

FARGO CITY COMMISSION AGENDA
Monday, February 8, 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, January 25, 2010).

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

- a. 2nd reading, waive reading and final adoption of an Ordinance Relating to Taxicabs, Owners and Drivers, Limousines and Handicapped Vans; 1st reading, 1/25/10.
- b. 1st reading of an Ordinance Relating to Issuance and Transfer of Licenses (requiring that Class "E" Alcoholic Beverage Permit applications be received 7 days prior to event).
- c. 1st reading of Ordinances Relating to Dogs and Cats and Relating to Ordinance Violations (potentially dangerous and dangerous dogs).
- d. Corrected Resolution Prescribing Rates and Charges for Forestry Utility Services for 2010.
- e. Contract for Records Manager Services within the Police Department.
- f. Vehicle Lease Agreement to allow the lease of a Moorhead bus in 2010 for Fargo Transit.
- g. Contract with Steve Martens in the amount of \$8,998.00 to write the Oak Grove National Register nomination.
- h. Acceptance of Department of Commerce/DHS FY 2007 Public Safety Interoperable Communications Grant (CFDA #11.555) and Police Department budget adjustment in the amount of \$64,264.00.
- i. Fire Department budget adjustments in the amount of \$5,710.11 for M-F Haz Mat training.
- j. Homeland Security grants (CFDA #97.067) and Fire Department budget adjustments in the amount of \$542,067.98 to respond to chemical, biological, radiological and explosive events.
- k. Expenditure of Neighborhood Stabilization funds in the amount of \$611,890.00 for the development of 113 and 123 16th Street South.
- l. Memorandum of Understanding with the Southeast Community Action Agency to provide case management and reporting requirements associated with the Homeless Prevention and Rapid Re-Housing Grant.
- m. Expenditure of \$12,000 in CDBG funds for a neighborhood sign project in the Roosevelt Neighborhood Association.

- o. Applications for property tax exemptions for improvements made to buildings:
 - (1) Eric and Jessie Berg, 1257 3rd Street North (5 years).
 - (2) Aaron and Alyssa Solseng, 49 16th Avenue North (5 years).
 - (3) Robert and Celeste Sticca, 1230 5th Street North (5 years).
 - (4) John Osborne, 1427 5th Avenue South (5 years).
 - (5) Clem Schnase, 708 8th Street North (5 years).
 - (6) David and Heidi Huus, 616 1st Street North (5 years).
 - (7) Scott and Shannon Dahms, 423 8th Street South (5 years).
 - (8) Renee Godke, 1138 3rd Street North (5 years).
 - (9) Matthew and Janess Sveet, 362 9th Avenue South (5 years).
 - (10) Eric Exner, 322 24th Avenue North (5 years).
 - (11) Frank Anderson, 1225 North Elm (5 years).
 - (12) Mark and Alene Dravitz, 2431 Lilac Lane (3 years).
 - (13) David and Susan Middaugh, 3273 Evergreen Road North (3 years).

- p. Request from the El Zagal Shrine to hang banners in the skyway from March 8th to March 23rd to promote the El Zagal Shrine Circus.

- q. Applications for Games of Chance:
 - (1) Shanley Auction for a raffle on 4/24/10.
 - (2) Cathedral of St. Mary for bingo and a raffle on 5/16/10.
 - (3) Red River Valley Figure Skating Club for a raffle on 3/14/10.
 - (4) Rusty Quart Brain Freeze Benefit for a raffle on 2/20/10; Public Spirited Resolution.

- r. "Water Supplier and Wastewater Treatment Supplier Certificate", including a consent to the assignment to Dougherty Funding LLC by Tharaldson Ethanol Plant I, L.L.C. of the interest of Tharaldson in the ethanol project.

- s. Contract Amendment No. 2 with Ulteig Engineers in the amount of \$31,650.00 for Project No. 5726-1.

- t. Technical Support Services Agreements with Moore Engineering and Siemens Water Technologies regarding the effluent reuse facility at the Wastewater Treatment Plant.

- u. Application to the North Dakota Industrial Commission for bonding authority under the State QECBs program for a wind energy project in the SW 1/4 of the NW 1/4 of Section 28, Township 140, Range 57.

- v. Change Order No. 1 for an increase of \$309,416.00 for Contract A and Change Order No. 1 for an increase of \$18,231.00 for Contract B for the Intermediate Clarifier Improvements at the Wastewater Treatment Plant.

- w. Change Order No. 4 for an increase of \$6,544.00 for the 64th Avenue South Water Tower.

- x. Change Order No. 5 for an increase of \$68,066.00 for Project No. 5726.

- y. Change Order No. 3, Part A for an increase of \$36,002.85 and Change Order No. 2, Part B for an increase of \$3,632.39 for Project No. 5729.

Page 3 Purchase Agreement with Lampert Yards, Inc. for permanent right-of-way, utility easement and Moorhead Public Service easement (Improvement District No. 5803).

- aa. Purchase Agreements – Temporary Construction Easements in connection with Improvement District No. 5700:
 - (1) Christianson Holdings, LLLP.
 - (2) WBCM of North Dakota, LLC.
 - (3) The Shoppes at Osgood, LLC.
 - (4) The Shoppes at Osgood II, LLC.
 - (5) Brandt Crossing, LLC.
- bb. Adopt Resolution in connection with Improvement District No. 5547 recognizing the project is substantially complete.
- cc. NDDOT Cost Participation and Maintenance Agreement for Improvement District No. 5700, Phase 4.
- dd. Bills.
- ee. Create Improvement District Nos. 5908 and 5912.

* * * Regular Agenda * * *

- 1. Request for amendments to the Forestry Department Ordinances.
- 2. Recommendation to extend the moratorium on electronic messaging center signs.
- 3. 1st reading of an Ordinance Relating to Noise Control and Radio Interference (“engine compression brakes”).
- 4. Public Hearings - 5:15 p.m.:
 - a. Renaissance Zone Project for Michael and Lauren Falkner at 505 Broadway, #304.
 - b. Osgood Villas Fourth Addition; approval recommended by the Planning Commission on 11/12/09 (4106, 4108, 4110, 4124, 4138, 4144, 4159, 4165, 4171 and 4200 Clubhouse Drive S.):
 - (1) Petition for a zoning change from SR-3, Single-Dwelling to SR-5, Single-Dwelling on Lots 1 through 8, Block 2.
 - (2) 1st reading of rezoning Ordinance.
 - (3) Plat of Osgood Villas Fourth Addition.
 - c. Petition requesting a zoning change from MR-2, Multi-Dwelling to SR-3, Single-Dwelling and MR-3, Multi-Dwelling to SR-3, Single-Dwelling on portions of Kirkhams 2nd Addition, a part of the north half of Section 1, Township 139 North, Range 49 West (1114, 1115, 1118, 1121 and 1136 14th St. N., 1007, 1011, 1016, 1018, 1028, 1106, 1115, 1117 and 1122 College St. N. and 1359 10th Ave. N.).
 - (1) Approval recommended by the Planning Commission on 1/13/10.
 - (2) 1st reading of rezoning Ordinance.
- 5. Waive the requirement to receive and file an Ordinance one week prior to 1st reading and 1st Reading of an Ordinance Relating to States of Emergency – Declaration and Duration.

Page 6 4 Request to allow emergency procurement procedures for flood fighting.

7. Amend the City's purchasing card limits for natural disaster events.

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 SECTIONS 25-0401, 25-0406, 25-0411,
25-0413, 25-0414, 25-0416, 25-0417, 25-0419, 25-0421, 25-0422, 25-0423,
25-0424, 25-0428, 25-0430 AND 25-0433 OF ARTICLE 25-04
OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
RELATING TO TAXICABS, OWNERS AND DRIVERS, LIMOUSINES AND
HANDICAPPED VANS

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.

Article 25-04 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

ARTICLE 25-04

TAXICABS, OWNERS AND DRIVERS, LIMOUSINES AND HANDICAPPED VANS

Section	
25-0401	Definitions.
25-0402	Licenses.
25-0403	Application for licenses.
25-0404	License fees.
25-0405	Insurance.
25-0406	Issuance of taxicab licenses and license plates.
25-0407	Transfer of licenses.

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- 1 25-0408 Renewal.
- 2 25-0409 Existing licenses continued.
- 3 25-0410 Suspension and revocation.
- 4 25-0411 ~~Leasing and u~~Unauthorized use prohibited.
- 5 25-0412 Condition of vehicles.
- 6 25-0413 Safety inspection.
- 7 25-0414 Record of calls.
- 8 25-0415 Taxicabs to be marked and rates posted.
- 9 25-0416 Taxicab meters required.
- 10 25-0417 Schedule of fares--Approval.
- 11 25-0418 Unlawful to charge fares in excess of schedule.
- 12 25-0419 Change in schedule.
- 13 25-0420 No franchise granted.
- 14 25-0421 Taxi driver's license.
- 15 25-0422 Revocation or suspension of a taxi driver's license.
- 16 25-0423 Transfer of drivers.
- 17 25-0424 ~~Duty to carry passengers~~Repealed.
- 18 25-0425 Direct route.
- 19 25-0426 Individual service.
- 20 25-0427 Hours of operation.
- 21 25-0428 Taxicab stands.
- 22 25-0429 Smoking prohibited.
- 23 25-0430 ~~Conduct of drivers~~Repealed.
- 25-0431 Riders prohibited.
- 25-0432 Limit on passengers.
- 25-0433 ~~Drivers to report accidents~~Repealed.

