowest responsible bidder and execution of the contract.

c. Distribute copies of the executed contract, plans, and contract documents to the parties.

4. During the construction of the project, the City will:

a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual* and *Construction Manual.*

b. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

c. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways,* as supplemented and amended.

2. Provide maintenance to the completed project at its own cost and expense.

3. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. The City will make all contract payments. No costs will be incurred by NDDOT for the construction and maintenance of this project. NDDOT will reimburse the City for the amount paid by FHWA. Payment will be made upon receipt of the engineer's estimate.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of

such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the State to enforce any provisions of this contract shall not constitute a waiver by the State of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.
6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at their respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Safety Division Director
ND Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0700

City of Fargo
200 3rd Street North
Fargo, ND 58102

7. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

8. The City is advised that its signature on this contract or agreement, certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily

excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

Executed by the city of Fargo at Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/10
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed for the North Dakota Department of Transportation by the Director at Bismarck, North Dakota, the date last below signed.

APPROVED as to substance by:

SAFETY DIVISION DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 1090 (Div. 12)
L.D. Approved 12-30-09

VMD

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
Parties: State – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE LIABILITIES ASSUMED BY THE STATE OF NORTH DAKOTA OR THE COVERAGES THAT MAY BE AFFORDED BY ANY INSURANCE CARRIERS OR SELF-INSURED FUNDS.

LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

District No. 5900-1 Type: Cost Participation & Maintenance Agreements

Location: Various Locations City Wide Date of Hearing: 2/16/10

Routing	Date
City Commission	2/22/10
PWPEC File	X
Project File	Nathan Boerboom
Petitioners	
David W. Johnson	X

The Committee reviewed the Cost Participation Agreements for flood damage repairs on various streets in Fargo.

On a motion by Steve Sprague, seconded by Norm Scott, the Committee recommended approval of the Cost Participation, Construction and Maintenance Agreements for the following NDDOT projects:

CER-8-984(124)127
CER-8-984(127)130
CER-8-984(134)137
CER-8-984(135)138
CER-8-984(136)139
CER-8-984(137)140
CER-8-984(138)141
CER-8-984(139)142
CER-8-984(131)134
CER-8-984(126)129
CER-8-984(129)132

RECOMMENDED MOTION
Approve the above Cost Participation, Construction and Maintenance Agreements with the NDDOT.

PROJECT FINANCING INFORMATION: 80% Federal
Recommended source of funding for project: 20% Local (Sales Tax)

	Yes	No
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
50% escrow deposit required	N/A	

COMMITTEE	Present	Yes	No	Unanimous
				X
Pat Zavoral, City Administrator				
Jim Gilmour, Planning Director				
Bruce Hoover, Fire Chief	X	X		Norm Scott
Mark Bittner, City Engineer	X	X		Dave Johnson
Bruce Grubb, Enterprise Director	X	X		
Al Weigel, Director of Operations				
Steve Sprague, City Auditor	X	X		

ATTEST:

David W. Johnson
Deputy City Engineer

North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

February 9, 2010

Mark Bittner
City Engineer
200 N 3rd St
Fargo ND 58102

PROJECT NUMBERS: CER-8-984(124)127, CER-8-984(127)130, CER-8-984(134)137, CER-8-984(135)138, CER-8-984(136)139, CER-8-984(137)140, CER-8-984(138)141, CER-8-984(139)142, CER-8-984(131)134, CER-8-984(126)129 AND CER-8-984(129)132
COST PARTICIPATION AND MAINTENANCE AGREEMENT

ATTN: Nathan Boerboom, P.E.

Enclosed are two copies of the Cost Participation, Construction and Maintenance Agreement for the above ER projects. Please have these agreements signed and return them to my office for further processing. The agreements must be fully executed prior to the bid opening. Once fully executed, I will send the city copy back to you for your records.

If you have any comments or questions, please call me at (701)328-4469.

STACEY M. HANSON, P.E. – INTERIM ASSISTANT LOCAL GOVERNMENT ENGINEER

38/sm
Enclosures

Item 2b

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205 | CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program | Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton | Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only. FHWA Authorization date:

Project No. CER-8-984(124)127 City of Fargo
Location: 12th Avenue North from Elm Street to the Red River
Type of Improvement: Seal Coat, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $11,442.50, with the City's estimated share of being $2,182.08.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer	Mark H. Bittner
ND Department of Transportation	City of Fargo
608 East Boulevard Avenue	200 N 3rd St
Bismarck, ND 58505-0700	Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/10
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
Parties: State – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
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Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

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LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton	Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.	FHWA Authorization date:

Project No. CER-8-984(127)130 City of Fargo
Location: Oak Street from 11th Avenue to 7th Avenue
Type of Improvement: Seal Coat, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $19,679.00, with the City's estimated share of being $3,752.79.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer	Mark H. Bittner
ND Department of Transportation	City of Fargo
608 East Boulevard Avenue	200 N 3rd St
Bismarck, ND 58505-0700	Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

VMD

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
Parties: **State** – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE LIABILITIES ASSUMED BY THE STATE OF NORTH DAKOTA OR THE COVERAGES THAT MAY BE AFFORDED BY ANY INSURANCE CARRIERS OR SELF-INSURED FUNDS.

LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton	Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.	FHWA Authorization date:

Project No. CER-8-984(134)137 City of Fargo
Location: Broadway from 37th Avenue to Kandi Lane
Type of Improvement: Seal Coat, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $9,572.75, with the City's estimated share of being $1,825.52.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

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   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

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   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual,* and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

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Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

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4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer	Mark H. Bittner
ND Department of Transportation	City of FArgo
608 East Boulevard Avenue	200 N 3rd St
Bismarck, ND 58505-0700	Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargop, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

VMD

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

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1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence.**
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

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*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

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LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205

CFDA Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Administration

NDDOT Program Mgr.: Bob Walton

Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.

FHWA Authorization date:

Project No. CER-8-984(135)138 City of Fargo
Location: 52nd Avenue from 45th Street to Rocking Horse Road
Type of Improvement: Seal Coat, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $111,538.25, with the City's estimated share of being $21,270.34.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer	Mark H. Bittner
ND Department of Transportation	City of Fargo
608 East Boulevard Avenue	200 N 3rd St
Bismarck, ND 58505-0700	Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency, has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years, and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance;

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

VMD

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
Parties: **State** – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence.**
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

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THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY:

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205 | CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program | Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton | Telephone: 701-239-8900

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For NDDOT use only. FHWA Authorization date:

Project No. CER-8-984(136)139 City of Fargo
Location: Second Street from First Avenue to Sixth Avenue and Main to Fourth Street
Type of Improvement: Bituminous Overlay, Seal Coat, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

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The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $128,740.50, with the City's estimated share of being $26,130.20.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

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   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

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3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

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   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer ND Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700	Mark H. Bittner City of Fargo 200 N 3rd St Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
Parties: **State** – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE LIABILITIES ASSUMED BY THE STATE OF NORTH DAKOTA OR THE COVERAGES THAT MAY BE AFFORDED BY ANY INSURANCE CARRIERS OR SELF-INSURED FUNDS.

LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205 | CFDA Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program | Awarding Fed. Agency: Federal Highway Administration

NDDOT Program Mgr.: Bob Walton | Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only. | FHWA Authorization date

Project No. CER-8-984(137)140 City of Fargo
Location: 40TH Avenue from 25th Street to 33rd Street and Drain 27 Crossing
Type of Improvement: Mill and Overlay, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $115,021.00, with the City's estimated share of being $21,934.50

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of

the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer ND Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700	Mark H. Bittner City of Fargo 200 N 3rd St Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

*
Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

Risk Management Appendix

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RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

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THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205 | CFDA Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program | Awarding Fed. Agency: Federal Highway Administration

NDDOT Program Mgr.: Bob Walton | Telephone: 701-239-8900

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For NDDOT use only. FHWA Authorization date:

Project No. CER-8-984(138)141 City of Fargo
Location: Elm Street from 19th Avenue to Woodland Drive
from 12th Avenue to 11th Avenue, and Outfall
Type of Improvement: Seal Coat, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $17,680.00, with the City's estimated share of being $3,371.58.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

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3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

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   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

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   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of

the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer ND Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700	Mark H. Bittner City of Fargo 200 N 3rd St Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE LIABILITIES ASSUMED BY THE STATE OF NORTH DAKOTA OR THE COVERAGES THAT MAY BE AFFORDED BY ANY INSURANCE CARRIERS OR SELF-INSURED FUNDS.

LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Administration.
NDDOT Program Mgr.: Bob Walton	Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.	FHWA Authorization date:

Project No. CER-8-984(139)142 City of Fargo
Location: University Drive from 32nd Avenue North to Cass 20
Type of Improvement: Mill and Overlay, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $412,630.00, with the City's estimated share of being $78,688.54.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual,* and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer ND Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700	Mark H. Bittner City of Fargo 200 N 3rd St Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

VMD

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
Parties: **State** – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE LIABILITIES ASSUMED BY THE STATE OF NORTH DAKOTA OR THE COVERAGES THAT MAY BE AFFORDED BY ANY INSURANCE CARRIERS OR SELF-INSURED FUNDS.

LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Zschoerler

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton	Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.	FHWA Authorization date:

Project No. CER-8-984(131)134 City of Fargo
Location: 36th Street from 38th Avenue South to 40th Avenue South
Type of Improvement: Mill and Overlay, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $22,972.25, with the City's estimated share of being $4,380.81.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer ND Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700	Mark H. Bittner City of FArgo 200 N 3rd St Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

*Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

VMD

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE LIABILITIES ASSUMED BY THE STATE OF NORTH DAKOTA OR THE COVERAGES THAT MAY BE AFFORDED BY ANY INSURANCE CARRIERS OR SELF-INSURED FUNDS.

LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Zachmeier

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205 | CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program | Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton | Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only. FHWA Authorization date:

Project No. CER-8-984(126)129 City of Fargo
Location: 24th Avenue North from University Drive to 9th Street
Type of Improvement: Mill and Overlay, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $54,019.50, with the City's estimated share of being $10,301.52.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

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3. To construct the project in conformity with the construction contract; changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

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5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

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   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

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   e. Distribute copies of the plans to the parties.

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   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

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c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

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Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

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   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

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Local Government Engineer ND Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700	Mark H. Bittner City of Fargo 200 N 3rd St Fargo ND 58102

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8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

*Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed:

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
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Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

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THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DOT original

North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
URBAN FEDERAL AID PROJECT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205	CFDA Title: Highway Planning & Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton	Telephone: 701-239-8900

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.	FHWA Authorization date:

Project No. CER-8-984(129)132 City of Fargo
Location: 32nd Street from 40th Avenue South to End
Type of Improvement: Mill and Overlay, Pavement Markings, and Incidentals

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, who agree that:

It is in the best interest of both parties to have the City construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the City with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The City agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The balance of the project cost is $157,292.50, with the City's estimated share of being $29,995.68.

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.

Federal funds may not be obligated by the City, prior to FHWA approval of the program documents for the project.

PART I

City Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

   The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

   Include the following paragraph verbatim in any subcontracts they sign relative to this project:

   > The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.

3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.

4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.

5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:

   a. Withholding of payments to the City under the agreement until the City causes compliance, or

   b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:

   a. Submit the final plans to NDDOT.

   b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects.*

   c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.

   d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.

2. On behalf of the City, NDDOT will:

   a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.

   b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.

   c. Tabulate the bids and send to the City.

   d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.

   e. Distribute copies of the plans to the parties.

3. The City will:

   a. Review bids to determine the lowest responsible bidder.

   b. Execute the contract.

   c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.

4. During the construction of the project, the City will:

   a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual,* the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction.*

   b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System.*

c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.

d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Control the length and location of curb openings for access. The width of such access opening shall not exceed that shown on the plans. Additional access points will be allowed on the project if the design adequately considers all effects the access point will have on the entire traffic corridor. If the traffic corridor intersects a state highway, the City must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

2. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.

3. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.

4. Prohibit double parking and diagonal parking within the limits of the project. Additional parallel parking will be allowed within the limits of the project if designed considering the effects the added parking will have on the entire traffic corridor. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.

5. Provide maintenance to the completed project at its own cost and expense.

6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the City. Payment will be made upon receipt of the engineer's estimate. The City will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

   If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution

fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.

4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.

Local Government Engineer	Mark H. Bittner
ND Department of Transportation	City of Fargo
608 East Boulevard Avenue	200 N 3rd St
Bismarck, ND 58505-0700	Fargo ND 58102

7. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The City, by the signature below of its authorized representative, hereby acknowledges that the City has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Executed by the City of Fargo, North Dakota, the date last below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo
*

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/2010
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 19256 (Div. 38)
L.D. Approved 4-12-93; 4-09

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence**.
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

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RM Consulted 2007
Revised 5-09

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THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

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REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

District No. 5839
SU-8-081(031)926

Type: Structure Repair, Concrete Pavement Reconstruction, Sidewalks, Storm Drain & Incidentals

Location:

Date of Hearing: 02/16/10

Routing	Date
City Commission	02/22/10
PWPEC File	X
Project File	X
Petitioners	N/A
David W. Johnson	X

The Committee reviewed the cost participation & maintenance agreement for the work on the 10th Street underpass from 1st Avenue South to NP Avenue.

On a motion by Steve Sprague, seconded by Norm Scott, the Committee recommended approval of the Cost Participation and Maintenance Agreement.

RECOMMENDED MOTION
Approve the Cost Participation and Maintenance Agreement for NDDOT Project No. SU-8-081(031)926.

PROJECT FINANCING INFORMATION:
Recommended source of funding for project:

Federal	80%
State & Sales Tax	10% (local)
Water Main Replacement	10% (local)

	Yes	No
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
50% escrow deposit required	N/A	

COMMITTEE	Present	Yes	No	Unanimous
				X
Pat Zavoral, City Administrator				
Jim Gilmour, Planning Director				
Bruce Hoover, Fire Chief	X	X	Norm Scott	
Mark Bittner, City Engineer	X	X	Dave Johnson	
Bruce Grubb, Enterprise Director	X	X		
Al Weigel, Director of Operations				
Steve Sprague, City Auditor	X	X		

ATTEST:

David W. Johnson
Deputy City Engineer

North Dakota Department of Transportation
COST PARTICIPATION AND MAINTENANCE AGREEMENT

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205	CFDA Title: Highway Planning and Construction
Award Name: Federal Aid Highway Program	Awarding Fed. Agency: Federal Highway Administration
NDDOT Program Mgr.: Bob Walton	Telephone: 701-239-8900

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Project No. SU-8-081(031)926

WHEREAS, the North Dakota Department of Transportation intends to proceed with the construction of the following-described street improvement:

Location: Fargo Tenth Street North (~~Fifth~~ First Avenue South to NP Avenue)
Type of Improvement: Structure Repair, Concrete Pavement Reconstruction, Sidewalks, Storm Drain, and Incidentals
Point of Beginning: Sta. 48929+33.61 or RP 926.692
Point of Ending: Sta. 48938+33.00 or RP 926.862

NOW, THEREFORE, in consideration of the mutual benefits to be derived therefrom, it is agreed between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, that NDDOT will construct the project in accordance with the current edition of NDDOT's *Standard Specifications for Road and Bridge Construction* and with the plans approved by the City, identified as project SU-8-081(031)926, and incorporated into this agreement by reference.

1. The City
   a. Will pay 10 percent of the cost of rights of way and easements acquired for the project; and
   b. Will pay 10 percent of the total cost of all items which are determined eligible for federal aid participation. This total cost will include the actual construction cost plus 10 percent for the preliminary and construction engineering; and
   c. Will pay 100 percent of the construction costs plus 10 percent for the preliminary and construction engineering of all items not eligible for federal aid participation, and all costs above the $3,000,000 project cap. (See Appendix A, attached and incorporated by reference herein.)
2. The City will pay to NDDOT as the work progresses or when completed its share of the total cost of the project as defined in paragraph 1.
3. It is specifically agreed that if at any time the City fails to pay the amount billed to NDDOT within 60 days after billings, this document shall constitute an assignment of funds derived from the State Highway Tax Distribution Fund now or hereafter coming into the hands of the State Treasurer to the credit of the City, and the State Treasurer is hereby directed to deliver and pay over to NDDOT all funds credited to the City until the total thereof equals the sum billed pursuant to this

agreement. The preliminary cost estimate of the project is $2,206,604, with the City's estimated share being $259,063.