25-0401. Definitions.--

1. Handicapped Van: A motor vehicle equipped with a wheelchair lift, which is used for the sole purpose of transporting handicapped persons.

2. Limousine: A motor vehicle used for transporting passengers for remuneration based on an hourly rate which do not publicly solicit business, except through media advertising.

3. Taxicab: A motor vehicle used for transporting passengers for remuneration, including any financial gain or exchange of services. for which patronage is solicited publicly, but shall not include motor buses operating on fixed or established routes.

4. Passenger: Any individual person engaging a taxicab under the terms and provisions of this ordinance.

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1 25-0406. Issuance of taxicab licenses and license plates.--

2 A. After passage of the resolution of convenience and necessity as
3 provided in § 25-0403, and upon filing with the city auditor a receipt
4 of the city treasurer showing payment of the required license fees,
5 and the filing and approval of the policy of insurance as hereinbefore
6 provided, the city auditor shall issue to the applicant a taxicab
7 license. Each license granted shall be numbered and shall show the
8 owner's name and place of business and the number of vehicles
9 which may be operated thereunder.

10 B. ~~The city auditor shall issue to each licensee a license plate for each
11 vehicle licensed. The license plates shall be of such size, form, and
12 material as the city auditor may deem proper and shall have printed
13 or stamped thereon the words "Fargo Taxicab License" to be
14 followed by the appropriate serial number of said license and the
15 period for which issued. No vehicle shall operate as a taxicab unless
16 such plate is securely fastened in a conspicuous place on the front of
17 the vehicle.~~

18 C. ~~If a taxicab license plate is lost, the licensee shall secure a duplicate
19 thereof by applying to the city auditor and paying the sum of \$1.~~

20 DB. The city auditor shall issue handicapped van licenses and limousine
21 licenses but shall not issue license plates to such vehicles.

22 25-0411. Leasing and uUnauthorized use prohibited.--No license shall be granted to
23 any person, firm, association or corporation to operate handicapped vans, limousines, or
24 taxicabs unless the applicant is the owner or long-term lessee of such vehicle or vehicles to
25 be licensed, and it shall be unlawful for such licensee to lease or rent out such vehicle for the
26 purpose of transporting passengers for hire, or to permit the use of any vehicle not owned or
27 leased by such licensee for the transportation of passengers for hire under said license. A
28 licensee may lease or rent out vehicles for the purpose of transporting passengers to a person
29 holding a valid city of Fargo taxi drivers license. It shall be unlawful for any person other
30 than a duly licensed taxicab driver or a mechanic engaged in servicing the vehicle to drive a
31 vehicle licensed hereunder and a licensee, as well as any unauthorized driver shall be held
32 responsible for a violation of this provision.

33 25-0413. Safety inspection.--The brakes, horn, speedometer, lights, tires, steering
34 gear, and windshield wiper of each vehicle licensed under this ordinance shall be examined
35 and tested as to sufficiency prior to the granting of the original license, and at least once
36 every 90 days and annually thereafter. The inspection shall be made by any garage in the
37 city of Fargo approved by the chief of police and shall be evidenced by a certificate of

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1 examination and sufficiency which shall be filed with the chief of police, and a copy thereof shall be posted in the car so examined, showing the date of inspection.

2 25-0414. Record of calls.--All taxicabs shall keep a daily record of all calls made
3 and passengers transported, showing the time and place when and where the passenger was
4 secured, and the place where the passenger was taken, and the number ~~and sex~~ of
5 passengers, which record shall be kept by the licensee at the place of business stated in such
6 license for 60 days, and shall be open to inspection by any police officer at all times.

7 25-0416. Taxicab meters required.--From and after the 1st day of April, 1971, every
8 taxicab operated under authority granted by the city of Fargo shall be equipped with
9 taximeter of a make, construction and operation satisfactory to the chief of police, and shall
10 have a lighted dial in plain view to passengers, whereon shall be registered the fare for each
11 trip in accordance with the rates established in this chapter ~~and all such meters, before being
12 used for the charging of fares, shall be inspected by the chief of police as to its accuracy, and
13 sealed by him before it shall be used.~~

14 ~~Any taximeter which is the subject of a complaint shall be reinspected by the chief
15 of police and shall be placed out of service if such inspection establishes that such taximeter
16 is not accurate, and such taximeter shall not be placed out of service if such inspection
17 establishes that such taximeter is not accurate, and such taximeter shall not be re-approved
18 for use by the chief of police until its accuracy is redetermined. No person, except in the
19 inspection described above or in the repair thereof, shall tamper with, break or mutilate any
20 taximeter or the seal thereof with the purpose of causing such taximeter to register any fare
21 incorrectly, or for any other purpose whatsoever. No taxicab shall be operated in the city of
22 Fargo upon which the seal of said taximeter has been broken until such taximeter is
23 reinspected by the chief of police and resealed. No person shall operate any taxicab without
a sealed operating taximeter in compliance with this chapter.~~

16 A. Definitions.

- 17 1. ~~Passenger~~ Any individual person engaging a
18 taxicab under the terms and provisions of this
19 ordinance.
20 2. ~~Group~~ Two or more passengers boarding and
21 departing from a taxicab at the same origin
22 and destination.

20 BA. Schedule of fares.

21 Every person, firm or corporation holding operating authority
22 under this chapter for the operation of taxicabs, before
23 charging or collecting any fares for or with respect to the
transportation of passengers, shall first file with the city
auditor a schedule of fares to be uniformly charged in the
operation of all taxicabs used in the taxicab business of such

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licensee. The schedule of fares shall show separately the charge for the transportation of passengers, whether a flat rate or by mileage, and shall include a rate for the carriage of more than one passenger with different destinations.

EB. Uniformity of rates.

1. Taxicab fares shall be uniform throughout the city and shall not vary between license holders under this article.
2. A statement or schedule pertaining to multiple loading charges, flat rate charges for certain specified routes and any other information necessary to clarify rates to be charged shall be submitted to and approved by the board of city commissioners prior to the commencement of the operation of taxicabs with taximeters installed therein. Said statement or schedule shall be filed with the city auditor and shall have the concurrence of all licensed taxicab operators in the city of Fargo. Such concurrence shall be indicated by signature of all licensed operators on the statement or schedule referred to therein.
3. Any subsequent changes in the filed statement or schedule pertaining to rates shall have the approval of the board of city commissioners and the concurrence of all licensed taxicab operators in the same manner as required for the original schedule or statement.

25-0417. Schedule of fares--Approval.--The schedule of fares for ~~handicapped vans, limousines and taxicabs~~ shall be filed with the city auditor. ~~The schedule of fares for handicapped vans and limousines shall become effective upon filing with the city auditor.~~ The schedule of fares for taxicabs shall not become effective until approved by the board of city commissioners and shall remain in force until changed as hereinafter provided.

25-0419. Change in schedule.--Any schedule of fares filed with the city auditor in accordance with § 25-0416 shall be binding upon the licensee and all operators and drivers of vehicles under the license from the date ~~such schedule for handicapped vans and limousines is filed with the city auditor and such schedule for taxicabs is approved by the board of city commissioners or until such schedule is superseded by the filing of a new schedule by the licensee, and~~ until such new schedule for taxicabs has been approved by the board, provided, however, that no such schedule shall be superseded or revoked within 30 days after the filing of the same without approval of said board.

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25-0421. Taxi driver's license.--

1 A. No person shall operate a handicapped van, limousine or taxicab
2 unless he shall possess a taxi driver's license. The fee for such
license and the renewal thereof shall be as established by resolution
of the board of city commissioners.

3 B. Each applicant shall submit in writing to the chief of police on forms
4 furnished by the police department a statement of the applicant's full
5 name, his present address, ~~his residence for three years past, his age,~~
6 ~~color~~date of birth, height, weight, color of eyes and hair, citizenship,
7 ~~place of last previous employment, marital status,~~ state driver's
8 license number, whether he has ever been convicted of a felony or
9 misdemeanor, whether he has ever been previously licensed as a taxi
10 driver or ~~chauffeur~~limousine driver, and if so, when, and by what
authority, whether his license has ever been revoked or suspended,
and if so, for what cause, and the name of his prospective employer.
A clear and complete set of fingerprints of each applicant for a taxi
driver's license shall be made on said application or attached thereto.
All applications shall be retained in ~~police department records~~the city
auditor's office.

11 ~~C. Each applicant for a taxi driver's license shall be examined as to his~~
12 ~~knowledge of the provisions of this article and of the traffic~~
13 ~~regulations and his driving ability. The examination shall be~~
14 ~~conducted by a person designated by the chief of police. If the chief~~
~~of police shall find that the applicant is not qualified, the license shall~~
~~be refused.~~

15 ~~D. The applicant shall produce, on forms to be provided by the chief of~~
16 ~~police, affidavits of his good character from two reputable citizens of~~
17 ~~the city of Fargo who have known him personally and observed his~~
~~conduct during at least one year next preceding the date of his~~
~~application.~~

18 EC. No license shall be granted to any person:

- 19 1. Who is under 21 years of age.
20 2. Who does not possess a valid driver's license.
21 3. Who has been convicted of a felony within 5 years, or
22 who has been convicted of driving a vehicle upon the
23 highway while under the influence of intoxicating
liquor or narcotics within 2 years, or whose drivers
license has been revoked or suspended in any
jurisdiction within 1 year, unless two years have
elapsed since the date of his conviction or discharge

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~~from a penal institution, whichever is later~~ from the date the application is submitted.

4. ~~Who is not of sound physique or is without good eyesight and good hearing or is subject to epilepsy, vertigo, heart trouble, or other infirmity of body or mind which might render him unfit for the safe operation of a taxicab. The applicant shall furnish a health certificate issued by a reputable licensed physician or surgeon.~~ Who is required by law to register as an offender in any state.

FD. A taxi driver's license shall expire one year following the date of its issuance unless sooner suspended or revoked as herein provided. It may be renewed upon application to the ~~chief of police~~ auditor's office on a form furnished by ~~him~~ them entitled "Application for Renewal of Taxi Driver's License", which shall allow the full name and address of the applicant and the date upon which his original license was granted and the number thereof.

GE. Upon ~~presentation of the city treasurer's receipt for payment of the license fee, the chief of police~~ auditor shall deliver to each licensed taxi driver a license of such form and style as the chief of police may ~~prescribe, with the license number thereon,~~ which must, under penalty of revocation of the license, be constantly and conspicuously displayed on the taxicab when he is engaged in his employment. Each licensee shall affix to the face of the license in a space provided therefor, a photograph of himself, not less than one and one-half inches square which shall provide an accurate likeness of his face. No driver may loan his license or permit another person to use it, subject to revocation of his license.

HF. The ~~chief of police~~ auditor shall maintain a complete record of each license issued to a driver and of all renewals, suspensions, and revocations thereof, which shall be filed with the original application.

I. ~~Upon the issuance of such license there shall be delivered to the licensee a metal badge with the license number thereon, which badge must be continuously and conspicuously displayed on the outside of the licensee's cap when he is engaged in his employment as a handicapped van, limousine or taxi driver.~~

25-0422. Revocation or suspension of a taxi driver's license.--

A. The chief of police shall may revoke a taxi driver's license if the licensee has, since the granting of the same:

1. Been convicted of a felony.

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- 2. Had his state driver's license revoked or suspended.
- 3. Been convicted of driving while under the influence of intoxicating liquor or narcotics.
- 4. ~~Been convicted of two or more violations of the traffic ordinances of the city of Fargo or of any of the offenses set forth in chapters 39-09 and 39-10 of the North Dakota Century Code during any continuous six month period.~~
- 54. Made any false statement of his application for a license.
- 65. When for the preservation of public safety, welfare, morals, or good order, been found by the chief of police to be unfit to drive a taxicab.

B. Written notice of such revocation or refusal to renew shall be given the licensee. Any person whose license shall have been revoked or renewal thereof refused by the chief of police may within 10 days thereafter appeal to the board of city commissioners for a hearing thereon; and the board of city commissioners may, after the hearing, affirm or reverse the action of the chief of police. If no appeal is taken within 10 days, the action of the chief of police shall be final.

C. Instead of revoking such license, the chief of police, for a violation of any of the provisions of subsection (A) above or for such other cause as to him may make such course necessary or advisable, may suspend such license for a period of not to exceed 60 days.

D. Each license which is revoked shall be repossessed by the chief of police, or his designee, and turned over to the city auditor.

25-0423. Transfer of drivers.--A driver may not transfer from one licensee to another licensee until such transfer has been recorded in writing with the chief of police~~city auditor~~.

25-0424. Repealed. Duty to carry passengers. ~~No taxi driver shall refuse to carry passengers, with reasonable promptness, to or from any part of the city.~~

25-0428. Taxicab stands.--Duly licensed taxicabs may stand while waiting for employment at such places within the city as may from time to time be designated by the chief of police~~board of city commissioners~~. A taxi driver shall not stand or park his taxicab upon any street within the fire limits of the city at any place other than a taxicab stand, except that this provision shall not prevent any taxi driver from temporarily stopping in accordance with other stopping and parking regulations at any place for the purpose of and while actively engaged in loading or unloading passengers.

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~~25-0430. Repealed. Conduct of drivers. It shall be unlawful for any driver or person in charge of a vehicle licensed under this article to conduct himself in other than a gentlemanly manner while driving a taxicab or while in charge of such vehicle.~~

~~25-0433. Repealed. Drivers to report accidents. It shall be the duty of every driver of vehicles licensed under this article to report to the police department, within four hours after its occurrence, any accident resulting in any injury to persons or damage to property wherein a vehicle driven by him was involved.~~

Section 2. Effective Date.

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

Dennis R. Walaker, Mayor

(SEAL)

Attest:

First Reading:
Second Reading:
Final Passage:

Steven Sprague, City Auditor

b

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:

G:\ORDINANCES\Amendments - Ordinance book - current\alcohol - amend 25-1508(a).doc

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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 OF 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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1 manner that causes injury or sickness to the animal. Collars may not be equipped with any type of
2 sharp prongs on the inside of the collar or weighted devices that may cause injury or discomfort to
3 the animal's neck. Blunt pronged training collars are only permitted if the collar is properly fitted to
4 the animal and it has not been altered from the manufactured design. In case a tag is lost or
5 destroyed, a duplicate will be issued by the chief of police upon presentation of a receipt showing
6 the payment of the license fee for the current year and the payment of a \$.50 fee for such duplicate.
7 Tags shall not be transferable from one animal to another and no refunds shall be made on any
8 license fee because of death of the animal or the owners leaving the city before expiration of the
9 license period. The metal rabies inoculation tag shall also be kept affixed to the animals collar at all
10 times. The provisions of this ordinance shall not apply to dogs owned by the city of Fargo or any
11 other political subdivision and used for law enforcement purposes.

7 Section 2. Amend.

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

10 12-0105. Running at large prohibited.--

- 11 A. Every person having the custody or control of any dog or cat shall prevent
12 said animal from leaving the property limits of its owner or keeper without
13 being effectively restrained by a chain or leash not exceeding six feet in
14 length, or, within a vehicle being driven or parked on the street. In the event
15 any such dog or cat is found at large, the owner, custodian or keeper of such
16 animal shall be guilty of a violation of this section.
- 17 B. Every person having custody or control of a leashed animal on property
18 other than his own shall be equipped to, and collect said animal's solid waste
19 when eliminated.
- 20 ~~C. The owner of every fierce, dangerous, or vicious dog shall confine such
21 animal within a building or secure enclosure and such dog shall not be taken
22 out of such building or enclosure unless the dog is securely muzzled.~~
- 23 DC. 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.
- ~~ED. 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.

FE. 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.

GF. 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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1 out must be so secured in an area that does not allow the animal to become tangled around
2 objects and, thus, preventing the animal from having access to water and shelter. Chains,
3 tethers and tie outs must be placed in such a location as to preclude or prevent the animal
4 secured from reaching a public sidewalk, street or alley. The chain, tether or tie out must
5 not allow the secured animal access to any neighboring property unless written permission
6 has been obtained from the property owner. Animals restrained by a chain, tether, or other
7 tie out device, shall not be secured to any stationary object for more than two consecutive
8 hours, with at least a two-hour rest or relief period between each chaining, and no more than
9 four two-hour chaining periods in a twenty-four hour period. Kennels and pulley/cable run
10 systems shall be exempt from the two-hour restriction provided that:

- 6 A. The length of the pulley system is at least twelve feet and the attached tether
7 has a swivel at both ends;
- 8 B. The height of the pulley system is mounted at least seven feet above the
9 ground;
- 10 C. The space provided inside the kennel is at least thirty-two square feet;
- 11 D. The kennel floor is made of solid material, such as cement, brick, durable
12 plastic or other suitable material, not including, however, wood ;
- 13 E. The animal or animals so confined or secured to a kennel or pulley system
14 are not confined in it, or to it, for more than ten consecutive hours in a
15 twenty-four hour period.

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

- 13 A. It shall be unlawful to keep, harbor, own, or in any way possess more than
14 six dogs and cats over six months of age upon or about the premises of any
15 dwelling unit, within the corporate limits of the City of Fargo. The
16 maximum number of dogs and cats, combined, may not exceed six.
- 17 B. Exception - A person may request a permit from the Fargo Police
18 Department to keep more than six dogs and cats as part of a qualified home
19 used by organizations for rescue or sheltering of abandoned or lost animals.
20 For purposes of this section, a "qualified home" shall mean a home which
21 has received written approval to house abandoned or lost animals by or on
22 behalf of a bona fide organization involved in the rescue or sheltering of
23 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

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

- 8 a. That the owner not sell or transfer ownership of the dog.
 - 9 b. That the owner advise the court if the dog bites anyone else.
 - 10 c. That the owner advise the court if the dog dies or becomes
11 injured.
 - 12 d. That the dog undergo obedience training.
 - 13 e. That the owner post the property with warnings about a
14 dangerous animal.
 - 15 f. That the dog not be allowed outdoors during certain times, such
16 as between 7:30-9:30 a.m. and 2:00-4:00 p.m. (i.e. times when
17 school age children may be present), or the time when it is
18 known that the postman delivers the mail every day.
 - 19 g. Compliance with all other requirements of this section.
- 20 2. When a dog is designated to be potentially dangerous or dangerous,
21 the owner shall be notified in writing of such designation.
 - 22 3. Any dog deemed dangerous or potentially dangerous by another
23 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.