4. All signs, signals, markings, and other protective structures erected on or in connection with the project, including those installed at the sole cost and expense of the City or by others, shall be approved by NDDOT. All traffic control devices will be in conformance with the latest edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways.*

5. All existing right of way within the project limits will be provided by the City with clear title and available for use in the project. All right of way for the project will be maintained free of all encroachments except utilities and others in accordance with the NDDOT's "Utilities Accommodation Policy," dated July 1987. All obstructions to, interference with, or hazards to traffic flow will be removed by the City at the request of NDDOT. The City will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of the streets, inconveniences to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance.

6. The City will control the length and location of curb openings for future entrances and will not permit the length of curb openings for entrances to exceed the length shown on the plans or as shown on a sketch of typical entrances for similar entrances, and will prohibit the construction or use of any entrances along the project within the City other than those shown on the plans, without prior approval of NDDOT.

7. The City will not change any speed limit signs as shown on the plans without prior approval of NDDOT.

8. The City will prohibit double and diagonal parking and will control all parallel parking where allowed within the limits of the project in a manner satisfactory to NDDOT and to the Federal Highway Administration (FHWA), or both.

9. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

10. Audits must be in accordance with the most current version of OMB Cir. A-133. The City shall submit copies of audits covering the terms of this agreement to NDDOT. This requirement is applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

11. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency within the past three years, and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

12. NDDOT is not responsible for any Property Taxes or Special Assessments on property which has been acquired as part of the roadway reconstruction project. The City is responsible to make arrangements for deferral or payment of such Taxes and/or Special Assessments.

The City will, at its own expense, maintain or cause to be maintained, all portions of the project unless otherwise noted in this paragraph. The maintenance will be in a manner satisfactory to NDDOT and FHWA. Exact limits of the project are shown on the attached map.

Executed by the city of Fargo, at Fargo, North Dakota, the last date below signed.

APPROVED:

Erik Johnson
CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/10
DATE

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed for the North Dakota Department of Transportation by the Director at Bismarck, North Dakota, the last date below signed.

APPROVED as to substance by:

DIVISION DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 17058 (Div. 38)
A.G. Approved 7-17-89
LD Approved 11-07; 7-08
DK 2-3-10

AUTHORIZATION

At a _____ meeting held on the _____ day of _____, 20____, it was moved by _____ and seconded by _____ that the attached certification and agreement be approved, and that the * _____ and City Auditor be authorized to execute in behalf of the City of _____ and that two executed copies be returned to the NDDOT Director.

Adopted on a vote of ____ aye, ____ nay, _____ absent.

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED:

City of Fargo

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/10
DATE

CERTIFICATION

It is hereby certified that the City of Fargo will issue improvement warrants to finance the amounts that the City is obligated to pay under terms of the attached agreement with the North Dakota Department of Transportation and that authority to do so has been obtained in accordance with the Section 40-22-06 of the North Dakota Century Code.

Executed at Fargo, North Dakota, the last date below signed.

ATTEST:

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED:

City of Fargo

Dennis R. Walaker
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor
TITLE

2/22/10
DATE

*Mayor or President City Commission

APPENDIX A
Funding Splits for the Fargo 10th Street North Project
Project: SU-8-081(031)026

Location	Engineering Estimate	Engineering Cost (10%)	Total Estimate	Federal Funds 80.93%	State Funds 9.07%	City Funds 10 %	Total
10th Street (1st Ave to NP Ave)	$1,873,725	$187,373	$2,061,098	$1,668,046	$186,942	$206,110	$2,061,098
				Federal Funds 0%	**State Funds 0%**	**City Funds 100%**	
Watermain Work	$37,279	$3,728	$41,007	$0	$0	$41,007	$41,007
				Federal Funds 80.93%	**State Funds 0%**	**City Funds 19.07%**	
Right-of-Way	$15,000	$1,500	$16,500	$13,353	$0	$3,147	$16,500
				Federal Funds 80.93%	**State Funds 9.07%**	**City Funds 10 %**	
Prelim. Eng. & Haul Road Repair *	$80,000	$8,000	$88,000	$71,218	$7,982	$8,800	$88,000
Totals	**$2,006,004**	**$200,600**	**$2,206,604**	**$1,752,618**	**$194,923**	**$259,063**	**$2,206,604**

*** Note: Preliminary Engineering and Haul Road Repair Cost is estimated to be $75,000 + $5,000 = $80,000**

Risk Management Appendix

Routine* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **$250,000 per person** and **$500,000 per occurrence**. The minimum limits of liability required of the State are **$250,000 per person** and **$1,000,000 per occurrence.**
2) **Workers compensation** insurance meeting all statutory limits.
3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are $250,000 per person and $1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual,* section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 5-09

RISK MANAGEMENT A Division of the North Dakota Office of Management & Budget

CERTIFICATE OF FINANCIAL RESPONSIBILITY

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE LIABILITIES ASSUMED BY THE STATE OF NORTH DAKOTA OR THE COVERAGES THAT MAY BE AFFORDED BY ANY INSURANCE CARRIERS OR SELF-INSURED FUNDS.

LIABILITY OF THE STATE IS CREATED AND LIMITED BY ENACTMENT OF CHAPTER 32-12.2 OF THE NORTH DAKOTA CENTURY CODE. AS OF APRIL 22, 1995, ALL TERMS, CONDITIONS, STATUTES OF LIMITATIONS APPLY AS OUTLINED THEREIN. DAMAGES THAT MAY BE PAID WITHOUT SPECIFIC LEGISLATIVE AUTHORITY FOR EVENTS OCCURRING PRIOR TO AUGUST 1, 1997, ARE $250,000 PER PERSON AND $750,000 PER OCCURRENCE; ON OR AFTER AUGUST 1, 1997, $250,000. PER PERSON AND $1,000,000 PER OCCURRENCE.

THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY: Johanna Schoeller

AUTHORIZED REPRESENTATIVE OF THE STATE OF NORTH DAKOTA OFFICE OF MANAGEMENT AND BUDGET

600 E. Boulevard Ave. • 18th Floor • Bismarck, North Dakota 58505-1800 • Telephone: 701-328-1889 • Fax: 701-328-1955

DESIGN DATA				
Traffic	Average Daily			Max.Hr.
Current 2008	Pass: 10,645	Trucks: 245	Total: 10,890	1,090
Forecast 2030	Pass: 13,945	Trucks: 370	Total: 14,315	1,435
Clear Zone Distance: 14' (1.5 min behind curb)		Design Speed: 30 mph		
Minimum Sight Dist. for Stopping: 200'		Bridges:		
Minimum Sight Dist. for Safe Passing: N/A				
Sight Dist. for No Passing Zone: N/A				
Pavement Design Life 30 (years)				

JOB#

STATE	PROJECT NO	PCN	SECTION NO.	SHEET NO.
ND	SU-8-0-81(031)926	17434	1	1

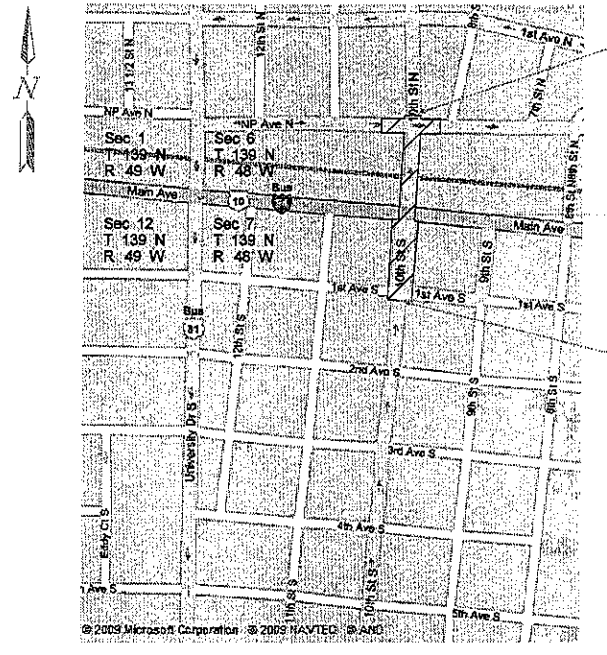
NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

Project: SU-8-081(031)026

Cass County
US Hwy 81
Fargo 10th St - 1st Ave St to NP Ave
Structure Repairs, Concrete Pavement Reconstruction,
Sidewalks, Storm Drain, and Incidentals

GOVERNING SPECIFICATIONS:
Standard Specifications adopted by the North Dakota Department of Transportation October 2008; Standard Drawings currently in effect; and other Contract Provisions submitted herein.

PROJECT NUMBER \ DESCRIPTION	NET MILES	GROSS MILES
SU-8-081(031)926	0.170	0.170



End Project
Sta 48938+33.00
RP 926.862

RP 926.769

Begin Project
Sta 48929+33.61
RP 926.692

DESIGNERS

DISTRICT REVIEW

FARGO DISTRICT

APPROVED DATE

OFFICE OF PROJECT DEVELOPMENT
ND DEPARTMENT OF TRANSPORTATION

I hereby certify that the attached plans were prepared by me or under my direct supervision and that I am a duly registered professional engineer under the laws of the state of ND.

APPROVED DATE

DESIGN DIVISION

This document is preliminary and not for construction or implementation purposes.

PRELIMINARY

1/29/2010 8:27:40 AM mdockter R:\project\80081926,031\traffic\utilities\sheets\001TS_001_TITLE.dgn

P

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. 5828 Type: Change Order No. 1

Location: Storm Lift No. 8 – 32nd St at 3rd Ave S Date of Hearing: 12/21/09

Routing	Date
City Commission	2/22/10
PWPEC File	X
Project File	Rob Hasey
Petitioners	
David W. Johnson	

The Committee reviewed Change Order No. 1 for Project No. 5828.

On a motion by Al Weigel, seconded by Bruce Grubb, the Committee voted to recommend approval of the change order.

RECOMMENDED MOTION
Approve Change Order No. 1 in the amount of $9,192.41 for Project No. 5828.

PROJECT FINANCING INFORMATION:
Recommended source of funding for project: Storm Sewer Utility/Insurance

	Yes	No
Developer meets City policy for payment of delinquent specials	N/A	
Agreement for payment of specials required of developer	N/A	
50% escrow deposit required	N/A	

COMMITTEE	Present	Yes	No	Unanimous
				X
Pat Zavoral, City Administrator	X	X		
Jim Gilmour, Planning Director	X	X		Jim Hinderaker
Bruce Hoover, Fire Chief	X	X		
Mark Bittner, City Engineer	X	X		
Bruce Grubb, Enterprise Director	X	X		
Al Weigel, Director of Operations	X	X		
Steve Sprague, City Auditor	X	X		

ATTEST:

Mark H. Bittner
Mark H. Bittner
City Engineer

C: Bev Martinson

DATE: 12/30/2009 12:36:26 PM
COMP: fgo - City of Fargo

CITY OF FARGO ENGINEERING DEPARTMENT

Project No: 5828
Date Entered: 12/16/2009
Date Printed: 12/30/2009

Chg Ord No: 1
For: Northern Plains Contracting, Inc.

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

EXPLANATION OF CHANGE IN PLAN RECOMMENDED

Change order for relocation of control panel, installing new electrical service & installing exterior operating lights on lift station.

Sec	Item	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
3	10001	Extra Item	LS	0.00	0.00	0.00	1.00	1.00	633.37	633.37
3	10002	Extra Item	EA	0.00	0.00	0.00	1.00	1.00	5,336.02	5,336.02
3	10003	Extra Item	EA	0.00	0.00	0.00	1.00	1.00	3,223.02	3,223.02
Storm Sewer Sub Total										9,192.41
									Total:	9,192.41

Source of Funding: Storm Sewer Utility
Net Amount Change Order 1: $9,192.41
Previous Change Orders: $0.00
Original Contract Amount: $93,500.00
Total Contract Amount: $102,692.41

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

APPROVED:

For Contractor

President

Title

APPROVED:

Mark H. Bethke

City of Fargo Engineer

Mayor

Attest

Memorandum

To: PWPEC

From: Rob Hasey, Storm Sewer Utility Engineer RH

Date: 12/17/2009

Re: Project # 5828 - Emergency Lift Station Repairs

We have received invoices for work performed on project #5828 by JDP Electric. Work included moving the control panel to a different location inside storm sewer lift station #8 due to clearance issues, installing a new electrical service to the lift station & installing operating lights on the exterior of the building.

The cost of the change order is $9,192.41. Invoices are included as part of this change order.

Source of funding: Storm Sewer Utility.

200 North 3rd Street
Fargo, ND 58102

Phone: (701) 241-1545
FAX: (701) 241-8101

NORTHERN PLAINS CONTRACTING CHANGE ORDER PROPOSAL

Project: Emergency LS Repairs
Date: 10/8/2009
CO Description: WP Signal fixtures
Sales Tax: 6.75%
Bond: 2.00%

Labor

Description	Quantity	Unit	Unit Price	Total
Project Manager (1/2 hour minimum)	1	HR	$ 75.00	$ 75.00
Superintendent			$ -	$ -
NPC Associate			$ -	$ -
Labor Total				$ 75.00

Material

Description	Quantity	Unit	Unit Price	Total
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
Material Total				$ -

Subcontracts

Description	Quantity	Unit	Unit Price	Total
JDP Changes (see attached documentation)	1	LS	$ 489.50	$ 489.50
			$ -	$ -
			$ -	$ -
			$ -	$ -
Subcontract Total				$ 489.50

Equipment

Description	Quantity	Unit	Unit Price	Total
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
Equipment Total				$ -

Cost Summary

Labor		$	75.00
Material		$	-
Subcontracts		$	489.50
Equipment		$	-
Material Sales Tax @:	6.8%	$	-
Sub-Total		$	564.50
Margin @ 10%		$	56.45
Sub-Total		$	620.95
Bond & Insurance @:	2.00%	$	12.42
Total Cost		$	633.37

NORTHERN PLAINS CONTRACTING CHANGE ORDER PROPOSAL

Project: Emergency LS Repairs
Date: 12/15/2009
CO Description: Power Feed Change
Sales Tax: 6.75%
Bond: 2.00%

Labor

Description	Quantity	Unit	Unit Price	Total
Project Manager (1/2 hour minimum)	1	HR	$ 75.00	$ 75.00
Superintendent			$ -	$ -
NPC Associate			$ -	$ -
Labor Total				$ 75.00

Material

Description	Quantity	Unit	Unit Price	Total
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
Material Total				$ -

Subcontracts

Description	Quantity	Unit	Unit Price	Total
JDP Changes (see attached documentation)	1	LS	$4,480.81	$ 4,480.81
Winter Masonry - Masonry infill	1	LS	$ 200.00	$ 200.00
			$ -	$ -
			$ -	$ -
Subcontract Total				$ 4,680.81

Equipment

Description	Quantity	Unit	Unit Price	Total
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
Equipment Total				$ -

Cost Summary

Labor		$ 75.00
Material		$ -
Subcontracts		$ 4,680.81
Equipment		$ -
Material Sales Tax @:	6.8%	$ -
Sub-Total		$ 4,755.81
Margin @ 10%		$ 475.58
Sub-Total		$ 5,231.39
Bond & Insurance @:	2.00%	$ 104.63
Total Cost		$ 5,336.02

NORTHERN PLAINS CONTRACTING CHANGE ORDER PROPOSAL

Project: Emergency LS Repairs
Date: 12/15/2009
CO Description: Move Control Panel CO
Sales Tax: 6.75%
Bond: 2.00%

Labor

Description	Quantity	Unit	Unit Price	Total
Project Manager (1/2 hour minimum)	1	HR	$ 75.00	$ 75.00
Superintendent			$ -	$ -
NPC Associate			$ -	$ -
Labor Total				$ 75.00

Material

Description	Quantity	Unit	Unit Price	Total
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
Material Total				$ -

Subcontracts

Description	Quantity	Unit	Unit Price	Total
JDP Changes (see attached documentation)	1	LS	$2,797.57	$ 2,797.57
			$ -	$ -
			$ -	$ -
			$ -	$ -
Subcontract Total				$ 2,797.57

Equipment

Description	Quantity	Unit	Unit Price	Total
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
Equipment Total				$ -

Cost Summary

Labor		$ 75.00
Material		$ -
Subcontracts		$ 2,797.57
Equipment		$ -
Material Sales Tax @:	6.8%	$ -
Sub-Total		$ 2,872.57
Margin @ 10%		$ 287.26
Sub-Total		$ 3,159.83
Bond & Insurance @:	2.00%	$ 63.20
Total Cost		$ 3,223.02

CITY OF Fargo

ENGINEERING DEPARTMENT
200 3rd Street North
Fargo, North Dakota 58102
Phone: (701) 241-1545
Fax: (701) 241-8101
E-Mail: feng@cityoffargo.com

February 18, 2010

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: NDDOT Bid Award Concurrence
45th Street – 26th to 52nd Ave S
Improvement District No. 5700
NDDOT Project STM-SU-8-984(108)111

Dear Commissioners:

Bids were opened by the NDDOT on January 29, 2010 for Project STM-SU-8-984(108)111 for PCC Pavement, Grading, Storm Drains, Sanitary Sewer, Signals, Lighting & Incidentals, Improvement District No. 5700 on 45th Street from 26th to 52nd Avenue South.

The bids were as follows:

Dakota Underground Co., Fargo, ND	$14,485,767.10
Northern Improvement Co., Fargo, ND	$15,044,455.40
Upper Plains Contracting, Inc., Aberdeen, SD	$15,234,445.53
Strata Corporation, Grand Forks, ND	$18,220,263.67
Engineer's Estimate	$17,823,530.60

The special assessment escrow is not required.

The Fargo cost share is $6,727,031.75.

Two protests were received, representing less than 1% of the District. This office recommends protests be declared insufficient and bid award to Dakota Underground Co., in the amount of $14,485,767.10 as the lowest and best bid.

Sincerely,

David W. Johnson
Deputy City Engineer

DWJ/bem
Attachment

North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

February 16, 2010

Mr. Mark Bittner
City Engineer
200 N 3rd Street
Fargo, ND 58102

PROJECT: STM-SU-8-984(108)111 – FARGO, 45TH ST FROM 26TH AVE S TO 52ND AVE S

Bids for the construction on the above noted project were received by the NDDOT on January 29, 2010. The low bid for PCC Pavement, Grading, Storm Drains, Sanitary Sewer, Signals, Lighting, and Incidentals was submitted by Dakota Underground Company of Fargo, ND in the amount of $14,485,767.10. According to the agreement with the City of Fargo, the City's cost share is estimated to be $6,727,031.75. STM federal funds obligated for this project shall not exceed 100 percent of the total eligible project cost up to a maximum of $4,212,312.06 and SU federal funds for this project shall not exceed 80.93 percent of the total eligible project cost up to a maximum of $5,000,000. The balance of the project cost is the obligation of the City.

The city is hereby authorized to award the contract for this project to the low bidder. If awarded, it is the city's responsibility to execute the contract and provide copies of the contract, contract bond, Certificate of Insurance and the **original** Fuel Cost Adjustment Affidavit (enclosed) to the Department of Transportation within 30 days of this letter. Upon receipt of these documents, the NDDOT will distribute copies of the bidder's proposal.

Questions should be addressed to the Construction Services Division at (701)328-2566.

CAL J. GENDREAU, P.E. - CONSTRUCTION SERVICES ENGINEER

80/lp
Enclosure

North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

February 4, 2010

Mr. Mark Bittner
City Engineer
200 N 3rd Street
Fargo, ND 58102

PROJECT: STM-SU-8-984(108)111 – FARGO, 45TH ST FROM 26TH AVE S TO 52ND AVE S

Bids for the construction on the above noted project were received by the NDDOT on January 29, 2010. A copy of the Contract Detail Estimate and Abstract of Bids is enclosed.

The low bid for PCC Pavement, Grading, Storm Drains, Sanitary Sewer, Signals, Lighting, and Incidentals was submitted by Dakota Underground Company of Fargo, ND in the amount of $14,485,767.10. According to the agreement with the City of Fargo, the City's cost share is estimated to be $6,727,031.75. STM federal funds obligated for this project shall not exceed 100 percent of the total eligible project cost up to a maximum of $4,212,312.06 and SU federal funds for this project shall not exceed 80.93 percent of the total eligible project cost up to a maximum of $5,000,000. The balance of the project cost is the obligation of the City.

The Department will review the low bidder's proposal to assure that the Disadvantaged Business Enterprise Program requirements have been met. Upon review of the contractor's Disadvantaged Business Enterprise Program, the Department will advise you whether this project may be awarded.

Questions should be addressed to the Construction Services Division at (701)328-2566.

CAL J. GENDREAU, P.E. - CONSTRUCTION SERVICES ENGINEER

80/lp
Enclosure

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota **FEDERAL AID**

Bid Opening Date: **1/29/2010**

Project Number: **STM-SU-8-984(108)111**

PCN: **16858**

Job Number: **26**

English/Metric: **ENGLISH**

Contract with **DAKOTA UNDERGROUND COMPANY FARGO, ND**

Signed Date:

County(s): **CASS**

Location: **FARGO 45TH ST FROM 26TH AVE S TO 52ND AVE S**

North Dakota FEDERAL AID

Bid Opening Date: 1/29/2010

Project Number: STM-SU-8-984(108)111

PCN: 16858

Job Number: 26

English/Metric: ENGLISH

Roadway: URBAN

STA 0+00 TO STA 134+00

Type: P.C. CONCRETE PAVEMENT, GRADING, STORM DRAINS, SANITARY SEWER, SIGNALS, LIGHTING, AND INCIDENTALS

Participating: Y

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
103	0100	CONTRACT BOND	1.000	L SUM	$75,000.00	$75,000.00
202	0112	REMOVAL OF CONCRETE	2,904.000	SY	$5.00	$14,520.00
202	0114	REMOVAL OF CONCRETE PAVEMENT	3,398.000	SY	$7.50	$25,485.00
202	0130	REMOVAL OF CURB & GUTTER	4,430.000	LF	$4.70	$20,821.00
202	0132	REMOVAL OF BITUMINOUS SURFACING	42,303.000	SY	$4.65	$196,708.95
202	0174	REMOVAL OF PIPE ALL TYPES AND SIZES	2,479.000	LF	$7.40	$18,344.60
202	0230	REMOVAL OF INLETS	16.000	EA	$300.00	$4,800.00
203	0101	COMMON EXCAVATION-TYPE A	60,900.000	CY	$4.00	$243,600.00
203	0124	REMOVE & SALVAGE TOPSOIL	40.000	ACRE	$4,400.00	$176,000.00
203	0138	COMMON EXCAVATION-SUBCUT	44,895.000	CY	$1.50	$67,342.50
203	0140	BORROW-EXCAVATION	16,788.000	CY	$7.00	$117,516.00
210	0190	CLASS AA BACKFILL 6FT-9FT	8,000.000	LF	$14.00	$112,000.00
210	0198	SELECT BACKFILL	100.000	TON	$30.00	$3,000.00
210	0199	BACKFILL CLASS AA	650.000	LF	$95.00	$61,750.00
230	0310	SUBGRADE PREPARATION-TYPE B	132.000	STA	$715.00	$94,380.00
302	0119	AGGREGATE BASE COUSE	134,686.000	SY	$8.05	$1,084,222.30
302	0316	TRAFFIC SERVICE GRAVEL	200.000	CY	$25.00	$5,000.00
408	0176	HOT BITUMINOUS PAVEMENT CL 27	670.000	TON	$90.00	$60,300.00
550	0108	7IN NON-REINF CONCRETE PAVEMENT CL YE	185.000	SY	$46.00	$8,510.00
550	0118	10IN NON-REINF CONCRETE PAVEMENT CL AE	113,836.000	SY	$44.00	$5,008,784.00
550	0215	CONCRETE BRIDGE APPROACH SLAB	470.000	SY	$195.00	$91,650.00
570	0210	PCC PAVEMENT GRINDING	1,610.000	SY	$6.40	$10,304.00
702	0100	MOBILIZATION	1.000	L SUM	$265,000.00	$265,000.00
704	1000	TRAFFIC CONTROL SIGNS	500.000	UNIT	$0.50	$250.00
704	1052	TYPE III BARRICADE	10.000	EA	$40.00	$400.00
704	1060	DELINEATOR DRUMS	100.000	EA	$10.00	$1,000.00
704	1065	TRAFFIC CONES	100.000	EA	$2.00	$200.00
704	1067	TUBULAR MARKERS	250.000	EA	$3.00	$750.00
704	1100	TRAFFIC CONTROL	1.000	L SUM	$50,000.00	$50,000.00
706	0400	FIELD OFFICE	1.000	EA	$10,000.00	$10,000.00
708	1325	SILT FENCE SUPPORTED	3,000.000	LF	$2.50	$7,500.00
708	1430	FIBER ROLLS 12IN	400.000	LF	$2.50	$1,000.00
708	1500	INLET PROTECTION-SANDBAG	130.000	EA	$80.00	$10,400.00
708	1540	INLET PROTECTION-SPECIAL	99.000	EA	$190.00	$18,810.00
708	2950	SEEDING-HYDRO MULCH	70.000	ACRE	$1,315.00	$92,050.00
708	4000	SODDING	350.000	SY	$4.00	$1,400.00
708	8500	STABILIZED CONSTRUCTION ACCESS	2.000	EA	$1,250.00	$2,500.00
709	0401	GEOTEXTILE FABRIC-TYPE S1	132,120.000	SY	$1.00	$132,120.00
710	0200	TEMPORARY BYPASS	1.000	L SUM	$9,500.00	$9,500.00
710	0300	REMOVAL OF BYPASS	1.000	L SUM	$5,000.00	$5,000.00
714	6589	PIPE PVC 4IN DRAIN	2,623.000	LF	$6.00	$15,738.00
714	9000	STORM SEWER CLEANOUT	36.000	LF	$100.00	$3,600.00
714	9696	EDGEDRAIN NON PERMEABLE BASE	24,966.000	LF	$2.40	$59,918.40
722	0100	MANHOLE 48IN	7.000	EA	$1,725.00	$12,075.00

North Dakota FEDERAL AID

Bid Opening Date: 1/29/2010

Project Number: STM-SU-8-984(108)111 PCN: 16858

Job Number: 26 English/Metric: ENGLISH

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
722	0110	MANHOLE 60IN	3.000	EA	$2,760.00	$8,280.00
722	0120	MANHOLE 72IN	3.000	EA	$3,950.00	$11,850.00
722	0130	MANHOLE 84IN	7.000	EA	$5,100.00	$35,700.00
722	0140	MANHOLE 96IN	1.000	EA	$5,300.00	$5,300.00
722	0200	MANHOLE 108IN	3.000	EA	$10,750.00	$32,250.00
722	0235	MANHOLE TEE 48IN X 48IN	2.000	EA	$2,600.00	$5,200.00
722	0317	MANHOLE CASTING TYPE 1	15.000	EA	$850.00	$12,750.00
722	2490	MANHOLE STORM CONNECTION	17.000	EA	$575.00	$9,775.00
722	2500	MANHOLE SPECIAL	8.000	EA	$4,400.00	$35,200.00
722	3410	MANHOLE REPAIR	12.000	EA	$950.00	$11,400.00
722	3510	INLET-TYPE 2	17.000	EA	$1,225.00	$20,825.00
722	3520	INLET-TYPE 2 DOUBLE	39.000	EA	$2,275.00	$88,725.00
722	4000	INLET CATCH BASIN-TYPE A	46.000	EA	$700.00	$32,200.00
722	6140	ADJUST GATE VALVE BOX	17.000	EA	$100.00	$1,700.00
722	6160	ADJUST INLET	88.000	EA	$125.00	$11,000.00
722	6200	ADJUST MANHOLE	77.000	EA	$125.00	$9,625.00
724	0420	HYDRANT-RELOCATE	1.000	EA	$2,000.00	$2,000.00
724	0426	HYDRANT EXTENSION	12.000	LF	$600.00	$7,200.00
748	0100	CURB & GUTTER	45,611.000	LF	$14.00	$638,554.00
750	0101	SIDEWALK CONCRETE REINF	5,716.000	SY	$30.00	$171,480.00
750	0105	SIDEWALK CONCRETE BIKEWAY	8,718.000	SY	$30.00	$261,540.00
750	0210	CONCRETE MEDIAN NOSE PAVING	133.000	SY	$70.00	$9,310.00
750	0250	CONCRETE MEDIAN PAVING COLORED W/BRICK PATTERN	4,794.000	SY	$50.00	$239,700.00
750	2115	DETECTABLE WARNING PANELS	1,140.000	SF	$33.00	$37,620.00
752	0910	SAFETY FENCE	3,000.000	LF	$2.80	$8,400.00
754	0116	FLAT SHEET FOR SIGNS-TYPE 2 REFL SHEETING	6.000	SF	$15.00	$90.00
754	0117	FLAT SHEET FOR SIGNS-TYPE 3A REFL SHEETING	459.000	SF	$18.00	$8,262.00
754	0170	FLEXIBLE DELINEATORS	90.000	EA	$39.50	$3,555.00
754	0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	862.000	LF	$10.30	$8,878.60
754	0592	RESET SIGN PANEL	14.000	EA	$35.00	$490.00
762	0112	EPOXY PVMT MK MESSAGE	1,041.000	SF	$7.00	$7,287.00
762	0114	EPOXY PVMT MK 6IN LINE	209.000	LF	$3.00	$627.00
762	0115	EPOXY PVMT MK 8IN LINE	1,148.000	LF	$2.30	$2,640.40
762	0116	EPOXY PVMT MK 16IN LINE	69.000	LF	$7.00	$483.00
762	0122	PREFORMED PATTERNED PVMT MK-MESSAGE(GROOVED)	651.000	SF	$17.00	$11,067.00
762	1106	PVMT MK PAINTED 6IN LINE	1,853.000	LF	$8.50	$15,750.50
762	1108	PVMT MK PAINTED 8IN LINE	112.000	LF	$11.40	$1,276.80
762	1116	PVMT MK PAINTED 16IN LINE	433.000	LF	$22.70	$9,829.10
762	1305	PREFORMED PATTERNED PVMT MK 4IN LINE-GROOVED	36.000	LF	$3.00	$108.00
762	1309	PREFORMED PATTERNED PVMT MK 8IN LINE-GROOVED	9,996.000	LF	$6.90	$68,972.40
762	1340	PREF PATT PVMT MK 4IN LINE CONTRAST-GROOVED	10,360.000	LF	$5.75	$59,570.00
764	0131	W-BEAM GUARDRAIL	107.000	LF	$48.90	$5,232.30
764	1050	RESET W-BEAM GUARDRAIL	72.000	LF	$10.00	$720.00
764	1059	RESET W-BEAM GUARDRAIL END TERMINAL	2.000	EA	$1,000.00	$2,000.00
764	1990	REMOVE CONCRETE SAFETY SHAPE TRANSITION	2.000	EA	$1,000.00	$2,000.00
770	0020	CONCRETE FOUNDATION-HIGHWAY LIGHTING	105.000	EA	$280.00	$29,400.00
770	0100	PULL BOX	3.000	EA	$850.00	$2,550.00