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

8 Section 11. Effective Date.

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

11 _____
12 Dennis R. Walaker, Mayor

13 (SEAL)

14 Attest:

15 First Reading:
16 Second Reading:
17 Final Passage:
18 Publication:

19 _____
20 Steven Sprague, City Auditor

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

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

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

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

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section 8-0804 (duty to give information and render aid), section 8-0805 (duty upon striking fixture or other property), section 8-0809 (false reports), section 10-0101 (minor using alcohol), 10-0104 (curfew), section 10-0201 (indecent exposure), section 10-0301 (disorderly conduct), section 10-0304 (carrying weapons), section 10-0317 (resisting police officer), section 10-0319 (incendiary devices), section 10-0320 (registration in schools), section 10-0321 (criminal mischief), section 10-0322 (harassment), section 10-0323 (simple assault), section 10-0324 (aiding and abetting), section 10-0601 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703 (tenant/owner cooperation required), section 12-0117(C) and 12-0117(G) (potentially dangerous and dangerous dogs), section 13-0511 (removal of wastes), section 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article 13-13 (drug lab cleanup), chapter 17 (sewers and sewerage), article 18-09 (excavation code), section 25-1509(A) (selling alcoholic beverage to minor), section 25-1513(A) (selling/consuming alcohol in vehicle/public), section 25-1513(B) (possessing/consuming alcohol in public building), section 25-1513(C) (minor misrepresenting age), and section 25-1513(D) (delivery of alcoholic beverage to minor), section 25-3302 (body art), section 25-3306 (body art unlawful practices); article 25-36 (tanning facilities).

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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:

First Reading:
Second Reading:
Final Passage:
Publication:

Steven Sprague, City Auditor

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MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: STEVEN SPRAGUE, CITY AUDITOR

DATE: FEBRUARY 2, 2010

SUBJECT: RESOLUTIONS PRESCRIBING RATES AND CHARGES FOR FOREST UTILITY SERVICES FOR 2010

In preparing the new utility rate charges for 2010 a discrepancy was discovered in the Forestry Utility rate table for commercial accounts. The original resolution had a range of 0 to 1 units. It was discovered that 0 units is not correct. The attached resolution corrects the unit table. There are no changes in the rates on the resolution.

Attached are copies of the resolutions prescribing rates and charges for utility services for the Forestry utility funds. These rate adjustments were approved by the City Commission as part of the 2010 annual budget.

Suggested Motion

Approve the corrected resolution prescribing rates and charges for Forestry utility services for the 2010 calendar year.

Attachments: Resolutions (1)

RESOLUTION PRESCRIBING FORESTRY RATES

BE IT RESOLVED by the Board of City Commissioners of the City of Fargo, North Dakota, pursuant to the provisions of Section 19-0104 of the Fargo Municipal Code of the City as amended, that until otherwise provided by resolution amendatory hereof or supplemental hereto, the following rates and charges shall be effective for all bills prepared after February 1, 2010.

1. **Residential units shall be \$3.00 per unit per month.**
2. **Apartments and commercial shall be billed according to the following schedule:**

<u>No. of Units</u>	<u>Rate</u>
1	\$4.20
2 - 4	\$5.98
5 - 12	\$8.10
13 - 20	\$10.12
21 - 28	\$12.21
29 - 36	\$14.24
37 - 54	\$16.49
55 - 71	\$18.98
72 - 250	\$21.85
251 and up	\$25.13

3. **Mobile Trailer Court shall be billed at the rate of \$4.20 per month together with an additional \$.89 per unit per month.**



To: Board of City Commissioners

From: Jill Minette *JM*
Director of Human Resources

Re: Consent Agenda Item
PEC Recommendation

Date: February 4, 2010

The Position Evaluation Committee recommends approval of the attached contract for Records Manager Services within the Police Department (see attached).

Suggested Motion:

Approve the recommendation of the PEC to adopt the enclosed contract for Records Manager Services within the Police Department effective immediately.

CONTRACTED SERVICES AGREEMENT

Records Manager Services

THIS AGREEMENT made and entered into effective the 1st day of February 2010, by and between ANNA WELDER, whose address is 2359 20th Ave South, Fargo ND 58103 (hereinafter referred to as "Welder") and the CITY OF FARGO, a municipal corporation, whose address is 200 Third Street North, Fargo, North Dakota 58102 (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, the City desires to acquire temporary assistance with the transition of the Records Manager position and with the training for the transition to a new Records Management System within the Fargo Police Department; and,

WHEREAS, the City desires to appoint Welder to perform the duties and services of Records Manager on a hourly part-time basis for a period beginning February 1, 2010 and ending September 1, 2010, unless otherwise terminated by either party as provided herein; and,

WHEREAS, Welder has agreed to accept such appointment to perform the duties and services of Records Manager on a contract employee basis according to the terms of this agreement; and,

WHEREAS, the parties wish to commit their agreement to writing.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. City agrees to appoint Welder for the purpose of performing the duties and services of Records Manager as described in Exhibit A attached hereto.

2. Term. The term of this agreement shall be for the period beginning February 1, 2010, extending through September 1, 2010, unless terminated by either party as provided for in paragraph 3 below.

3. Termination and Notice. This agreement may be terminated effective immediately by either party at any time by verbal or written notice.

4. Compensation. City agrees to compensate Welder in the amount of \$25.00 per hour for any and all duties and services performed as Records Manager during the contract period.

5. In addition to the terms of compensation listed above, the City shall pay the employer's share of the following:

- (a) Social Security (FICA)
- (b) Workers Compensation
- (c) Unemployment Insurance
- (d) Federal Withholding (income tax)
- (e) State Income Tax
- (f) Medicare

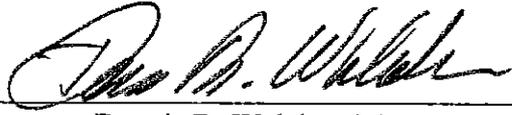
6. Welder is not entitled to and hereby waives any other benefits offered to other employees of the City, including medical and dental insurance.

7. During the term of this agreement, Welder agrees to comply with all employee policies of the City and Fargo Police Department, including all safety rules and procedures.

8. Civil service/pension plan--benefits not available. The parties hereto understand and agree that Welder shall not be part of the Civil Service of the city of Fargo, that Welder is not a member of the city of Fargo or Fargo Police Department pension plan, but is a contracted employee, as permitted under Fargo Municipal Code section 7.0102(D).

DATED the day and year first above written.

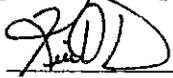
THE CITY OF FARGO, NORTH DAKOTA

By: 
Dennis R. Walaker, Mayor

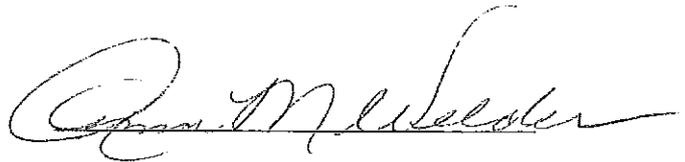
ATTEST:


Steven Sprague, City Auditor

Fargo Police Department

By: 

Keith A. Ternes, Chief of Police



Anna Welder
2359 20th Ave S.
Fargo, ND 58103

Exhibit A

Records Manager Duties

The Records Manager duties will generally be performed within the Fargo Police Department Headquarters or satellite facilities.

The duties of Records Manager are described as follows:

- Provide training and assistance to the newly hired Records Manager. This includes purchasing processes, payroll, report coding, understanding criminal statutes and reporting requirements, and all associated responsibilities of the Records Manager position.
- Assist with training Fargo Police Department personnel in the operation of a new Records Management System to be implemented in 2010.
- Records Manager duties are expected to include 4 to 8 hours of work per day one to three days a week during the customary work week.



MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: PLANNING DIRECTOR JIM GILMOUR 

DATE: FEBRUARY 4, 2010

SUBJECT: LEASE OF MOORHEAD BUS FOR FARGO TRANSIT

The Fargo Transit Division is interested in leasing a bus from the City of Moorhead for 2010. This would provide an additional bus for Fargo to increase the number of spare buses available for Fargo transit routes.

The City of Fargo owns 22 low floor transit buses. There are 18 buses in service during peak time periods and 4 used buses as spares to schedule maintenance and allow for vehicle accident repairs. Because more frequent repairs on older buses and the frequency of winter accidents, the city has been very short of spare buses.

The City of Moorhead has a larger number of spare buses and is willing to lease one of its buses to the City of Fargo. There would be no cost for the lease, but Fargo will be responsible for vehicle maintenance.

Fargo will take delivery of five new buses this summer. Based on the number of buses the City will need for 2011 and the availability of the Moorhead bus in future years, the lease could be continued into 2011.

A copy of the lease is attached for your consideration.

RECOMMENDED MOTION: Approve a Vehicle Lease Agreement with the City of Moorhead for 2010.



**VEHICLE LEASE AGREEMENT
CITY OF FARGO - CITY OF MOORHEAD**

THIS AGREEMENT, made and entered into this _____ day of _____, 2010, by and between THE CITY OF FARGO, NORTH DAKOTA, a municipal corporation of the State of North Dakota, hereinafter referred to as "Fargo" and THE CITY OF MOORHEAD, MINNESOTA, a municipal corporation of the State of Minnesota, hereinafter referred to as "Moorhead".