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 1/29/2010

Project Number: STM-SU-8-984(108)111 PCN: 16858

Job Number: 26 English/Metric: ENGLISH

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
770	0330	2IN DIAMETER RIGID CONDUIT	20,019.000	LF	$2.55	$51,048.45
770	0504	UNDERGROUND CONDUCTOR NO4-TYPE RHW	42,388.000	LF	$1.30	$55,104.40
770	0505	UNDERGROUND CONDUCTOR NO6-TYPE RHW	20,764.000	LF	$0.90	$18,687.60
770	0745	FEED POINT-TYPE IV-PAD MOUNTED	2.000	EA	$5,300.00	$10,600.00
770	4170	HP SODIUM VAPOR LUMINAIRE-400 WATT	109.000	EA	$725.00	$79,025.00
770	4505	UNDERPASS LIGHTING SYSTEM	1.000	EA	$1,500.00	$1,500.00
770	4540	RELOCATE LIGHT STANDARD	4.000	EA	$250.00	$1,000.00
770	4560	REMOVE LIGHT STANDARD	13.000	EA	$150.00	$1,950.00
770	4579	REMOVE PULL BOX	2.000	EA	$450.00	$900.00
770	4582	REMOVE CONCRETE FOUNDATION	4.000	EA	$400.00	$1,600.00
770	7010	LIGHT STANDARD 40FT MT HT (NO MAST ARM)	101.000	EA	$1,250.00	$126,250.00
772	0003	SIGNAL STANDARD FOUNDATION	12.000	EA	$250.00	$3,000.00
772	0004	SIGNAL STANDARD-MA FOUNDATION	6.000	EA	$2,100.00	$12,600.00
772	0005	PAD MOUNTED CONCRETE FOUNDATION	3.000	EA	$600.00	$1,800.00
772	0055	CONCRETE FOUNDATION-FEED POINT-TYPE B	2.000	EA	$1,200.00	$2,400.00
772	0110	PULL BOX PVC WITH METAL FRAME & COVER	45.000	EA	$700.00	$31,500.00
772	0200	1IN DIAMETER RIGID CONDUIT	171.000	LF	$4.00	$684.00
772	0240	2IN DIAMETER RIGID CONDUIT	16,625.000	LF	$2.55	$42,393.75
772	0290	4IN DIAMETER RIGID CONDUIT	3,681.000	LF	$4.00	$14,724.00
772	0300	UNDERGROUND CONDUCTOR NO6-TYPE RHW	120.000	LF	$2.00	$240.00
772	0310	UNDERGROUND CONDUCTOR NO6-TYPE THW	60.000	LF	$2.00	$120.00
772	0325	DETECTOR LOOP-POLYETHYLENE CONDUIT PRE-WIRED	8,975.000	LF	$0.75	$6,731.25
772	0330	LOOP LEAD-IN CONDUCTOR	17,331.000	LF	$0.80	$13,864.80
772	0375	EMERGENCY VEHICLE DETECTOR CABLE	1,862.000	LF	$0.95	$1,768.90
772	0400	NO12 AWG 2 CONDUCTOR CABLE	7,906.000	LF	$0.95	$7,510.70
772	0401	NO12 AWG 3 CONDUCTOR CABLE	135.000	LF	$1.45	$195.75
772	0403	NO12 AWG 5 CONDUCTOR CABLE	1,027.000	LF	$1.60	$1,643.20
772	0405	NO12 AWG 7 CONDUCTOR CABLE	2,055.000	LF	$2.15	$4,418.25
772	0410	NO12 AWG 12 CONDUCTOR CABLE	3,752.000	LF	$2.60	$9,755.20
772	0490	SAW SLOT	2,376.000	LF	$7.75	$18,414.00
772	0500	FEED POINT-TRAFFIC SIGNALS	1.000	EA	$3,500.00	$3,500.00
772	0646	TYPE IV SIGNAL STD 46FT MA	1.000	EA	$15,100.00	$15,100.00
772	0695	TYPE V SIGNAL STANDARD	7.000	EA	$1,500.00	$10,500.00
772	0700	TYPE VI SIGNAL STD	3.000	EA	$1,700.00	$5,100.00
772	1062	COMBO 36FT MA SIG & LT STD-TYPE C	1.000	EA	$8,500.00	$8,500.00
772	1152	COMBO 45FT MA SIG & LT STD-TYPE C	1.000	EA	$14,900.00	$14,900.00
772	1223	COMBO 52FT MA SIG & LT STD-TYPE C	1.000	EA	$17,800.00	$17,800.00
772	1802	1-WAY 3 SEC HEAD-MA MTD	10.000	EA	$900.00	$9,000.00
772	1810	1-WAY 3 SEC HEAD W/12IN LENS-POST MTD	7.000	EA	$850.00	$5,950.00
772	1811	1-WAY 3 SEC HEAD W/12IN LENS-PEDESTAL MTD	17.000	EA	$780.00	$13,260.00
772	1831	1-WAY 5 SEC HEAD W/12IN LENS-PEDESTAL MTD	4.000	EA	$1,100.00	$4,400.00
772	1832	1-WAY 5 SEC HEAD W/12IN LENS-MA MTD	1.000	EA	$1,250.00	$1,250.00
772	2060	PEDESTRIAN COUNTDOWN SIGNAL HEAD-POST MTD	4.000	EA	$700.00	$2,800.00
772	2061	PEDESTRIAN COUNTDOWN SIGNAL HEAD-PEDESTAL MTD	12.000	EA	$700.00	$8,400.00
772	2200	PEDESTRIAN PUSHBUTTON POST	8.000	EA	$225.00	$1,800.00
772	2215	PEDESTRIAN PUSHBUTTON & SIGN	9.000	EA	$265.00	$2,385.00
772	2610	EMERGENCY VEHICLE PRE-EMPTION UNIT	1.000	EA	$8,800.00	$8,800.00
772	2620	FIRESTATION EMERGENCY VEHICLE PRE-EMPTION UNIT	1.000	EA	$4,500.00	$4,500.00
772	2701	TYPE B CONTROLLER & CABINET	1.000	EA	$22,500.00	$22,500.00

North Dakota FEDERAL AID

Bid Opening Date: 1/29/2010

Project Number: STM-SU-8-984(108)111 PCN: 16858

Job Number: 26 English/Metric: ENGLISH

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
772	2903	REVISE TRAFFIC SIGNAL	2.000	EA	$3,900.00	$7,800.00
772	3002	RELOCATE CONTROLLER CABINET	1.000	EA	$2,200.00	$2,200.00
772	3005	RELOCATE FEED POINT	1.000	EA	$1,500.00	$1,500.00
772	3021	RELOCATE MA SIGNAL HEAD	1.000	EA	$200.00	$200.00
772	3051	RELOCATE SIGNAL STANDARD	4.000	EA	$2,100.00	$8,400.00
772	3080	RELOCATE PULL BOX	16.000	EA	$350.00	$5,600.00
772	3091	RELOCATE PEDESTRIAN PUSHBUTTON POST	1.000	EA	$150.00	$150.00
772	3135	REMOVE INTERIM TRAFFIC SIGNALS	1.000	EA	$3,200.00	$3,200.00
772	3140	REMOVE VEHICULAR HEADS	6.000	EA	$150.00	$900.00
772	3145	REMOVE PEDESTRIAN HEADS	8.000	EA	$100.00	$800.00
772	3147	REMOVE PEDESTRIAN PUSHBUTTON	10.000	EA	$50.00	$500.00
772	3199	REMOVE CABLE-ALL	8,350.000	LF	$0.20	$1,670.00
772	9205	IT-PULL BOX	5.000	EA	$1,100.00	$5,500.00
772	9230	IT FIBEROPTIC CABLE	18,656.000	LF	$1.75	$32,648.00
772	9235	COMMUNICATION SYSTEM	1.000	L SUM	$18,000.00	$18,000.00
772	9300	SURVEILLANCE CAMERA SYSTEM	3.000	EA	$7,500.00	$22,500.00
					Subtotal	$10,941,065.10

Type: OPTION 1

REINFORCED CONCRETE PIPE

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
714	3005	END SECT-CONC REINF 15IN	11.000	EA	$550.00	$6,050.00
714	4097	PIPE CONDUIT 15IN-STORM DRAIN	2,585.000	LF	$23.00	$59,455.00
714	4101	PIPE CONDUIT 18IN-STORM DRAIN	2,814.000	LF	$24.00	$67,536.00
714	4112	PIPE CONDUIT 30IN-STORM DRAIN	275.000	LF	$37.00	$10,175.00
714	4117	PIPE CONDUIT 36IN-STORM DRAIN	143.000	LF	$100.00	$14,300.00
714	4118	PIPE CONDUIT 33IN-STORM DRAIN	824.000	LF	$47.00	$38,728.00
714	4121	PIPE CONDUIT 42IN-STORM DRAIN	475.000	LF	$67.00	$31,825.00
714	4126	PIPE CONDUIT 48IN-STORM DRAIN	2,872.000	LF	$78.00	$224,016.00
714	4131	PIPE CONDUIT 54IN-STORM DRAIN	195.000	LF	$120.00	$23,400.00
714	4141	PIPE CONDUIT 66IN-STORM DRAIN	156.000	LF	$155.00	$24,180.00
					Subtotal Option 1	$499,665.00

Type: OPTION 2

POLYMERIC COATED SPIRAL RIBBED METAL PIPE

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
714	4097	PIPE CONDUIT 15IN-STORM DRAIN	2,585.000	LF	$0.00	$0.00
714	4101	PIPE CONDUIT 18IN-STORM DRAIN	2,814.000	LF	$0.00	$0.00
714	4112	PIPE CONDUIT 30IN-STORM DRAIN	275.000	LF	$0.00	$0.00
714	4117	PIPE CONDUIT 36IN-STORM DRAIN	143.000	LF	$0.00	$0.00
714	4118	PIPE CONDUIT 33IN-STORM DRAIN	824.000	LF	$0.00	$0.00
714	4121	PIPE CONDUIT 42IN-STORM DRAIN	475.000	LF	$0.00	$0.00
714	4126	PIPE CONDUIT 48IN-STORM DRAIN	2,872.000	LF	$0.00	$0.00
714	4131	PIPE CONDUIT 54IN-STORM DRAIN	195.000	LF	$0.00	$0.00
714	4141	PIPE CONDUIT 66IN-STORM DRAIN	156.000	LF	$0.00	$0.00
714	5805	END SECT CORR STEEL .064IN 15IN	11.000	EA	$0.00	$0.00
					Subtotal Option 2	$0.00

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 1/29/2010

Project Number: STM-SU-8-984(108)111

PCN: 16858

Job Number: 26

English/Metric: ENGLISH

Type: OPTION 3

IMPACT MODIFIED COPOLYMER POLYPROPYLENE PIPE

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
714	4097	PIPE CONDUIT 15IN-STORM DRAIN	2,585.000	LF	$0.00	$0.00
714	4101	PIPE CONDUIT 18IN-STORM DRAIN	2,814.000	LF	$0.00	$0.00
714	4112	PIPE CONDUIT 30IN-STORM DRAIN	275.000	LF	$0.00	$0.00
714	4117	PIPE CONDUIT 36IN-STORM DRAIN	143.000	LF	$0.00	$0.00
714	4118	PIPE CONDUIT 33IN-STORM DRAIN	824.000	LF	$0.00	$0.00
714	4121	PIPE CONDUIT 42IN-STORM DRAIN	475.000	LF	$0.00	$0.00
714	4126	PIPE CONDUIT 48IN-STORM DRAIN	2,872.000	LF	$0.00	$0.00
714	4131	PIPE CONDUIT 54IN-STORM DRAIN	195.000	LF	$0.00	$0.00
714	4141	PIPE CONDUIT 66IN-STORM DRAIN	156.000	LF	$0.00	$0.00
714	5805	END SECT CORR STEEL .064IN 15IN	11.000	EA	$0.00	$0.00
					Subtotal Option 3	$0.00

Subtotal	$11,440,730.10
Eng and Contg	$1,144,073.01
Total	$12,584,803.11

Length 2.4700 Miles

		Construction
Estimated Cost		$12,584,803.11
STM FEDERAL FUNDS	LIMITED	$4,212,312.06
SU FEDERAL FUNDS	LIMITED	$5,000,000.00
CITY FUNDS		$3,372,491.05

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 1/29/2010

Project Number: STM-SU-8-984(108)111

PCN: 16858

Job Number: 26

English/Metric: ENGLISH

Roadway: URBAN

Type: CITY OF FARGO

Participating: N

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
202	0210	REMOVAL OF MANHOLES	2.000	EA	$1,000.00	$2,000.00
570	0650	CONCRETE PAVEMENT REPAIR-FULL DEPTH-DOWELED	120.000	SY	$75.00	$9,000.00
722	0300	MANHOLE SANITARY	15.000	EA	$9,000.00	$135,000.00
722	3200	MANHOLE DROP	6.000	EA	$15,000.00	$90,000.00
722	3291	ABANDON SANITARY SEWER MANHOLE	2.000	EA	$1,500.00	$3,000.00
722	3320	12IN X MANHOLE SEWER CONNECTION	8.000	EA	$1,000.00	$8,000.00
724	0810	WATERMAIN 6IN PVC	75.000	LF	$40.00	$3,000.00
724	0850	WATERMAIN 12IN PVC	190.000	LF	$70.00	$13,300.00
724	1095	BORE SANITARY SEWER PIPE	562.000	LF	$1,450.00	$814,900.00
724	1117	12IN SANITARY SEWER PIPE	20.000	LF	$65.00	$1,300.00
724	1118	15IN SANITARY SEWER PIPE	94.000	LF	$75.00	$7,050.00
724	1127	42IN SANITARY SEWER PIPE	9,844.000	LF	$198.00	$1,949,112.00
770	7001	LT POLES & LUMINAIRES-SUPPLY ONLY	5.000	EA	$1,875.00	$9,375.00
					Subtotal	$3,045,037.00
					Eng and Contg	$304,503.70
					Total	$3,349,540.70

Length 0.0000 Miles

		Construction
Estimated Cost		$3,349,540.70
CITY FUNDS	100.00%	$3,349,540.70

Type: SPECIAL ITEMS

Item Description	Amount
ESTIMATED COST OF REPAIR AND RESTORATION OF HAUL ROADS	$5,000.00

Funding Splits: CITY FUNDS 100.00% $5,000.00

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 1/29/2010

Project Number: STM-SU-8-984(108)111

PCN: 16858

Job Number: 26

English/Metric: ENGLISH

Summary for Project

Length 2.4700 Miles

Estimated Total Construction Cost: $14,485,767.10

Estimated Total Eng and Contg: $1,448,576.71

	Construction	Special Items	Total
Estimated Cost	$15,934,343.81	$5,000.00	$15,939,343.81
STM FEDERAL FUNDS	$4,212,312.06	$0.00	$4,212,312.06
SU FEDERAL FUNDS	$5,000,000.00	$0.00	$5,000,000.00
CITY FUNDS	$6,722,031.75	$5,000.00	$6,727,031.75

NDDOT TO MAKE CONTRACTOR PAYMENTS, STM FEDERAL FUNDS ARE CAPPED AT $4,212,312.06 AND SU FEDERAL FUNDS ARE CAPPED AT $5,000,000. ANY COST OVER THESE AMOUNTS WILL BE THE CITY'S RESPONSIBILITY.

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 1 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

BIDDER	ENGINEERS ESTIMATE	DAKOTA UNDERGROUND COMPANY	NORTHERN IMPROVEMENT CO FAR
		FARGO, ND	FARGO, ND
c.c.	CHECK	BOND	BOND
	RANK 00	RANK 01	RANK 02

SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	ENGINEERS ESTIMATE BID PRICE	ENGINEERS ESTIMATE AMOUNT	DAKOTA UNDERGROUND COMPANY BID PRICE	DAKOTA UNDERGROUND COMPANY AMOUNT	NORTHERN IMPROVEMENT CO FAR BID PRICE	NORTHERN IMPROVEMENT CO FAR AMOUNT
103	CONTRACT BOND	L SUM	1.000	60000.000	60000.00	75000.000	75000.00	35375.000	35375.00
202	REMOVAL OF CONCRETE	SY	2904.000	6.000	17424.00	5.000	14520.00	5.350	15536.40
202	REMOVAL OF CONCRETE PAVEMENT	SY	3398.000	5.500	18689.00	7.500	25485.00	5.700	19368.60
202	REMOVAL OF CURB & GUTTER	LF	4430.000	6.000	26580.00	4.700	20821.00	2.950	13068.50
202	REMOVAL OF BITUMINOUS SURFACING	SY	42303.000	4.500	190363.50	4.650	196708.95	3.900	164981.70
202	REMOVAL OF PIPE ALL TYPES AND SIZES	LF	2479.000	10.000	24790.00	7.400	18344.60	7.150	17724.85
202	REMOVAL OF MANHOLES	EA	2.000	1500.000	3000.00	1000.000	2000.00	410.000	820.00
202	REMOVAL OF INLETS	EA	16.000	400.000	6400.00	300.000	4800.00	410.000	6560.00
203	COMMON EXCAVATION-TYPE A	CY	60900.000	3.000	182700.00	4.000	243600.00	3.920	238728.00
203	REMOVE & SALVAGE TOPSOIL	ACRE	40.000	5000.000	200000.00	4400.000	176000.00	3165.000	126600.00
203	COMMON EXCAVATION-SUBCUT	CY	44895.000	3.500	157132.50	1.500	67342.50	3.700	166111.50
203	BORROW-EXCAVATION	CY	167880.000	7.000	1175160.00	7.000	1175160.00	12.900	2165652.0
210	CLASS AA BACKFILL 6FT-9FT	LF	8000.000	20.000	160000.00	14.000	112000.00	18.350	146800.00
210	SELECT BACKFILL	TON	100.000	20.000	2000.00	30.000	3000.00	14.500	1450.00
210	BACKFILL CLASS AA	LF	650.000	170.000	110500.00	95.000	61750.00	56.000	36400.00
230	SUBGRADE PREPARATION-TYPE B	STA	132.000	1000.000	132000.00	715.000	94380.00	365.000	48180.00
302	AGGREGATE BASE COUSE	SY	134686.000	6.000	808116.00	8.050	1084222.30	10.450	1407468.70
302	TRAFFIC SERVICE GRAVEL	CY	200.000	20.000	4000.00	25.000	5000.00	32.970	6594.00
408	HOT BITUMINOUS PAVEMENT CL 27	TON	670.000	55.000	36850.00	90.000	60300.00	62.000	41540.00
5507	IN NON-REINF CONCRETE PAVEMENT CL YE	SY	185.000	75.000	13875.00	46.000	8510.00	45.450	8408.25
5501	0IN NON-REINF CONCRETE PAVEMENT CL AE	SY	113836.000	55.000	6260980.00	44.000	5008784.00	42.450	4832338.20
550	CONCRETE BRIDGE APPROACH SLAB	SY	470.000	250.000	117500.00	195.000	91650.00	178.500	83895.00
570	PCC PAVEMENT GRINDING	SY	1610.000	5.000	8050.00	6.400	10304.00	4.600	7406.00
570	CONCRETE PAVEMENT REPAIR-FULL DEPTH-DOWELED	SY	120.000	90.000	10800.00	75.000	9000.00	93.750	11250.00
702	MOBILIZATION	L SUM	1.000	500000.000	500000.00	265000.000	265000.00	387000.000	387000.00
704	TRAFFIC CONTROL SIGNS	UNIT	500.000	3.400	1700.00	.500	250.00	.510	255.00
704	TYPE III BARRICADE	EA	10.000	400.000	4000.00	40.000	400.00	41.000	410.00
704	DELINEATOR DRUMS	EA	100.000	36.000	3600.00	10.000	1000.00	10.200	1020.00
704	TRAFFIC CONES	EA	100.000	12.000	1200.00	2.000	200.00	2.050	205.00
704	TUBULAR MARKERS	EA	250.000	12.000	3000.00	3.000	750.00	3.050	762.50
704	TRAFFIC CONTROL	L SUM	1.000	50000.000	50000.00	50000.000	50000.00	51000.000	51000.00
706	FIELD OFFICE	EA	1.000	7500.000	7500.00	10000.000	10000.00	17000.000	17000.00
708	SILT FENCE SUPPORTED	LF	3000.000	2.500	7500.00	2.500	7500.00	2.550	7650.00
708	FIBER ROLLS 12IN	LF	400.000	3.500	1400.00	2.500	1000.00	2.550	1020.00
708	INLET PROTECTION-SANDBAG	EA	130.000	100.000	13000.00	80.000	10400.00	87.800	11414.00
708	INLET PROTECTION-SPECIAL	EA	99.000	400.000	39600.00	190.000	18810.00	283.000	28017.00
708	SEEDING-HYDRO MULCH	ACRE	70.000	3400.000	238000.00	1315.000	92050.00	1340.000	93800.00
708	SODDING	SY	350.000	4.500	1575.00	4.000	1400.00	4.100	1435.00
708	STABILIZED CONSTRUCTION ACCESS	EA	2.000	2500.000	5000.00	1250.000	2500.00	4215.000	8430.00
709	GEOTEXTILE FABRIC-TYPE S1	SY	132120.000	1.800	237816.00	1.000	132120.00	.970	128156.40
710	TEMPORARY BYPASS	L SUM	1.000	5000.000	5000.00	9500.000	9500.00	8500.000	8500.00
710	REMOVAL OF BYPASS	L SUM	1.000	2500.000	2500.00	5000.000	5000.00	3600.000	3600.00
714	PIPE PVC 4IN DRAIN	LF	2623.000	8.000	20984.00	6.000	15738.00	5.700	14951.10
714	STORM SEWER CLEANOUT	LF	36.000	225.000	8100.00	100.000	3600.00	75.500	2718.00
714	EDGEDRAIN NON PERMEABLE BASE	LF	24966.000	2.750	68656.50	2.400	59918.40	2.300	57421.80
722	MANHOLE 48IN	EA	7.000	1900.000	13300.00	1725.000	12075.00	1940.000	13580.00
722	MANHOLE 60IN	EA	3.000	2100.000	6300.00	2760.000	8280.00	3030.000	9090.00

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY

WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 2 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	NO. 26 BIDDER ENGINEERS ESTIMATE c.c. CHECK RANK 00 BID PRICE	AMOUNT	BIDDER DAKOTA UNDERGROUND COMPANY FARGO, ND c.c. BOND RANK 01 BID PRICE	AMOUNT	BIDDER NORTHERN IMPROVEMENT CO FAR FARGO, ND c.c. BOND RANK 02 BID PRICE	AMOUNT
722	MANHOLE 72IN	EA	3000	2900000	870000	3950000	1185000	4040000	1212000
722	MANHOLE 84IN	EA	7000	3200000	2240000	5100000	3570000	4815000	3370500
722	MANHOLE 96IN	EA	1000	3700000	370000	5300000	530000	3610000	361000
722	MANHOLE 108IN	EA	3000	8500000	2550000	10750000	3225000	9220000	2766000
722	MANHOLE TEE 48IN X 48IN	EA	2000	2000000	400000	2600000	520000	5220000	1044000
722	MANHOLE SANITARY	EA	15000	18000000	27000000	9000000	13500000	5800000	8700000
722	MANHOLE CASTING TYPE 1	EA	15000	1000000	1500000	850000	1275000	1200000	1800000
722	MANHOLE STORM CONNECTION	EA	17000	500000	850000	575000	977500	765000	1300500
722	MANHOLE SPECIAL	EA	8000	5000000	4000000	4400000	3520000	3465000	2772000
722	MANHOLE DROP	EA	6000	20000000	120000000	15000000	90000000	9995000	59970000
722	ABANDON SANITARY SEWER MANHOLE	EA	2000	1000000	2000000	1500000	3000000	1100000	2200000
722	12IN X MANHOLE SEWER CONNECTION	EA	8000	350000	2800000	1000000	8000000	675000	5400000
722	MANHOLE REPAIR	EA	12000	1000000	12000000	950000	11400000	2245000	26940000
722	INLET-TYPE 2	EA	17000	1900000	32300000	1225000	20825000	1530000	26010000
722	INLET-TYPE 2 DOUBLE	EA	39000	3000000	117000000	2275000	88725000	2550000	99450000
722	INLET CATCH BASIN-TYPE A	EA	46000	1200000	55200000	700000	32200000	1040000	47840000
722	ADJUST GATE VALVE BOX	EA	17000	250000	4250000	100000	1700000	150000	2550000
722	ADJUST INLET	EA	88000	220000	19360000	125000	11000000	330000	29040000
722	ADJUST MANHOLE	EA	77000	450000	34650000	125000	9625000	240000	18480000
724	HYDRANT-RELOCATE	EA	1000	1200000	1200000	2000000	2000000	1630000	1630000
724	HYDRANT EXTENSION	LF	12000	400000	4800000	600000	7200000	385000	4620000
724	WATERMAIN 6IN PVC	LF	75000	40000	3000000	40000	3000000	24500	1837500
724	WATERMAIN 12IN PVC	LF	190000	85000	16150000	70000	13300000	50000	9500000
724	BORE SANITARY SEWER PIPE	LF	562000	1500000	843000000	1450000	814900000	1330000	747460000
724	12IN SANITARY SEWER PIPE	LF	20000	25000	500000	65000	1300000	66300	1326000
724	15IN SANITARY SEWER PIPE	LF	94000	30000	2820000	75000	7050000	76500	7191000
724	42IN SANITARY SEWER PIPE	LF	9844000	300000	2953200000	198000	1949112000	205000	2018020000
748	CURB & GUTTER	LF	45611000	15000	684165000	14000	638554000	18150	827839650
750	SIDEWALK CONCRETE REINF	SY	5716000	28000	1600480000	30000	1714800000	29000	1657640000
750	SIDEWALK CONCRETE BIKEWAY	SY	8718000	30000	2615400000	30000	2615400000	28500	2484630000
750	CONCRETE MEDIAN NOSE PAVING	SY	133000	60000	7980000	70000	9310000	83000	11039000
750	CONCRETE MEDIAN PAVING COLORED W/BRICK PATTERN	SY	4794000	46000	2205240000	50000	2397000000	49000	2349060000
750	DETECTABLE WARNING PANELS	SF	1140000	36000	41040000	33000	37620000	39750	45315000
752	SAFETY FENCE	LF	3000000	2500	7500000	2800	8400000	2040	6120000
754	FLAT SHEET FOR SIGNS-TYPE 2 REFL SHEETING	SF	6000	15000	90000	15000	90000	15300	91800
754	FLAT SHEET FOR SIGNS-TYPE 3A REFL SHEETING	SF	459000	20000	9180000	18000	8262000	18350	8422650
754	FLEXIBLE DELINEATORS	EA	90000	40000	3600000	39500	3555000	40300	3627000
754	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	LF	862000	13000	11206000	10300	8878600	10500	9051000
754	RESET SIGN PANEL	EA	14000	50000	700000	35000	490000	35700	499800
762	EPOXY PVMT MK MESSAGE	SF	1041000	7000	7287000	7000	7287000	7150	7443150
762	EPOXY PVMT MK 6IN LINE	LF	209000	6000	1254000	3000	627000	3050	637450
762	EPOXY PVMT MK 8IN LINE	LF	1148000	2000	2296000	2300	2640400	2350	2697800
762	EPOXY PVMT MK 16IN LINE	LF	69000	8000	552000	7000	483000	7150	493350
762	PREFORMED PATTERNED PVMT MK-MESSAGE(GROOVED)	SF	651000	18000	11718000	17000	11067000	17350	11294850
762	PVMT MK PAINTED 6IN LINE	LF	1853000	12000	22236000	8500	15750500	8650	16028450
762	PVMT MK PAINTED 8IN LINE	LF	112000	15000	1680000	11400	1276800	11650	1304800
762	PVMT MK PAINTED 16IN LINE	LF	433000	30000	12990000	22700	9829100	23150	10023950