WITNESS TO:

WHEREAS, Fargo and Moorhead are providing public mass transportation services for the citizens and residents of their respective governmental subdivisions; and

WHEREAS, Fargo and Moorhead recognize the need to coordinate resources and service delivery to enhance efficiency and maximize the communities' investment in transportation; and

WHEREAS, Moorhead owns a bus that temporarily is available for use by Fargo and Fargo desires to use the bus for transit purposes;

NOW, THEREFORE, for and in consideration of the mutual covenants and undertaking hereinafter contained, and for other good and valuable consideration, and pursuant to the authority of the laws of the State of North Dakota and State of Minnesota, it is hereby agreed by and between the City of Fargo and the City of Moorhead as follows:

1. Term. This contract shall be in effect from the date hereof with service to commence on or about February 1, 2010, until December 31, 2010, provided that at the expiration of this period it shall continue on a month-to-month basis, unless sooner terminated upon sixty (60) days' notice.
2. Advertising Revenue. Revenue received from advertising on the interior or exterior of the paratransit vehicles shall be retained by the owner of the vehicle.
3. Vehicle Lease. Moorhead shall lease the vehicle to Fargo for its use for the sum of One Dollars (\$1) per year or part thereof. The vehicle shall be inspected by Fargo and Moorhead representatives prior to being placed into service and Fargo shall acknowledge in writing that the vehicle is in good repair and accepted. The transit vehicle is described as follows:

2003 Orion 7, Unit 381, VIN 1VHFD3A2736700623

The vehicle leased to Fargo by Moorhead is to be used for customary public transportation purposes. Personal usage and/or use for any other purpose is prohibited. At the termination of this agreement, the Moorhead-owned vehicle shall be returned to Moorhead in good repair, except for normal wear and tear and subject to the repair provisions set forth below. The vehicle shall be inspected by Fargo and Moorhead representatives at the end of this agreement and be accepted by Moorhead.

4. Vehicle Maintenance. Fargo shall be solely responsible for the repair and maintenance of the Moorhead vehicle leased to Fargo under this agreement. All vehicles shall be maintained by Fargo in accordance with the manufacturer's specification and warranty provisions and/or in accordance with Moorhead's Vehicle Maintenance Standards at a minimum. Where duplicate recommendations exist, Fargo shall be required to maintain in accordance with the stricter standards. Fargo shall be responsible for repair of the vehicle following an accident.

Fargo will inform Moorhead of repairs on a monthly basis. Service records must be kept for the vehicle and must be available for Moorhead's inspection at any time. Records shall include, but are not limited to, the unit number, nature of repair, list of all parts and part numbers used, source of the parts purchased, and the number of labor hours. Fargo shall pay for all bus repair parts, diesel fuels and other lubricants and other items necessary to keep the vehicle properly maintained and repaired.

The parties recognize that the vehicle is of such an age that it may become in need of a major engine or transmission overhaul or repair, despite the fact the vehicle is being properly and routinely serviced. In the event of an extraordinary or major repair that is not caused by the negligence of Fargo, at that time Fargo may return the vehicle to Moorhead and this agreement terminated or Moorhead will agree to pay for the major or extraordinary repair involved.

5. Storage Facilities. Fargo will provide maintenance and storage facilities necessary for the shelter and maintenance of the vehicle at the Metro Transit Garage.
6. Licensing. Vehicle licensing and fees shall be the responsibility of Moorhead.
7. Record Keeping and Reporting. Moorhead, Minnesota Department of Transportation, and U.S. Department of Transportation or their designee(s) may perform audits at any time of the books, records and accounts of Fargo and the paratransit contract operator. Fargo agrees to preserve, and to cause any subcontractor to preserve and make available for a period of six (6) years after the completion of the contract, any and all

financial, operations, administrative and maintenance records pertaining to this agreement.

Fargo shall provide any and all reports required by Moorhead on a monthly basis in a manner approved by Moorhead. Said reports shall be submitted no later than 20 days following the end of the month for which the report is made. Moorhead-required reports include, but are not limited, to those listed below:

- A. **Accounting/Record Keeping.** Accounting procedures utilized by Fargo relative to said transit system shall be consistent with Federal Transit Administration National Transit Database (Section 15) requirements and regulations of the State of Minnesota Department of Transportation.
 - B. **Repair/Maintenance Reports.** Fargo will submit a complete report of repairs, maintenance, fuel and special repairs for each Moorhead vehicle on a form approved by Moorhead. The maintenance report will identify the vehicle(s) serviced, parts and fluids utilized, and a detailed accounting of mechanic's hours in completing the repair.
 - C. **Accident Reports.** Fargo shall notify Moorhead immediately of any accident or incident involving a Moorhead vehicle or equipment. Fargo will notify Moorhead in writing within twenty-four (24) hours of the specifics of all incidents. Any accident report forms relating to the incident will be forwarded to Moorhead.
8. **Insurance.** Fargo shall be required to obtain and keep in force during the terms of operation covered by this proposal the insurance coverage listed below. Certificates or other acceptable documentation evidencing the required insurance will be furnished to the other party prior to commencing any work under this agreement.
- A. Fargo shall provide casualty, liability, bodily injury, collision and comprehensive insurance on the vehicle. The City of Fargo shall provide self-insurance or otherwise by liability insurance coverage, limited, however, to the statutory amount or amounts established by the State of North Dakota and State of Minnesota laws governing municipal liability.
9. **Amendment.** The terms and conditions of this agreement may be amended by the mutual consent of Fargo and Moorhead through resolution of each governing body.
10. **Indemnity.** Fargo agrees to indemnify and hold harmless Moorhead from and against all claims or demands of every nature on account of injury to or death of persons or damage to or loss of property, caused by or

resulting in any manner from any acts of omissions of Fargo, its subcontractors, its agents or employees, in performing or failing to perform any of the services, duties or operations to be performed by Fargo under this agreement or related to the use of the vehicle described herein.

- 11. Assignment or Subletting of Agreement. There shall be no assignment/transfer of interest or subletting this agreement or any part thereof or any other delegation of one party's rights, duties and responsibilities under this agreement without the prior written consent of the other.
- 12. Severability. In the event any provision of this agreement is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not effect, in any manner, the legality of the remaining provisions of this agreement, and each provision of the agreement will be and is deemed to be separate and severable from each other provision.
- 13. Non-Waiver. The failure of a party at any time to insist upon strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.
- 14. The City of Fargo, when carrying out the terms of this agreement, shall at all times adhere to the current applicable federal regulations, circulars, certifications, clauses and agreements for transit funding. A list of clauses currently applicable to contracting is included as Attachment A. As the federal government amends these requirements, the City of Fargo will comply with the new requirements. The City of Fargo will comply with these requirements to the extent they are providing transit service or when procuring transit goods or services. The City of Fargo will also include the appropriate requirements in contracts for transit goods and services.

IN WITNESS WHEREOF, the parties hereto have executed this agreement this _____ day of _____, 2010.

THE CITY OF FARGO, NORTH DAKOTA

By _____
Dennis R. Walaker, Mayor

ATTEST:

Steven Sprague, City Auditor

THE CITY OF MOORHEAD, MINNESOTA

By _____
Mark Voxland, Mayor

ATTEST:

Michael Redlinger, City Manager

EXHIBIT A

ATTACHMENT A

JOINT POWERS AGREEMENT
FARGO - MOORHEAD

AGREEMENT GOVERNING OWNERSHIP, USE, MANAGEMENT AND OPERATION OF THE
JOINT TRANSIT MAINTENANCE BUILDING

MASTER AGREEMENT:

The Master Agreement for Federal Transit Administration Agreements authorized by 49 U.S.C. chapter 53, Title 23, United States Code (Highways), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the Transportation Equity Act for the 21st Century, as amended, the National Capital Transportation Act of 1969, as amended, or other Federal laws that FTA administers.

FEDERAL CONTRACT CLAUSES:

Fly America Requirements - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Buy America - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. 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 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Charter Service Operations - The contractor agrees to comply with 49 U.S.C. 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.

School Bus Operations - Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

Seismic Safety - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 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 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification 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 certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
I State Grantees	None	Those imposed on state pass thru to Contractor	None	None	None	None
a. Contracts below SAT (\$100,000)	None unless ¹ non-competitive award		Yes, if non-competitive award or if funded thru ² 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
b. Contracts above \$100,000/Capital Projects						
II Non State Grantees	Yes ³	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
a. Contracts below SAT (\$100,000)	Yes ³		Yes	Yes	Yes	Yes
b. Contracts above \$100,000/Capital Projects						

Sources of Authority:

¹ 49 USC 5325 (a)

² 49 CFR 633.17

³ 18 CFR 18.36 (i)

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Bid Bond Requirements (Construction)

(a) Bid Security

A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:
 - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
 - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - (iii) Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million;

(ii) Forty percent of the contract price if the contract price is more than \$1 million

but not more than \$5 million; or

(iii) Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq*. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Davis-Bacon and Copeland Anti-Kickback Acts

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof,

regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to

paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The [*insert name of grantee*] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be

withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [*insert name of grantee*] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the [*insert name of grantee*] for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less

than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

Contract Work Hours and Safety Standards

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

No Obligation by the Federal Government.

(1) 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.

(2) 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.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

Termination

a. Termination for Convenience (General Provision) The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials,

appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience or Default (Cost-Type Contracts) The (Recipient) may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor

shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **{insert agency name}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert agency name}**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

Breaches and Dispute Resolution

- a. Disputes will be presented in writing to the appropriate City personnel – in Fargo, the Fargo Transit Administrator, in Moorhead, the Moorhead Transit Manager. City personnel and the Contractor will attempt to resolve any dispute arising in the performance of the Contract.
Fargo: If the Transit Administrator and Contractor cannot resolve the dispute, the issue will be presented in writing to the Fargo City Administrator within ten [10] working days of dispute. If the dispute cannot be resolved by the City Administrator, it will be submitted in

writing within ten [10] working days of the Fargo City Administrator's decision to the Fargo City Commission – it is the sole responsibility of the Contractor to schedule a hearing with the Fargo City Commission. 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 at the hearing.

Moorhead: If the Transit Manager and Contractor cannot resolve the dispute, the issue will be presented in writing to the Moorhead City Manager within ten [10] working days of the dispute. If the dispute cannot be resolved by the City Manager, it will be submitted in writing within ten [10] working days of the Moorhead City Manager's decision to the Moorhead City Council – it is the sole responsibility of the Contractor to schedule a hearing with the Moorhead City Council. 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 at the hearing.

The decision of the Fargo City Commission or Moorhead City Council shall be binding upon the Contractor and the Contractor shall abide by the decision.

- b. Unless otherwise directed by the Cities of Fargo/Moorhead, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- c. Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.
- d. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Cities of Fargo and/or Moorhead and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the applicable state.

Patent and Rights in Data

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

A. Rights in Data - This following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise

use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause , provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e. , a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education,

individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - This following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Transit Employee Protective Provisions. (1) The Contractor agrees to the comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if

the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is ___ %. A separate contract goal [of ___ % DBE participation has] [has not] been established for this procurement.

b. The contractor 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 this DOT-assisted contract. 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 {insert agency name} deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. **{if a separate contract goal has been established, use the following}** Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following [concurrent with and accompanying sealed bid] [concurrent with and accompanying an initial proposal] [prior to award]:

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and

6. If the contract goal is not met, evidence of good faith efforts to do so.

[Bidders][Offerors] must present the information required above **[as a matter of responsiveness] [with initial proposals] [prior to contract award]** (see 49 CFR 26.53(3)).

{If no separate contract goal has been established, use the following} The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the {insert agency name}. In addition, **[the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the {insert agency name} and contractor's receipt of the partial retainage payment related to the subcontractor's work.]**

e. The contractor must promptly notify {insert agency name}, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of {insert agency name}.

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

Drug and Alcohol Testing –

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 40 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of North Dakota and/or Minnesota, or the Cities of Fargo/Moorhead, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 40 and 655 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 40 and 655 before February 1 and to submit the Management Information System (MIS) reports before February 1 to the City of Moorhead Transit Manager. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees to furnish with this proposal all necessary documentation for a compliant drug and alcohol testing program.

Prohibited Interest

No administrator or employee of the City of Fargo and no member of its governing body shall participate in selection or in the award or administration of a contract if a conflict of interest real or apparent would be involved. No member or delegate to the North Dakota Legislature or to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

ATTACHMENT B

CERTIFICATION REGARDING LOBBYING

The undersigned, City of Fargo, certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

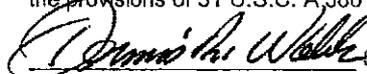
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]

(3) The undersigned shall require that the language of this certification 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 certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, City of Fargo, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A.3801, et seq., apply to this certification and disclosure, if any.

 Signature of Contractor's Authorized Official

Mayor / Fargo Name and Title of Contractor's Authorized Official

Dec 3rd, 2007 Date

ATTACHMENT C

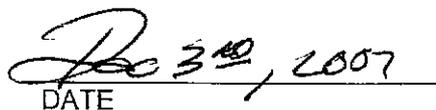
DEBARMENT AND SUSPENSION CERTIFICATION

The City of Fargo certifies to the best of its knowledge and belief, and that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not, within a three-year period preceding this proposal/contract, been convicted or had a civil judgement awarded against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public bribery, falsification or destruction of records, making false statement, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification;
4. Have not, within a three-year period preceding this application/proposal/contract, had one or more public transactions (Federal, State, Local) terminated for cause or default.

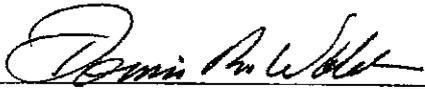
THE PARTICIPANT, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. 3801 ET SEQ ARE APPLICABLE THERETO.

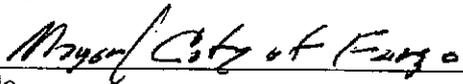

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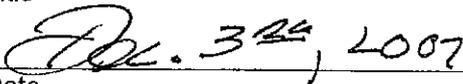

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affected grant or cooperative agreement.

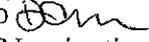
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).


Name _____


Title _____


Date _____

9

DATE: February 4, 2010
TO: City Commission
FROM: Dawn Mayo 
RE: Oak Grove Nomination Contract

The Historic Preservation Commission applied for and was awarded a 2009 Certified Local Government grant from the State Historical Society of North Dakota to research and write a National Register of Historic Places nomination for the Oak Grove neighborhood. City Commission approved the acceptance of this grant in April 2009.

A request for proposals was made, and a contractor, Steve Martens, was selected. The contract amount of \$8998.00 will be paid out of the grant funds.

Recommended Action: Accept the contract for \$8998.00 with Steve Martens to perform the Oak Grove National Register nomination.



Dawn Mayo; Coordinator
For the Fargo Historic Preservation Commission
Department of Planning & Development
City of Fargo; Fargo City Hall
200 Third Street North
Fargo, ND 58102
701/476-4137

AGREEMENT FOR PROFESSIONAL SERVICES
(Draft)

Date: January 22, 2010

Parties: The City of Fargo, ND (hereinafter City)

Steve C. Martens, Architect; Contract Consultant
Architectural Historian
P.O. Box 742
Fargo, ND 58107-0742

Project Name: National Register District Nomination of the Oak Grove Neighborhood of Fargo, ND

Agreements:

In consideration of a proposal submitted September 16, 2009, the City wishes to employ Consultant to perform professional cultural services pursuant to and in consideration of the mutual covenants and agreements hereinafter contained, and intending to be bound legally thereby, it is agreed as follows:

A. Scope of Services

1. **Field Investigations and Analysis:** Consultant shall incorporate previously surveyed, inventoried, and evaluated historic buildings, structures, and objects within the proposed district; research broader urban design elements, including historic streetscapes, character, feeling, association, and setting; review proposed boundaries; photographs, field notes, and sketches shall be used for field work recordation and similar resources in the area shall be examined. The first phase of work shall also include primary and secondary source research at City Hall, city, county and University of North Dakota archives, the State Historical Society, and the Institute of Regional Studies, sufficient to allow development of an appropriate historic context that meets National Register standards.
2. **National Register Nomination Preparation:** Consultant shall prepare a draft nomination for submission to the City of Fargo and the North Dakota State Historic Preservation Officer (hereinafter ND SHPO). The Draft nomination shall be prepared on an official National Register nomination form and continuation sheets, and shall comply in all respects with state guidelines and with standards outlined in National Register Bulletin 16A "How to Complete the National Register Registration Form."

The draft nomination shall be accompanied by all maps, photographs and other additional documentation required by the National Register process, and shall include a list of all property owners within the historic district boundaries. Consultant shall submit three copies of the draft to the HPC for review and submittal to the ND SHPO.

Within thirty (30) days of receipt of all City and ND SHPO comments, Consultant shall make all required modifications and shall submit a minimum of two original copies (on archival paper) and four photocopies of the final nomination with supporting documentation (three [3] sets of photographs conforming to National Register standards), photograph negatives in clear archivally stable negative preservers with photo logs, and a compact disk containing the text of the report in an agreed upon word processing format. Consultant shall be responsible for making all necessary revisions to the nomination until the nomination has been accepted by the Keeper of the National Register. (This assumes that the Keeper agrees that the district is eligible for listing and that modifications shall involve revision of the statement of significance, period of significance, boundary recommendations, list of contributing resources, etc.)

3. Public Meeting Facilitation: Consultant shall conduct a Fargo public meeting, including a PowerPoint slide presentation. Consultant shall also attend the State Historic Preservation Review Board meeting and shall present the nomination to the Board.
4. Any materials, including audiovisual, produced or developed as a result of this agreement shall include the following statements:

“The (activity) which is the subject of this (type of publication) has been financed in part with Federal funds from the National Park Service, United States Department of Interior, and administered by the State Historical Society of North Dakota. However, the contents and opinions do not necessarily reflect the views or policies of the United States Department of Interior or the State Historical Society of North Dakota, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of Interior or the State Historical Society of North Dakota.