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

ABSTRACT OF BIDS RECEIVED

SHEET NO 3 OF 10

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

				BIDDER ENGINEERS ESTIMATE		BIDDER DAKOTA UNDERGROUND COMPANY		BIDDER NORTHERN IMPROVEMENT CO FAR	
				c.c. CHECK	RANK 00	c.c. BOND FARGO, ND	RANK 01	c.c. BOND FARGO, ND	RANK 02
SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
762	PREFORMED PATTERNED PVMT MK 4IN LINE-GROOVED	LF	36.000	8.000	288.00	3.000	108.00	3.050	109.80
762	PREFORMED PATTERNED PVMT MK 8IN LINE-GROOVED	LF	9996.000	6.250	62475.00	6.900	68972.40	7.050	70471.80
762	PREF PATT PVMT MK 4IN LINE CONTRAST-GROOVED	LF	10360.000	5.500	56980.00	5.750	59570.00	5.850	60606.00
764	W-BEAM GUARDRAIL	LF	107.000	30.000	3210.00	489.00	52323.0	376.50	40285.5
764	RESET W-BEAM GUARDRAIL	LF	72.000	8.000	576.00	10.000	720.00	148.50	10692.0
764	RESET W-BEAM GUARDRAIL END TERMINAL	EA	2.000	750.000	1500.00	1000.000	2000.00	335.000	670.00
764	REMOVE CONCRETE SAFETY SHAPE TRANSITION	EA	2.000	1200.000	2400.00	1000.000	2000.00	1325.000	2650.00
770	CONCRETE FOUNDATION-HIGHWAY LIGHTING	EA	105.000	350.000	36750.00	280.000	29400.00	285.000	29925.00
770	PULL BOX	EA	3.000	750.000	2250.00	850.000	2550.00	865.000	2595.00
770	2IN DIAMETER RIGID CONDUIT	LF	2001.9000	3.500	7006.65	2.550	5104.845	2.600	5204.940
770	UNDERGROUND CONDUCTOR NO4-TYPE RHW	LF	4238.8000	1.000	4238.80	1.300	5510.440	1.330	5637.604
770	UNDERGROUND CONDUCTOR NO6-TYPE RHW	LF	2076.4000	.750	1557.30	.900	1868.760	.920	1910.288
770	FEED POINT-TYPE IV-PAD MOUNTED	EA	2.000	5500.000	11000.00	5300.000	10600.00	5400.000	10800.00
770	HP SODIUM VAPOR LUMINAIRE-400 WATT	EA	109.000	500.000	54500.00	725.000	79025.00	740.000	80660.00
770	UNDERPASS LIGHTING SYSTEM	EA	1.000	4000.000	4000.00	1500.000	1500.00	1530.000	1530.00
770	RELOCATE LIGHT STANDARD	EA	4.000	500.000	2000.00	250.000	1000.00	255.000	1020.00
770	REMOVE LIGHT STANDARD	EA	13.000	400.000	5200.00	150.000	1950.00	155.000	2015.00
770	REMOVE PULL BOX	EA	2.000	250.000	500.00	450.000	900.00	460.000	920.00
770	REMOVE CONCRETE FOUNDATION	EA	4.000	350.000	1400.00	400.000	1600.00	410.000	1640.00
770	LT POLES & LUMINAIRES-SUPPLY ONLY	EA	5.000	1700.000	8500.00	1875.000	9375.00	1915.000	9575.00
770	LIGHT STANDARD 40FT MT HT (NO MAST ARM)	EA	10.000	1500.000	15150.00	1250.000	12625.00	1275.000	12877.50
772	SIGNAL STANDARD FOUNDATION	EA	12.000	450.000	5400.00	250.000	3000.00	255.000	3060.00
772	SIGNAL STANDARD-MA FOUNDATION	EA	6.000	2500.000	15000.00	2100.000	12600.00	2140.000	12840.00
772	PAD MOUNTED CONCRETE FOUNDATION	EA	3.000	550.000	1650.00	600.000	1800.00	615.000	1845.00
772	CONCRETE FOUNDATION-FEED POINT-TYPE B	EA	2.000	300.000	600.00	1200.000	2400.00	1225.000	2450.00
772	PULL BOX PVC WITH METAL FRAME & COVER	EA	45.000	675.000	30375.00	700.000	31500.00	715.000	32175.00
772	1IN DIAMETER RIGID CONDUIT	LF	171.000	3.000	513.00	4.000	684.00	4.100	701.10
772	2IN DIAMETER RIGID CONDUIT	LF	1662.5000	4.500	7481.25	2.550	4239.375	2.600	4322.50
772	4IN DIAMETER RIGID CONDUIT	LF	3681.000	9.000	33129.00	4.000	14724.00	4.100	15092.10
772	UNDERGROUND CONDUCTOR NO6-TYPE RHW	LF	120.000	1.000	120.00	2.000	240.00	2.050	246.00
772	UNDERGROUND CONDUCTOR NO6-TYPE THW	LF	60.000	1.000	60.00	2.000	120.00	2.050	123.00
772	DETECTOR LOOP-POLYETHYLENE CONDUIT PRE-WIRED	LF	897.5000	1.000	897.50	.750	673.125	.770	691.075
772	LOOP LEAD-IN CONDUCTOR	LF	1733.1000	.900	1559.79	.800	1386.480	.820	1421.142
772	EMERGENCY VEHICLE DETECTOR CABLE	LF	186.2000	1.250	232.75	.950	176.890	.970	180.614
772	NO12 AWG 2 CONDUCTOR CABLE	LF	790.6000	1.000	790.60	.950	751.070	.970	766.882
772	NO12 AWG 3 CONDUCTOR CABLE	LF	13.5000	1.200	16.20	1.450	19.575	1.500	20.250
772	NO12 AWG 5 CONDUCTOR CABLE	LF	102.7000	1.600	164.32	1.600	164.320	1.650	169.455
772	NO12 AWG 7 CONDUCTOR CABLE	LF	205.5000	1.800	369.90	2.150	441.825	2.200	452.100
772	NO12 AWG 12 CONDUCTOR CABLE	LF	375.2000	3.000	1125.60	2.600	975.520	2.650	994.280
772	SAW SLOT	LF	237.6000	10.500	2494.80	7.750	1841.400	7.900	1877.040
772	FEED POINT-TRAFFIC SIGNALS	EA	1.000	6500.000	6500.00	3500.000	3500.00	3575.000	3575.00
772	TYPE IV SIGNAL STD 46FT MA	EA	1.000	15500.000	15500.00	15100.000	15100.00	15400.000	15400.00
772	TYPE V SIGNAL STANDARD	EA	7.000	1500.000	10500.00	1500.000	10500.00	1530.000	10710.00
772	TYPE VI SIGNAL STD	EA	3.000	1800.000	5400.00	1700.000	5100.00	1735.000	5205.00
772	COMBO 36FT MA SIG & LT STD-TYPE C	EA	1.000	10000.000	10000.00	8500.000	8500.00	8675.000	8675.00
772	COMBO 45FT MA SIG & LT STD-TYPE C	EA	1.000	14500.000	14500.00	14900.000	14900.00	15200.000	15200.00
772	COMBO 52FT MA SIG & LT STD-TYPE C	EA	1.000	16500.000	16500.00	17800.000	17800.00	18155.000	18155.00

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 4 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

				BIDDER ENGINEERS ESTIMATE		BIDDER DAKOTA UNDERGROUND C OMPANY FARGO, ND		BIDDER NORTHERN IMPROVEMENT CO FAR FARGO, ND	
				c.c. CHECK	RANK 00	c.c. BOND	RANK 01	c.c. BOND	RANK 02
SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
772	1-WAY 3 SEC HEAD-MA MTD	EA	10.000	900.000	9000.00	900.000	9000.00	925.000	9250.00
772	1-WAY 3 SEC HEAD W/12IN LENS-POST MTD	EA	7.000	800.000	5600.00	850.000	5950.00	865.000	6055.00
772	1-WAY 3 SEC HEAD W/12IN LENS-PEDESTAL MTD	EA	17.000	750.000	12750.00	780.000	13260.00	795.000	13515.00
772	1-WAY 5 SEC HEAD W/12IN LENS-PEDESTAL MTD	EA	4.000	1400.000	5600.00	1100.000	4400.00	1125.000	4500.00
772	1-WAY 5 SEC HEAD W/12IN LENS-MA MTD	EA	1.000	1500.000	1500.00	1250.000	1250.00	1275.000	1275.00
772	PEDESTRIAN COUNTDOWN SIGNAL HEAD-POST MTD	EA	4.000	750.000	3000.00	700.000	2800.00	715.000	2860.00
772	PEDESTRIAN COUNTDOWN SIGNAL HEAD-PEDESTAL MTD	EA	12.000	700.000	8400.00	700.000	8400.00	715.000	8580.00
772	PEDESTRIAN PUSHBUTTON POST	EA	8.000	300.000	2400.00	225.000	1800.00	230.000	1840.00
772	PEDESTRIAN PUSHBUTTON & SIGN	EA	9.000	185.000	1665.00	265.000	2385.00	275.000	2475.00
772	EMERGENCY VEHICLE PRE-EMPTION UNIT	EA	1.000	6000.000	6000.00	8800.000	8800.00	9000.000	9000.00
772	FIRESTATION EMERGENCY VEHICLE PRE-EMPTION UNIT	EA	1.000	1500.000	1500.00	4500.000	4500.00	4600.000	4600.00
772	TYPE B CONTROLLER & CABINET	EA	1.000	16500.000	16500.00	22500.000	22500.00	23000.000	23000.00
772	REVISE TRAFFIC SIGNAL	EA	2.000	3500.000	7000.00	3900.000	7800.00	4000.000	8000.00
772	RELOCATE CONTROLLER CABINET	EA	1.000	500.000	500.00	2200.000	2200.00	2250.000	2250.00
772	RELOCATE FEED POINT	EA	1.000	800.000	800.00	1500.000	1500.00	1530.000	1530.00
772	RELOCATE MA SIGNAL HEAD	EA	1.000	500.000	500.00	200.000	200.00	205.000	205.00
772	RELOCATE SIGNAL STANDARD	EA	4.000	1000.000	4000.00	2100.000	8400.00	2150.000	8600.00
772	RELOCATE PULL BOX	EA	16.000	500.000	8000.00	350.000	5600.00	360.000	5760.00
772	RELOCATE PEDESTRIAN PUSHBUTTON POST	EA	1.000	100.000	100.00	150.000	150.00	155.000	155.00
772	REMOVE INTERIM TRAFFIC SIGNALS	EA	1.000	1500.000	1500.00	3200.000	3200.00	3275.000	3275.00
772	REMOVE VEHICULAR HEADS	EA	6.000	100.000	600.00	150.000	900.00	155.000	930.00
772	REMOVE PEDESTRIAN HEADS	EA	8.000	60.000	480.00	100.000	800.00	105.000	840.00
772	REMOVE PEDESTRIAN PUSHBUTTON	EA	10.000	25.000	250.00	50.000	500.00	55.000	550.00
772	REMOVE CABLE-ALL	LF	8350.000	.150	1252.50	.200	1670.00	.200	1670.00
772	IT-PULL BOX	EA	5.000	1800.000	9000.00	1100.000	5500.00	1125.000	5625.00
772	IT FIBEROPTIC CABLE	LF	18656.000	2.500	46640.00	1.750	32648.00	1.800	33580.80
772	COMMUNICATION SYSTEM	L SUM	1.000	37192.000	37192.00	18000.000	18000.00	18360.000	18360.00
772	SURVEILLANCE CAMERA SYSTEM	EA	3.000	5700.000	17100.00	7500.000	22500.00	7650.000	22950.00
	SUBTOTAL				170575.73		1398610.21		1444661.79
	OPTION 1								
714	END SECT-CONC REINF 15IN	EA	11.000	500.000	5500.00	550.000	6050.00	705.000	7755.00
714	PIPE CONDUIT 15IN-STORM DRAIN	LF	2585.000	38.000	98230.00	23.000	59455.00	27.500	71087.50
714	PIPE CONDUIT 18IN-STORM DRAIN	LF	2814.000	45.000	126630.00	24.000	67536.00	29.600	83294.40
714	PIPE CONDUIT 30IN-STORM DRAIN	LF	275.000	60.000	16500.00	37.000	10175.00	51.000	14025.00
714	PIPE CONDUIT 36IN-STORM DRAIN	LF	143.000	85.000	12155.00	100.000	14300.00	66.300	9480.90
714	PIPE CONDUIT 33IN-STORM DRAIN	LF	824.000	73.000	60152.00	47.000	38728.00	58.150	47915.60
714	PIPE CONDUIT 42IN-STORM DRAIN	LF	475.000	96.000	45600.00	67.000	31825.00	83.650	39733.75
714	PIPE CONDUIT 48IN-STORM DRAIN	LF	2872.000	120.000	344640.00	78.000	224016.00	95.900	275424.80
714	PIPE CONDUIT 54IN-STORM DRAIN	LF	195.000	130.000	25350.00	120.000	23400.00	120.500	23497.50
714	PIPE CONDUIT 66IN-STORM DRAIN	LF	156.000	200.000	31200.00	155.000	24180.00	164.250	25623.00
	SUBTOTAL				765957.00		499665.00		597837.45
	OPTION 2								
714	PIPE CONDUIT 15IN-STORM DRAIN	LF	2585.000	38.000	98230.00	.000	.00	.000	.00

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY

WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 5 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

BIDDER	ENGINEERS ESTIMATE	DAKOTA UNDERGROUND COMPANY	NORTHERN IMPROVEMENT CO FAR
		FARGO, ND	FARGO, ND
	c.c. CHECK RANK 00	c.c. BOND RANK 01	c.c. BOND RANK 02

SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
714	PIPE CONDUIT 18IN-STORM DRAIN	LF	2814.000	45.000	126630.00	.000	.00	.000	.00
714	PIPE CONDUIT 30IN-STORM DRAIN	LF	275.000	60.000	16500.00	.000	.00	.000	.00
714	PIPE CONDUIT 36IN-STORM DRAIN	LF	143.000	85.000	12155.00	.000	.00	.000	.00
714	PIPE CONDUIT 33IN-STORM DRAIN	LF	824.000	73.000	60152.00	.000	.00	.000	.00
714	PIPE CONDUIT 42IN-STORM DRAIN	LF	475.000	96.000	45600.00	.000	.00	.000	.00
714	PIPE CONDUIT 48IN-STORM DRAIN	LF	2872.000	120.000	344640.00	.000	.00	.000	.00
714	PIPE CONDUIT 54IN-STORM DRAIN	LF	195.000	130.000	25350.00	.000	.00	.000	.00
714	PIPE CONDUIT 66IN-STORM DRAIN	LF	156.000	200.000	31200.00	.000	.00	.000	.00
714	END SECT CORR STEEL .064IN 15IN	EA	11.000	500.000	5500.00	.000	.00	.000	.00
	SUBTOTAL				765957.00		NO BID		NO BID
	OPTION 3								
714	PIPE CONDUIT 15IN-STORM DRAIN	LF	2585.000	38.000	98230.00	.000	.00	.000	.00
714	PIPE CONDUIT 18IN-STORM DRAIN	LF	2814.000	45.000	126630.00	.000	.00	.000	.00
714	PIPE CONDUIT 30IN-STORM DRAIN	LF	275.000	60.000	16500.00	.000	.00	.000	.00
714	PIPE CONDUIT 36IN-STORM DRAIN	LF	143.000	85.000	12155.00	.000	.00	.000	.00
714	PIPE CONDUIT 33IN-STORM DRAIN	LF	824.000	73.000	60152.00	.000	.00	.000	.00
714	PIPE CONDUIT 42IN-STORM DRAIN	LF	475.000	96.000	45600.00	.000	.00	.000	.00
714	PIPE CONDUIT 48IN-STORM DRAIN	LF	2872.000	120.000	344640.00	.000	.00	.000	.00
714	PIPE CONDUIT 54IN-STORM DRAIN	LF	195.000	130.000	25350.00	.000	.00	.000	.00
714	PIPE CONDUIT 66IN-STORM DRAIN	LF	156.000	200.000	31200.00	.000	.00	.000	.00
714	END SECT CORR STEEL .064IN 15IN	EA	11.000	500.000	5500.00	.000	.00	.000	.00
	SUBTOTAL				765957.00		NO BID		NO BID
	TOTAL				1935544.60		1448576.10		1504445.40
					17,823,530.60	NO LIMIT		NO LIMIT	

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 6 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

BIDDER: UPPER PLAINS CONTRACTING INC, ABERDEEN, SD — c.c. BOND RANK 03

BIDDER: STRATA CORPORATION CONSTRUCTION DIVISION, GRAND FORKS, ND — c.c. BOND RANK 04

BIDDER: c.c.

SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
103	CONTRACT BOND	L SUM	1.000	63000.000	63000.00	173001.000	173001.00		
202	REMOVAL OF CONCRETE	SY	2904.000	5.490	15942.96	6.500	18876.00		
202	REMOVAL OF CONCRETE PAVEMENT	SY	3398.000	5.490	18655.02	7.900	26844.20		
202	REMOVAL OF CURB & GUTTER	LF	4430.000	3.340	14796.20	4.150	18384.50		
202	REMOVAL OF BITUMINOUS SURFACING	SY	42303.000	2.350	99412.05	6.300	266508.90		
202	REMOVAL OF PIPE ALL TYPES AND SIZES	LF	2479.000	7.320	18146.28	9.390	23277.81		
202	REMOVAL OF MANHOLES	EA	2.000	418.000	836.00	544.330	1088.66		
202	REMOVAL OF INLETS	EA	16.000	418.000	6688.00	302.410	4838.56		
203	COMMON EXCAVATION-TYPE A	CY	60900.000	4.020	244818.00	4.950	301455.00		
203	REMOVE & SALVAGE TOPSOIL	ACRE	40.000	3239.500	129580.00	6100.000	244000.00		
203	COMMON EXCAVATION-SUBCUT	CY	44895.000	4.020	180477.90	5.500	246922.50		
203	BORROW-EXCAVATION	CY	16788.000	13.740	230667.12	9.500	159486.00		
210	CLASS AA BACKFILL 6FT-9FT	LF	8000.000	18.810	150480.00	12.620	100960.00		
210	SELECT BACKFILL	TON	100.000	20.900	2090.00	25.000	2500.00		
210	BACKFILL CLASS AA	LF	650.000	57.480	37362.00	43.480	28262.00		
230	SUBGRADE PREPARATION-TYPE B	STA	132.000	375.160	49521.12	165.000	21780.00		
302	AGGREGATE BASE COUSE	SY	134686.000	8.220	1107118.92	9.200	1239111.20		
302	TRAFFIC SERVICE GRAVEL	CY	200.000	31.350	6270.00	32.000	6400.00		
408	HOT BITUMINOUS PAVEMENT CL 27	TON	670.000	90.650	60735.50	85.500	57285.00		
550	7IN NON-REINF CONCRETE PAVEMENT CL YE	SY	185.000	48.070	8892.95	78.000	14430.00		
550	10IN NON-REINF CONCRETE PAVEMENT CL AE	SY	113836.000	46.420	5284267.12	61.850	7040756.60		
550	CONCRETE BRIDGE APPROACH SLAB	SY	470.000	227.760	107047.20	245.000	115150.00		
570	PCC PAVEMENT GRINDING	SY	1610.000	4.180	6729.80	4.000	6440.00		
570	CONCRETE PAVEMENT REPAIR-FULL DEPTH-DOWELED	SY	120.000	126.980	15237.60	110.000	13200.00		
702	MOBILIZATION	L SUM	1.000	672000.000	672000.00	770000.000	770000.00		
704	TRAFFIC CONTROL SIGNS	UNIT	500.000	.520	260.00	.500	250.00		
704	TYPE III BARRICADE	EA	10.000	41.800	418.00	40.000	400.00		
704	DELINEATOR DRUMS	EA	100.000	10.450	1045.00	10.000	1000.00		
704	TRAFFIC CONES	EA	100.000	2.090	209.00	2.000	200.00		
704	TUBULAR MARKERS	EA	250.000	3.140	785.00	3.000	750.00		
704	TRAFFIC CONTROL	L SUM	1.000	52250.000	52250.00	55400.000	55400.00		
706	FIELD OFFICE	EA	1.000	16784.240	16784.24	15000.000	15000.00		
708	SILT FENCE SUPPORTED	LF	3000.000	2.610	7830.00	2.500	7500.00		
708	FIBER ROLLS 12IN	LF	400.000	2.610	1044.00	2.500	1000.00		
708	INLET PROTECTION-SANDBAG	EA	130.000	104.500	13585.00	150.000	19500.00		
708	INLET PROTECTION-SPECIAL	EA	99.000	42.220	4179.78	200.000	19800.00		
708	SEEDING-HYDRO MULCH	ACRE	70.000	1370.590	95941.30	1311.570	91809.90		
708	SODDING	SY	350.000	4.180	1463.00	4.000	1400.00		
708	STABILIZED CONSTRUCTION ACCESS	EA	2.000	5225.000	10450.00	3500.000	7000.00		
709	GEOTEXTILE FABRIC-TYPE S1	SY	132120.000	.990	130798.80	1.100	145332.00		
710	TEMPORARY BYPASS	L SUM	1.000	10450.000	10450.00	19500.000	19500.00		
710	REMOVAL OF BYPASS	L SUM	1.000	5225.000	5225.00	8000.000	8000.00		
714	PIPE PVC 4IN DRAIN	LF	2623.000	5.850	15344.55	9.370	24577.51		
714	STORM SEWER CLEANOUT	LF	36.000	77.330	2783.88	596.70	21482.12		
714	EDGEDRAIN NON PERMEABLE BASE	LF	2496.000	2.360	5891.76	6.750	16852.50		
722	MANHOLE 48IN	EA	7.000	1985.500	13898.50	2675.000	18725.00		
722	MANHOLE 60IN	EA	3.000	3103.650	9310.95	3475.000	10425.00		

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY

WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 7 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

BIDDER	UPPER PLAINS CONTRACTING INC, ABERDEEN, SD		STRATA CORPORATION CONSTRUCTION DIVISION, GRAND FORKS, ND			
C.C. BOND	RANK 03		RANK 04			
SPEC. NO. / ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
722 MANHOLE 72IN	EA	3.000	4138.200	12414.60	4200.000	12600.00		
722 MANHOLE 84IN	EA	7.000	4932.400	34526.80	4725.000	33075.00		
722 MANHOLE 96IN	EA	1.000	3699.300	3699.30	3890.000	3890.00		
722 MANHOLE 108IN	EA	3.000	9446.800	28340.40	7890.000	23670.00		
722 MANHOLE TEE 48IN X 48IN	EA	2.000	5350.400	10700.80	3060.000	6120.00		
722 MANHOLE SANITARY	EA	15.000	5956.500	89347.50	7800.000	117000.00		
722 MANHOLE CASTING TYPE 1	EA	15.000	1463.000	21945.00	1215.000	18225.00		
722 MANHOLE STORM CONNECTION	EA	17.000	783.750	13323.75	1175.000	19975.00		
722 MANHOLE SPECIAL	EA	8.000	3553.000	28424.00	4400.000	35200.00		
722 MANHOLE DROP	EA	6.000	10241.000	61446.00	11575.000	69450.00		
722 ABANDON SANITARY SEWER MANHOLE	EA	2.000	1128.600	2257.20	1250.000	2500.00		
722 12IN X MANHOLE SEWER CONNECTION	EA	8.000	689.700	5517.60	480.420	3843.36		
722 MANHOLE REPAIR	EA	12.000	2299.000	27588.00	955.770	11469.24		
722 INLET-TYPE 2	EA	17.000	1567.500	26647.50	1525.000	25925.00		
722 INLET-TYPE 2 DOUBLE	EA	39.000	2612.500	101887.50	2825.000	110175.00		
722 INLET CATCH BASIN-TYPE A	EA	46.000	1065.900	49031.40	1625.000	74750.00		
722 ADJUST GATE VALVE BOX	EA	17.000	209.000	3553.00	250.000	4250.00		
722 ADJUST INLET	EA	88.000	271.700	23909.60	550.000	48400.00		
722 ADJUST MANHOLE	EA	77.000	271.700	20920.90	500.000	38500.00		
724 HYDRANT-RELOCATE	EA	1.000	1672.000	1672.00	2006.270	2006.27		
724 HYDRANT EXTENSION	LF	12.000	397.100	4765.20	590.900	7090.80		
724 WATERMAIN 6IN PVC	LF	75.000	25.080	1881.00	25.740	1930.50		
724 WATERMAIN 12IN PVC	LF	190.000	51.210	9729.90	68.270	12971.30		
724 BORE SANITARY SEWER PIPE	LF	562.000	1363.730	766416.26	1491.160	838031.92		
724 12IN SANITARY SEWER PIPE	LF	20.000	67.930	1358.60	58.830	1176.60		
724 15IN SANITARY SEWER PIPE	LF	94.000	78.380	7367.72	54.850	5155.90		
724 42IN SANITARY SEWER PIPE	LF	984.000	210.050	206773.20	197.160	194084.34		
748 CURB & GUTTER	LF	4561.000	8.650	39453.15	15.500	70697.50		
750 SIDEWALK CONCRETE REINF	SY	571.000	30.150	17233.40	28.400	16233.40		
750 SIDEWALK CONCRETE BIKEWAY	SY	871.000	30.040	26188.72	27.900	24323.20		
750 CONCRETE MEDIAN NOSE PAVING	SY	13.000	58.910	765.83	98.000	1304.00		
750 CONCRETE MEDIAN PAVING COLORED W/BRICK PATTERN	SY	479.000	51.000	24449.00	46.000	22052.00		
750 DETECTABLE WARNING PANELS	SF	114.000	31.350	3573.90	39.000	4446.00		
752 SAFETY FENCE	LF	300.000	2.090	627.00	2.000	600.00		
754 FLAT SHEET FOR SIGNS-TYPE 2 REFL SHEETING	SF	6.000	15.680	94.08	15.000	90.00		
754 FLAT SHEET FOR SIGNS-TYPE 3A REFL SHEETING	SF	45.900	18.810	863.79	18.000	826.20		
754 FLEXIBLE DELINEATORS	EA	9.000	41.280	371.52	39.500	355.50		
754 STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	LF	86.200	10.760	927.12	10.300	887.86		
754 RESET SIGN PANEL	EA	14.000	36.580	512.12	35.000	490.00		
762 EPOXY PVMT MK MESSAGE	SF	104.100	7.320	762.12	7.000	728.70		
762 EPOXY PVMT MK 6IN LINE	LF	20.900	3.140	65.66	3.000	62.70		
762 EPOXY PVMT MK 8IN LINE	LF	114.800	2.400	275.52	2.300	264.04		
762 EPOXY PVMT MK 16IN LINE	LF	6.900	7.320	50.508	7.000	48.30		
762 PREFORMED PATTERNED PVMT MK-MESSAGE(GROOVED)	SF	65.100	17.770	1156.827	17.000	1106.70		
762 PVMT MK PAINTED 6IN LINE	LF	185.300	8.880	1645.464	8.500	1575.05		
762 PVMT MK PAINTED 8IN LINE	LF	11.200	11.910	133.392	11.400	127.68		
762 PVMT MK PAINTED 16IN LINE	LF	43.300	23.720	1027.076	22.700	982.91		

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY

WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 8 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

BIDDER: UPPER PLAINS CONTRACTING INC, ABERDEEN, SD — C.C. BOND — RANK 03

BIDDER: STRATA CORPORATION CONSTRUCTION DIVISION, GRAND FORKS, ND — C.C. BOND — RANK 04

BIDDER — C.C.

SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
762	PREFORMED PATTERNED PVMT MK 4IN LINE-GROOVED	LF	3600.00	31.40	113.04	30.00	108.00		
762	PREFORMED PATTERNED PVMT MK 8IN LINE-GROOVED	LF	9996.00	72.10	720711.16	69.00	689724.40		
762	PREF PATT PVMT MK 4IN LINE CONTRAST-GROOVED	LF	10360.00	60.10	622263.60	57.50	595700.00		
764	W-BEAM GUARDRAIL	LF	1070.00	385.90	41291.3	369.30	39515.1		
764	RESET W-BEAM GUARDRAIL	LF	720.00	152.20	109584	145.60	104832		
764	RESET W-BEAM GUARDRAIL END TERMINAL	EA	2.00	3431.80	6863.6	3284.00	6568.0		
764	REMOVE CONCRETE SAFETY SHAPE TRANSITION	EA	2.00	13585.00	27170.0	6000.000	12000.00		
770	CONCRETE FOUNDATION-HIGHWAY LIGHTING	EA	105.00	2926.00	307230.0	250.000	26250.00		
770	PULL BOX	EA	3.00	8882.50	26647.5	600.000	1800.00		
770	2IN DIAMETER RIGID CONDUIT	LF	2001.9.000	26.60	53250.54	25.00	50047.50		
770	UNDERGROUND CONDUCTOR NO4-TYPE RHW	LF	4238.8.000	13.60	57647.68	12.00	50865.60		
770	UNDERGROUND CONDUCTOR NO6-TYPE RHW	LF	2076.4.000	9.40	19518.16	8.00	16611.20		
770	FEED POINT-TYPE IV-PAD MOUNTED	EA	2.00	5538.50	11077.0	4000.000	8000.00		
770	HP SODIUM VAPOR LUMINAIRE-400 WATT	EA	109.00	757.63	82581.67	650.000	70850.00		
770	UNDERPASS LIGHTING SYSTEM	EA	1.00	1567.50	1567.50	2000.000	2000.00		
770	RELOCATE LIGHT STANDARD	EA	4.00	261.25	1045.00	2500.000	10000.00		
770	REMOVE LIGHT STANDARD	EA	13.00	156.75	2037.75	200.000	2600.00		
770	REMOVE PULL BOX	EA	2.00	470.25	940.50	50.000	100.00		
770	REMOVE CONCRETE FOUNDATION	EA	4.00	418.00	1672.00	1000.000	4000.00		
770	LT POLES & LUMINAIRES-SUPPLY ONLY	EA	5.00	1959.80	9796.90	1150.000	5750.00		
770	LIGHT STANDARD 40FT MT HT (NO MAST ARM)	EA	101.00	1306.25	131931.25	1200.000	121200.00		
772	SIGNAL STANDARD FOUNDATION	EA	12.00	261.25	3135.00	600.000	7200.00		
772	SIGNAL STANDARD-MA FOUNDATION	EA	6.00	2194.50	13167.00	2500.000	15000.00		
772	PAD MOUNTED CONCRETE FOUNDATION	EA	3.00	627.00	1881.00	600.000	1800.00		
772	CONCRETE FOUNDATION-FEED POINT-TYPE B	EA	2.00	1254.00	2508.00	250.000	500.00		
772	PULL BOX PVC WITH METAL FRAME & COVER	EA	4.50	731.50	3291.75	600.000	2700.00		
772	1IN DIAMETER RIGID CONDUIT	LF	171.00	4.80	714.78	2.800	478.80		
772	2IN DIAMETER RIGID CONDUIT	LF	1662.5.000	26.60	44222.50	25.00	41562.50		
772	4IN DIAMETER RIGID CONDUIT	LF	368.1.000	41.80	15386.58	50.00	18405.00		
772	UNDERGROUND CONDUCTOR NO6-TYPE RHW	LF	120.00	20.90	2508.0	10.00	1200.0		
772	UNDERGROUND CONDUCTOR NO6-TYPE THW	LF	60.00	20.90	1254.0	8.00	480.0		
772	DETECTOR LOOP-POLYETHYLENE CONDUIT PRE-WIRED	LF	897.5.000	7.80	7000.50	20.00	17950.00		
772	LOOP LEAD-IN CONDUCTOR	LF	1733.1.000	8.40	14558.04	8.00	13864.80		
772	EMERGENCY VEHICLE DETECTOR CABLE	LF	186.2.000	9.90	1843.38	5.00	931.00		
772	NO12 AWG 2 CONDUCTOR CABLE	LF	790.6.000	9.90	7826.94	5.00	3953.00		
772	NO12 AWG 3 CONDUCTOR CABLE	LF	135.00	15.20	2052.0	7.00	945.0		
772	NO12 AWG 5 CONDUCTOR CABLE	LF	102.7.000	16.70	1715.09	12.00	1232.40		
772	NO12 AWG 7 CONDUCTOR CABLE	LF	205.5.000	22.50	4623.75	15.00	3082.50		
772	NO12 AWG 12 CONDUCTOR CABLE	LF	375.2.000	27.20	10205.44	22.50	8442.00		
772	SAW SLOT	LF	237.6.000	81.00	19245.60	140.00	33264.00		
772	FEED POINT-TRAFFIC SIGNALS	EA	1.00	3657.50	3657.50	3500.000	3500.00		
772	TYPE IV SIGNAL STD 46FT MA	EA	1.00	15779.50	15779.50	15500.000	15500.00		
772	TYPE V SIGNAL STANDARD	EA	7.00	1567.50	10972.50	2000.000	14000.00		
772	TYPE VI SIGNAL STD	EA	3.00	1776.50	5329.50	2100.000	6300.00		
772	COMBO 36FT MA SIG & LT STD-TYPE C	EA	1.00	8882.50	8882.50	7800.000	7800.00		
772	COMBO 45FT MA SIG & LT STD-TYPE C	EA	1.00	15570.50	15570.50	15500.000	15500.00		
772	COMBO 52FT MA SIG & LT STD-TYPE C	EA	1.00	18601.00	18601.00	16000.000	16000.00		

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 9 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470

FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

	BIDDER	BIDDER	BIDDER
	UPPER PLAINS CONTRACTING INC	STRATA CORPORATION CONSTRUCTION DIVISION	
	ABERDEEN, SD	GRAND FORKS, ND	
	c.c. BOND RANK 03	c.c. BOND RANK 04	c.c.

SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
772	1-WAY 3 SEC HEAD-MA MTD	EA	10.000	940.500	940.500	650.000	650.000		
772	1-WAY 3 SEC HEAD W/12IN LENS-POST MTD	EA	7.000	888.250	6217.75	600.000	4200.00		
772	1-WAY 3 SEC HEAD W/12IN LENS-PEDESTAL MTD	EA	17.000	815.100	13856.70	625.000	10625.00		
772	1-WAY 5 SEC HEAD W/12IN LENS-PEDESTAL MTD	EA	4.000	1149.500	4598.00	1000.000	4000.00		
772	1-WAY 5 SEC HEAD W/12IN LENS-MA MTD	EA	1.000	1306.250	1306.25	1050.000	1050.00		
772	PEDESTRIAN COUNTDOWN SIGNAL HEAD-POST MTD	EA	4.000	731.500	2926.00	500.000	2000.00		
772	PEDESTRIAN COUNTDOWN SIGNAL HEAD-PEDESTAL MTD	EA	12.000	731.500	8778.00	500.000	6000.00		
772	PEDESTRIAN PUSHBUTTON POST	EA	8.000	235.130	1881.04	300.000	2400.00		
772	PEDESTRIAN PUSHBUTTON & SIGN	EA	9.000	276.930	2492.37	150.000	1350.00		
772	EMERGENCY VEHICLE PRE-EMPTION UNIT	EA	1.000	9196.000	9196.00	4500.000	4500.00		
772	FIRESTATION EMERGENCY VEHICLE PRE-EMPTION UNIT	EA	1.000	4702.500	4702.50	2000.000	2000.00		
772	TYPE B CONTROLLER & CABINET	EA	1.000	23512.500	23512.50	20000.000	20000.00		
772	REVISE TRAFFIC SIGNAL	EA	2.000	4075.500	8151.00	5000.000	10000.00		
772	RELOCATE CONTROLLER CABINET	EA	1.000	2299.000	2299.00	1200.000	1200.00		
772	RELOCATE FEED POINT	EA	1.000	1567.500	1567.50	800.000	800.00		
772	RELOCATE MA SIGNAL HEAD	EA	1.000	209.000	209.00	200.000	200.00		
772	RELOCATE SIGNAL STANDARD	EA	4.000	2194.500	8778.00	2000.000	8000.00		
772	RELOCATE PULL BOX	EA	16.000	365.750	5852.00	300.000	4800.00		
772	RELOCATE PEDESTRIAN PUSHBUTTON POST	EA	1.000	156.750	156.75	1000.000	1000.00		
772	REMOVE INTERIM TRAFFIC SIGNALS	EA	1.000	3344.000	3344.00	5000.000	5000.00		
772	REMOVE VEHICULAR HEADS	EA	6.000	156.750	940.50	30.000	180.00		
772	REMOVE PEDESTRIAN HEADS	EA	8.000	104.500	836.00	25.000	200.00		
772	REMOVE PEDESTRIAN PUSHBUTTON	EA	10.000	52.250	522.50	15.000	150.00		
772	REMOVE CABLE-ALL	LF	8350.000	.210	1753.50	.100	835.00		
772	IT-PULL BOX	EA	5.000	1149.500	5747.50	2000.000	10000.00		
772	IT FIBEROPTIC CABLE	LF	18656.000	1.830	34140.48	2.000	37312.00		
772	COMMUNICATION SYSTEM	L SUM	1.000	18810.000	18810.00	25000.000	25000.00		
772	SURVEILLANCE CAMERA SYSTEM	EA	3.000	7837.500	23512.50	4800.000	14400.00		
	SUBTOTAL				1462199.76		1763135.82		
	OPTION 1								
714	END SECT-CONC REINF 15IN	EA	11.000	721.050	7931.55	474.860	5223.46		
714	PIPE CONDUIT 15IN-STORM DRAIN	LF	2585.000	28.220	72948.70	27.630	71425.55		
714	PIPE CONDUIT 18IN-STORM DRAIN	LF	2814.000	30.310	85292.34	27.310	76850.34		
714	PIPE CONDUIT 30IN-STORM DRAIN	LF	275.000	52.250	14368.75	43.250	11893.75		
714	PIPE CONDUIT 36IN-STORM DRAIN	LF	143.000	67.930	9713.99	96.870	13852.41		
714	PIPE CONDUIT 33IN-STORM DRAIN	LF	824.000	59.570	49085.68	55.450	45690.80		
714	PIPE CONDUIT 42IN-STORM DRAIN	LF	475.000	85.690	40702.75	69.160	32851.00		
714	PIPE CONDUIT 48IN-STORM DRAIN	LF	2872.000	98.230	282116.56	96.330	276659.76		
714	PIPE CONDUIT 54IN-STORM DRAIN	LF	195.000	123.310	24045.45	139.300	27163.50		
714	PIPE CONDUIT 66IN-STORM DRAIN	LF	156.000	168.250	26247.00	174.980	27296.88		
	SUBTOTAL				612452.77		588905.45		
	OPTION 2								
714	PIPE CONDUIT 15IN-STORM DRAIN	LF	2585.000	.000	.00	.000	.00		

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

ND DEPARTMENT OF TRANSPORTATION

SHEET NO 10 OF 10

ABSTRACT OF BIDS RECEIVED

PROJECT NO. STM-SU-8-984(108)111

COUNTY & DATE CASS (017) JAN 29, 2010 09:30AM

LENGTH & TYPE 2.470
FARGO 45TH ST FROM 26TH AVE S - 52ND AVE

COMPLETION TIME 10/08/10 PCC PAVEMENT, GRADING, STORM DRAINS, S

NO. 26

BIDDER	UPPER PLAINS CONTRACTING INC	STRATA CORPORATION CONSTRUCTION DIVISION	
	ABERDEEN, SD	GRAND FORKS, ND	
	c.c. BOND RANK 03	c.c. BOND RANK 04	c.c.

SPEC. NO.	ITEM DESCRIPTION	UNIT	QUANTITY	BID PRICE	AMOUNT	BID PRICE	AMOUNT	BID PRICE	AMOUNT
714	PIPE CONDUIT 18IN-STORM DRAIN	LF	2814.000	.000	.00	.000	.00		
714	PIPE CONDUIT 30IN-STORM DRAIN	LF	275.000	.000	.00	.000	.00		
714	PIPE CONDUIT 36IN-STORM DRAIN	LF	143.000	.000	.00	.000	.00		
714	PIPE CONDUIT 33IN-STORM DRAIN	LF	824.000	.000	.00	.000	.00		
714	PIPE CONDUIT 42IN-STORM DRAIN	LF	475.000	.000	.00	.000	.00		
714	PIPE CONDUIT 48IN-STORM DRAIN	LF	2872.000	.000	.00	.000	.00		
714	PIPE CONDUIT 54IN-STORM DRAIN	LF	195.000	.000	.00	.000	.00		
714	PIPE CONDUIT 66IN-STORM DRAIN	LF	156.000	.000	.00	.000	.00		
714	END SECT CORR STEEL .064IN 15IN	EA	11.000	.000	.00	.000	.00		
	SUBTOTAL				NO BID		NO BID		
	OPTION 3								
714	PIPE CONDUIT 15IN-STORM DRAIN	LF	2585.000	.000	.00	.000	.00		
714	PIPE CONDUIT 18IN-STORM DRAIN	LF	2814.000	.000	.00	.000	.00		
714	PIPE CONDUIT 30IN-STORM DRAIN	LF	275.000	.000	.00	.000	.00		
714	PIPE CONDUIT 36IN-STORM DRAIN	LF	143.000	.000	.00	.000	.00		
714	PIPE CONDUIT 33IN-STORM DRAIN	LF	824.000	.000	.00	.000	.00		
714	PIPE CONDUIT 42IN-STORM DRAIN	LF	475.000	.000	.00	.000	.00		
714	PIPE CONDUIT 48IN-STORM DRAIN	LF	2872.000	.000	.00	.000	.00		
714	PIPE CONDUIT 54IN-STORM DRAIN	LF	195.000	.000	.00	.000	.00		
714	PIPE CONDUIT 66IN-STORM DRAIN	LF	156.000	.000	.00	.000	.00		
714	END SECT CORR STEEL .064IN 15IN	EA	11.000	.000	.00	.000	.00		
	SUBTOTAL				NO BID		NO BID		
	TOTAL				1523444.53		1822026.67		
				NO LIMIT		NO LIMIT			

ACTION TAKEN BY DEPARTMENT OF TRANSPORTATION DIRECTOR: AWARD TO: DAKOTA UNDERGROUND COMPANY WHEN PRELIMINARY ARRANGEMENTS ARE COMPLETED.

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DATE OF AWARD

DEPARTMENT OF TRANSPORTATION DIRECTOR

CITY OF Fargo

ENGINEERING DEPARTMENT
200 3rd Street North
Fargo, North Dakota 58102
Phone: (701) 241-1545
Fax: (701) 241-8101
E-Mail: feng@cityoffargo.com

February 18, 2009

Honorable Board of City Commissioners
City of Fargo
200 3rd Street North
Fargo, ND 58102

Re: Project No. 5657 – Wastewater Treatment Facility Improvements

Dear Commissioners:

Bids were opened at 11:30 AM on Wednesday, February 3, 2010 for the Wastewater Treatment Facility Improvements, Project No. 5657, located at the Wastewater Stabilization Ponds.

The bids were as follows:

Industrial Builders, Inc.	$2,399,690.00
Veit & Co., Inc.	$2,445,465.00
Jenson Brothers Const., Inc.	$2,601,005.00
Gladen Construction, Inc.	$2,797,993.00
Rachel Contracting	$2,887,400.00
Master Construction Co.	$2,997,395.00
Strata Corporation	$3,335,365.00
Engineer's Estimate	$2,755,175.00

The special assessment escrow is not required.

This office recommends concurrence with Ulteig's bid award to Industrial Builders in the amount of $2,339,690.00 as the lowest and best bid, contingent upon concurrent approval by the Department of Health.

Sincerely,

Brenda E. Derrig, PE

Brenda E. Derrig, PE
Senior Engineer

C: Mark Bittner, City Engineer
Bruce Grubb, Enterprise Director
James Hausauer, Wastewater Utility Manager

Ulteig

Energy | Water | Built-Environment

February 16, 2010

Ms. Brenda Derrig, PE
City of Fargo Engineering Department
200 North 3rd Street
Fargo, North Dakota 58102

Subject: Wastewater Stabilization Pond Improvements
City of Fargo, ND Project No. 5657
UEI Project No. R09.01002

On February 3, 2010, the City of Fargo received seven sealed bids for the subject project. The bids included unit price work for the improvements to the wastewater stabilization ponds.

After reviewing the Bids, it is our recommendation that the City of Fargo award the Contract to the low bidder, Industrial Builders, for a price of $2,399,690. A tabulation of the bids is attached for your reference.

The plans and specifications were approved by the North Dakota Department of Health. Since the Environmental Review period may not be over when the project is awarded, the Department of Health asked that the contract be awarded *"contingent on North Dakota Department of Health approval."*

If you have any questions, please call me at 701.280.8618.

Sincerely,

Karla J. Olson, PE
Project Manager

Cc: Steve Sprague, City of Fargo
Pete Bilstad, City of Fargo
Jim Hausauer, City of Fargo

Enclosure

O:\Projects\2009\09.01002\Water-Wastewater\Bidding\AwardLetter.doc

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COVER SHEET
CITY OF FARGO PROJECTS

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

Exact, full name of Project as it will appear in the Contract:

Traffic Signal Improvements

Project No. 5919-01

Call For Bids February 22, 2010

Bid Opening Date March 17, 2010

Completion Date July 1, 2010

N/A PWPEC Report (Attach Copy) **Part of 2010 CIP**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

N/A Notice to Property Owners (Dan Eberhardt)

Project Engineer Allen Schumacher

Phone No. 297-7780

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

N/A Create District (Attach Copy of Legal Description)

N/A Order Plans & Specifications

N/A Approve Plans & Specifications

N/A Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

N/A Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT

TRAFFIC SIGNAL IMPROVEMENTS

PROJECT NO. 5919-01

Nature & Scope

This project calls for installation of a pedestrian HAWK beacon system at 16th Street and 13th Avenue South.

Purpose

This project will consist of adding a HAWK pedestrian beacon at the intersection of 13th Avenue South and 16th Street. The sole purpose of this type of device is to allow for safe and efficient movement of pedestrians and bicyclists in the area to cross 13th Avenue South. HAWK is an acronym for **H**igh Intensity **A**ctivated Cross**w**al**k**. The HAWK uses traditional traffic and pedestrian signal heads but in a different configuration. It includes a sign instructing motorists to "stop on red" and a "pedestrians" overhead sign. There is also a sign informing pedestrians on how to cross the street safely.

Feasibility

The estimated construction cost of the project is $47,579.00. The project is to be funded by CSSI and $20,000 coming from the Fargo School District.

Estimated Construction Cost:	$47,579.00
Plus 15% Engineering & Administration fees:	7,136.00
Total Project Cost:	$54,715.00

We believe this project to be cost effective.

REGISTERED PROFESSIONAL ENGINEER
JEREMY M. GORDEN
PE-5328
DATE 2-18-10
NORTH DAKOTA

March, 2010

Jeremy M. Gorden, P.E.
Senior Engineer – Transportation

COVER SHEET
CITY OF FARGO PROJECTS

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

Exact, full name of Improvement District as it will appear in the Contract:

Water Main Replacement, Street Reconstruction & Incidentals

Improvement District No. 5913

Call For Bids February 22, 2010

Bid Opening Date March 31, 2010

Completion Date September 20, 2010

X PWPEC Report (Attach Copy) **Part of 2010 CIP**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

X Notice to Property Owners (Dan Eberhardt)

Project Engineer Ray Giesinger

Phone No. 241-1551

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

X Create District (Attach Copy of Legal Description)

X Order Plans & Specifications

X Approve Plans & Specifications

X Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

X Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT

WATER MAIN REPLACEMENT, STREET RECONSTRUCTION & INCIDENTALS

IMPROVEMENT DISTRICT NO. 5913

Nature & Scope

This project is for the replacement of water mains and street reconstruction on:
11th Street South from 10th Avenue to 13th Avenue
11th Avenue South from 10th Street to South University Drive
12th Avenue South from 10th Street to South University Drive

This project was approved by the Fargo City Commission under the 2010 Capital Improvements Program (CIP) which includes water main replacements and street reconstruction.

Purpose

The existing water mains are cast iron, which were installed 83 – 88 years ago, and have a record of numerous breaks. Replacement of the water main with DR-18 PVC pipe will correct the situation.

The existing roadway section to be replaced was constructed up to 88 years ago. It has deteriorated beyond its life expectancy.

This project does provide for the replacement of individual sewer services that were not replaced in the past.

Feasibility

The estimated cost of construction is approximately $781,385. The cost breakdown is as follows:

Water Main Replacement	$ 247,845
Plus 25% Engineering & Administration fees	$ 61,961
Total Estimated Water Main Replacement	$ 309,806
Special Assessments 1,925.84 FF @ $35 =	$ 67,404
Water Main Funds	$ 242,402
Street Reconstruction	$ 533,540
Plus 25% Engineering & Administration fees	$ 133,385
Total Estimated Street Reconstruction	$ 666,925
Special Assessments 1,880.2 FF @ $60	$ 112,813
Street Rehabilitation Funds	$ 554,112

Total Estimated Cost		$ 976,731
Special Assessments	18.45%	$ 180,217
Water Main Funds	24.82%	$ 242,402
Street Rehabilitation Funds	56.73%	$ 554,112
	100%	$ 976,731

The cost to the property owners will be limited to $35/foot for water main replacement, $35/foot for sanitary sewer repair and $60/foot for pavement reconstruction.

We believe this project to be cost effective.

REGISTERED PROFESSIONAL ENGINEER
MARK H. BITTNER
PE - 1958
DATE: 2-18-10
NORTH DAKOTA

Mark H. Bittner
City Engineer

February 2010

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

WATER MAIN REPLACEMENT,
STREET RECONSTRUCTION & INCIDENTALS

IMPROVEMENT DISTRICT NO. 5913

LOCATION:

On 11th Street South from 10th to 13th Avenue.
On 11th Avenue South from 10th Street to South University Drive.
On 12th Avenue South from 10th Street to South University Drive.

COMPRISING:

Lots 1, and 20 through 24, inclusive, Block RR.
Lots 11 through 15, inclusive, Block SS.
All in Erskins Addition.

Lots D through O and R through Y, inclusive, Block 2.
All in McLarens Subdivision of Erskins Addition.

Lots 5 through 13, inclusive, & vacated alley, Block 1.
Lots 1, and 4 through 8, inclusive, Block 2.
All in Monsons Subdivision of Erskins Addition.

Lots 2, 3, 5, 6 & 7, Block 1.
All in Northrops Addition.

Lots 1, and 4 through 10, inclusive, Block 1.
All in Nelsons Addition.

Lots 1 through 6, inclusive, and Lot 12, Block 2.
All in Phelps Subdivision of Erskins Addition.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.