“This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U. S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, disability or age, in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to:

Office of Equal Opportunity
National Park Service
1849 C Street, N.W.
Washington, D.C. 20240”

5. Project Schedule:

June 30, 2010	Submit draft District Nomination to Fargo HPC
July 24, 2010	Revised Draft and all support documents completed and submitted. See Attachment A – List of Products
August 12, 2010	Presentation to HPC and Public Hearing in Fargo
September 2010	Presentation to the State Historic Preservation Review Board meeting following City acceptance of the Final Draft
TBD	All necessary revisions to the nomination until the nomination has been accepted by the Keeper of the National Register, even if these revisions are received by Consultant after the end date of the contract, and assuming the Keeper does not decline the nomination on the merit of the district itself.

B. Compensation

Compensation to Consultant in full for work on this project shall not exceed Eight Thousand Nine Hundred Ninety-eight Dollars (\$8,998.00).

- A. First Payment: 38% of the compensation due in the amount of Three Thousand Four-Hundred Thirty-four (\$3,434.00) Dollars upon delivery of the first draft of the Nomination to the HPC City staff representation (on or about June 15, 2010).
- B. Second Payment: 24% of the compensation due in the amount of Two Thousand One Hundred Twenty (\$2,120.00) Dollars upon completion of the revised draft (on or about July 14, 2010).
- C. Third Payment: 28% of the compensation due in the amount of Two Thousand Five Hundred Forty-four (\$2,544.00) Dollars upon completion of the revised draft and public presentation before the Fargo HPC (on or about August 12, 2010).
- D. Final Payment: 10% of the compensation due in the amount of Nine Hundred (\$900.00) Dollars upon completion of the presentation to the State Historic Review Board, and final approval of the Nomination by the ND SHPO (on or about September 30, 2010).

All services provided by Consultant pursuant to this agreement must be performed to the satisfaction of the City and the ND SHPO and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Compensation may be withheld if services are not acceptable. All work performed under this agreement, except necessary revisions to be made by Consultant after comment from Keeper of the National Register, must be completed by September 30, 2010. Timely completion is dependent on prompt review and response to Consultant requests for information.

C. Termination of the Agreement

City may cancel this agreement (or part thereof) at any time by giving written notice to Consultant at least fifteen (15) calendar days prior to the effective date of termination. Consultant shall be paid for all services satisfactorily performed prior to the effective date of termination. The total payment shall not exceed the maximum amount provided for by terms of this agreement or succeeding supplements.

D. Controlling Law

The laws of the State of North Dakota shall govern all questions as to the execution, nature, obligation, instruction, validity, and performance of this agreement. Because of the nature and scope of the work, there are no requirements for liability insurance in performing work of this contract.

E. Equal Employment and Nondiscrimination and Affirmative Action

In connection with the work under this agreement, Consultant agrees to comply with the applicable provisions of state and federal equal employment opportunity and nondiscrimination statutes and regulations. Specifically, Consultant agrees not to discriminate in employment practices by failing or refusing to hire a person; by discharging an employee; by according adverse or unequal treatment to a person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, or a term, privilege or condition of employment, because of race, color, religion, sex, national origin, age, physical or mental disability, or status with respect to marriage or public assistance. Consultant further agrees not to fail or refuse to make reasonable accommodations for an otherwise qualified person with a physical or mental disability or because of that person's religion.

F. Modification of Agreement

Any alterations, variations, modifications, or waivers of provisions of this agreement shall only be valid when they have been reduced to writing, signed by authorized representatives of the City and Consultant and attached to the original agreement. Any alterations, variations, modifications, or waivers of provisions of this agreement deemed to be material by agreement of the City and Consultant shall require written amendment to this agreement.

IN WITNESS WHEREOF, the City and Consultants by their authorized partner or officer have hereunto subscribed their names.

CITY OF Fargo

Date: _____

By: _____
Dennis R. Walaker, Mayor

Date: _____

By: _____
Steve Sprague, City Auditor

CONSULTANT

Date: _____

By: _____
Steve C. Martens, Architect
Principal Consultant and Project Manager

List of Products

Draft Nomination (2 copies of registration form and continuation sheets)

- Supporting documentation (2 sets)
- List of contributing, noncontributing and anchor property addresses with SITS number and architects, if applicable (2 sets)
- Site map identifying boundaries, addresses, SITS numbers and other information as required by the National Park Service for historic districts (2 maps)
- Labeled topographical maps (1:24,000 scale) (2 original copies)
- Approximately 10 labeled photographs conforming to NPS standards (4" x 6" color or 8" x 10", black and white) archival quality photos on RC paper, sleeved (3 sets)

Final Nomination (4 copies on archival paper), plus three sets of any additional photos, and two sets of any modified or additional topo maps

- Photo identification sheets for all digital photo files (archival and reference images)
- *PowerPoint*[™] slide show (2 CD copies) of individually eligible nominated properties
- Public hearing presentation in Fargo, ND
- State Review Board presentation in Bismarck, ND (the Board meets quarterly on the last Friday of the month)
- Archival-stable CD of approved nomination in pdf and editable formats (2 copies)



Office of the Chief of Police

February 4, 2010

Board of City Commissioners
City Hall
Fargo, ND 58102

RE: Department of Commerce/DHS FY 2007 Public Safety Interoperable Communications Grant
(PSIC) - Grant # 100 - CFDA # 11.555

Dear Commissioners:

The North Dakota Division of Homeland Security has offered to increase the City of Fargo's funding allocation relative to the Department of Commerce Fiscal Year 2007 Public Safety Interoperable Communications Grant, which the police department is currently managing. This grant has provided the funding necessary to upgrade and improve the communications capabilities of various city departments.

If you approve the acceptance of the increase in funds being offered by the state's Homeland Security office, an additional \$64,264.00 would be available for additional radio interoperability projects, to include radio equipment necessary for the new Osgood fire station and the Emergency Operations Center.

There is a local matching fund requirement ratio of 80-20, which means grant funding in the amount of \$51,411.20 would be available to reimburse the City for any equipment purchases made under the grant. The City would be required to provide a maximum of \$12,852.80 of matching funds.

Recommended Motion:

Approve and accept the additional grant award and make a budget adjustment of \$64,264.00 to the 2010 police department budget as follows:

- \$61,114.00 to account # 101-5045-411.74-10 PDPS01 (Equipment)
- \$3,150.00 to account # 101-5045-411.38-99 PDPS01 (Other Services for Installation)

Please feel free to contact me if you have any questions regarding this budget adjustment request.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Ternes".

Keith Ternes
Chief of Police

Cc: Kent Costin - Finance Director



Fire Department

637 NP Avenue
Fargo, ND 58102
www.ci.fargo.nd.us/fire
Phone: 701-241-1540
Fax: 701-241-8125

A handwritten signature, possibly "i", enclosed in a hand-drawn oval.

January 28, 2010

Board of City Commissioners
200 North 3rd Street
City Hall
Fargo, ND 58103

Dear Commissioners,

The Fire Department receives overtime reimbursements from the M-F Haz Mat Team periodically for haz mat training hours. These funds are obtained through a grant to the M-F Haz Mat team administered by the Moorhead Fire Department. We are requesting a budget increase to our overtime account (101-4010-412-11-01) in the amount of \$5,710.11 as well as to our revenue account (1101-0000-342-31-00) for \$5,710.11.

Suggested Motion:

Approve the following budget adjustments:

101-4010-412-11-01	\$5,710.11
101-0000-342-31-00	5,710.11

Sincerely,

A handwritten signature in cursive that reads "Bruce Hoover".

Bruce Hoover
Fire Chief

Cc: Jenica Flanagan





Fire Department

637 NP Avenue
Fargo, ND 58102
www.ci.fargo.nd.us/fire
Phone: 701-241-1540
Fax: 701-241-8125



February 2, 2010

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

Dear Commissioners,

The Fargo Fire Department was awarded Homeland Security Grants in the Amount of \$542,067.98 (CFDA No. 97.067). These grants are to enhance the capability of the fire department to respond to Chemical, Biological, Radiological and Explosive events and assist in response in such incidents in the surrounding area. There is no local match for this grant.

The following budget adjustments are requested:

101-8550-510.77-13	\$464,014.00
101-4010-412.11-01	\$ 78,053.98

Revenue account adjustment:

101-0000-331.13-30	\$542,067.98
--------------------	--------------

Suggested Motion:

Approve Fire Department budget adjustment in the amount of \$542,067.98 to enhance the department's capability to respond to hazardous materials events.

Sincerely,

Bruce Hoover
Chief

BH:bj

Cc: Jenica Flanagan





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

DATE: February 4, 2010
TO: City Commission
FROM: Dan Mahli, Senior Planner, Community Development
RE: Neighborhood Stabilization Program housing development at 113 & 123
16th Street South



In 2009, 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 the 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.

Last fall, two homes located in Fargo's Jefferson neighborhood were deemed as good candidates for the Neighborhood Stabilization Program. The City purchased the properties located at 123 and 113 16th Street South with NSP funds. Both were vacant problem properties. Together, the residential lots total 151'x100' and the intention of purchasing the properties was to create new affordable homeownership opportunities in Fargo.

In February, a Request for Proposals was published in The Forum. Two proposals were submitted, one from Beyond Shelter Inc and the other from Lutheran Social Services' Housing Division. The City's NSP advisory committee interviewed both applicants and recommends entering into an agreement with Beyond Shelter to develop and sell the properties to income eligible households (proposal attached).

Beyond Shelter's proposal is to construct four townhomes on the property. The City will offer the property at 113 and 123 16th Street South to Beyond Shelter and provide \$611,890 in NSP funding to finance the construction. Beyond Shelter will construct the townhomes, market and sell the units and return the sale proceeds to the City of Fargo. The project is expected to be complete by June 2011 and will be monitored by the Planning Department.

Recommended Action: Approve the expenditure of Neighborhood Stabilization Program funds for the development of 123 and 113 16th Street South.



GENERAL STATEMENT OF USE

NSP Program – 113 & 123 16th Street South

Beyond Shelter, Inc. (BSI) proposes to redevelop the City-owned vacant property at 113 & 123 16th Street South as NSP-Supported Homeownership for family households earning 50% or below Area Median Income.

PROJECT OVERVIEW – Assuming BSI assumes ownership of the site

- As the Housing Developer/Owner for the project, BSI would construct four (4) Townhome Style 3-bedroom units sited on the 123 lot. The 113 lot could be used for yard/green space, playground area, and/or garden area, etc.
 - Construction could start in August 2010 with the units being ready for sale/occupancy in January 2011. Final Landscaping would take place by June 2011
 - Project design is consistent with the character of the surrounding neighborhood
 - The 3-bedroom units would be 1,727 square feet, have central air and heat, washer and dryer hookups, Energy Star appliances including a microwave, range, refrigerator, dishwasher and disposal, solid core interior doors with oak trim, one and one half baths, single stall garage, private entry, front porch and back patio areas, steal low maintenance siding, permanent exterior finish windows with Low-E insulated glass, exterior insulated metal doors with glass, exterior storm doors, and a 30-year shingled roof
 - Green Features include: 1) Low VOC paints, stains, finishes, adhesives, sealants, and carpets, 2) Formaldehyde-free or sealed shelves, cabinets, countertops, and insulation, 3) Low flow faucets, showerheads, and toilets, and 4) Automatic rain sensor lawn sprinkler system
 - An Association would be set up to pay for Lawn Care, Snow Removal, and other applicable shared costs
-
- Prospective family households earning 50% or below Area Median Income would apply for NSP assistance from BSI. The home will be the family's principal place of residence. The Fargo Housing Authority would be a marketing resource to help identify prospective families.
 - BSI and/or the Fargo Housing Authority would review income documentation for the family and calculates an affordable mortgage payment for the home (including principle, interest, taxes, insurance, and association dues). BSI would then take back a soft second mortgage for the difference in the overall unit cost and the amount of the first mortgage

- The amount of subsidy to make the house affordable initially becomes the basis for determining “continued affordability.” A lien or covenant would be placed on the house to enforce this requirement
- BSI would work with the City of Fargo to help adopt standards that ensure the unit will continue to remain affordable for the 15-year period of affordability. Two NSP program option examples are as follows:
 - 1) **Resale** – resale of the home to BSI or another income eligible buyer. This allows continued use of the property by another low-income buyer and owners are allowed a fair return on the sale
 - 2) **Recapture** – requires repayment of the NSP subsidy (Note: recaptured funds become Program Income to the NSP Program)

BSI is also offering two (2) Alternates to the above Project Overview and they are as follows:

- 1) Add an additional 3-bedroom townhome unit on the 113 lot so the total number of units available for NSP-Supported Homeownership would be 5
- 2) Add a full size basement with or without and egress window to each unit

HOMESALE EXAMPLE

NSP Program - 113 & 123 16th Street South

Potential Homeowner

CY 2009 50% Income Limit	\$ 35,475
Down payment Amount*	\$ 3,000
Monthly Debt (i.e. student loan, Cr Card)	\$ 200
Mortgage irate	6.5%
Annual Property Taxes & Specials*	\$ 3,300
Annual Insurance & Association Dues	\$ 1,200
Mortgage Amount the HH can Afford	\$ 71,630
Total monthly payment (PITI)	\$ 828
CY 2009 50% Income Limit	\$ 35,475
Percent of Income used for PITI, etc	28%
Maximum annual PITI	\$ 9,933
Maximum monthly PITI	\$ 828

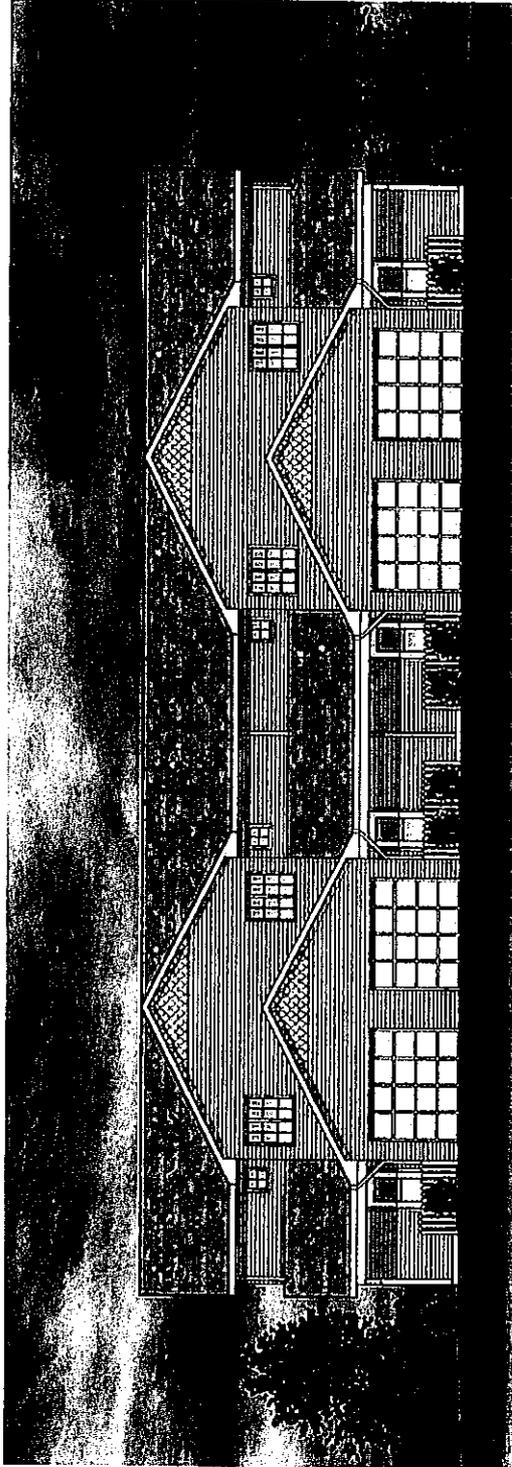
* First time homebuyers maybe eligible for additional amounts and tax incentives

** Homeowner may also be eligible for the City property tax abate program

Note: The Fargo Housing Authority also administers a Homebuyer program using a Section 8 Voucher and the proposed units would be eligible for this program

Home Sales Price

Gross Sales Price/NSP Per Unit	\$ 152,973
less 1st Mortgage	\$ (71,630)
NSP Subsidy (soft second note)	\$ 81,343
Period of Affordability	15 yrs.



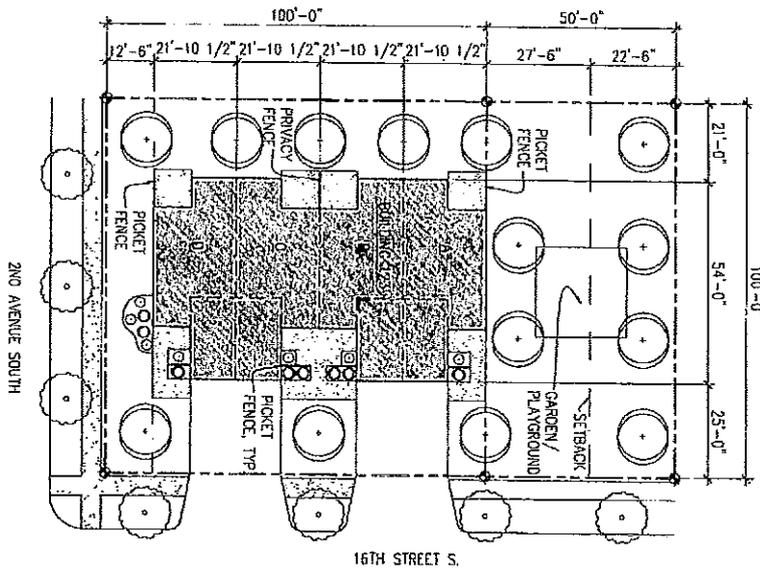
4 Plex

16th Street Townhomes

EAPC

16TH STREET TOWNHOMES 4 PLEX FARGO, ND

PROJECT DATA	
SITE AREA	15,000 SF ± (0.34 ACRES) ±
FIRST FLOOR AREA	699 SF x 4 UNITS = 2,796 SF
SECOND FLOOR AREA	764 SF x 4 UNITS = 3,056 SF
GARAGE FLOOR AREA	264 SF x 4 UNITS = 1,056 SF
LANDSCAPE LEGEND	
	SHADE TREE
	SHRUBS
	BOULEVARD TREE
	PERENNIALS



 N
 SITE PLAN
 1" = 30'-0"

Terry Welle Construction
 3301 15th. St. S. Ste. E.
 P.O. Box 9361
 Fargo, North Dakota 58106
 TELE: 701-241-9157, FAX: 701-293-7431
 CELL: 701-238-0848

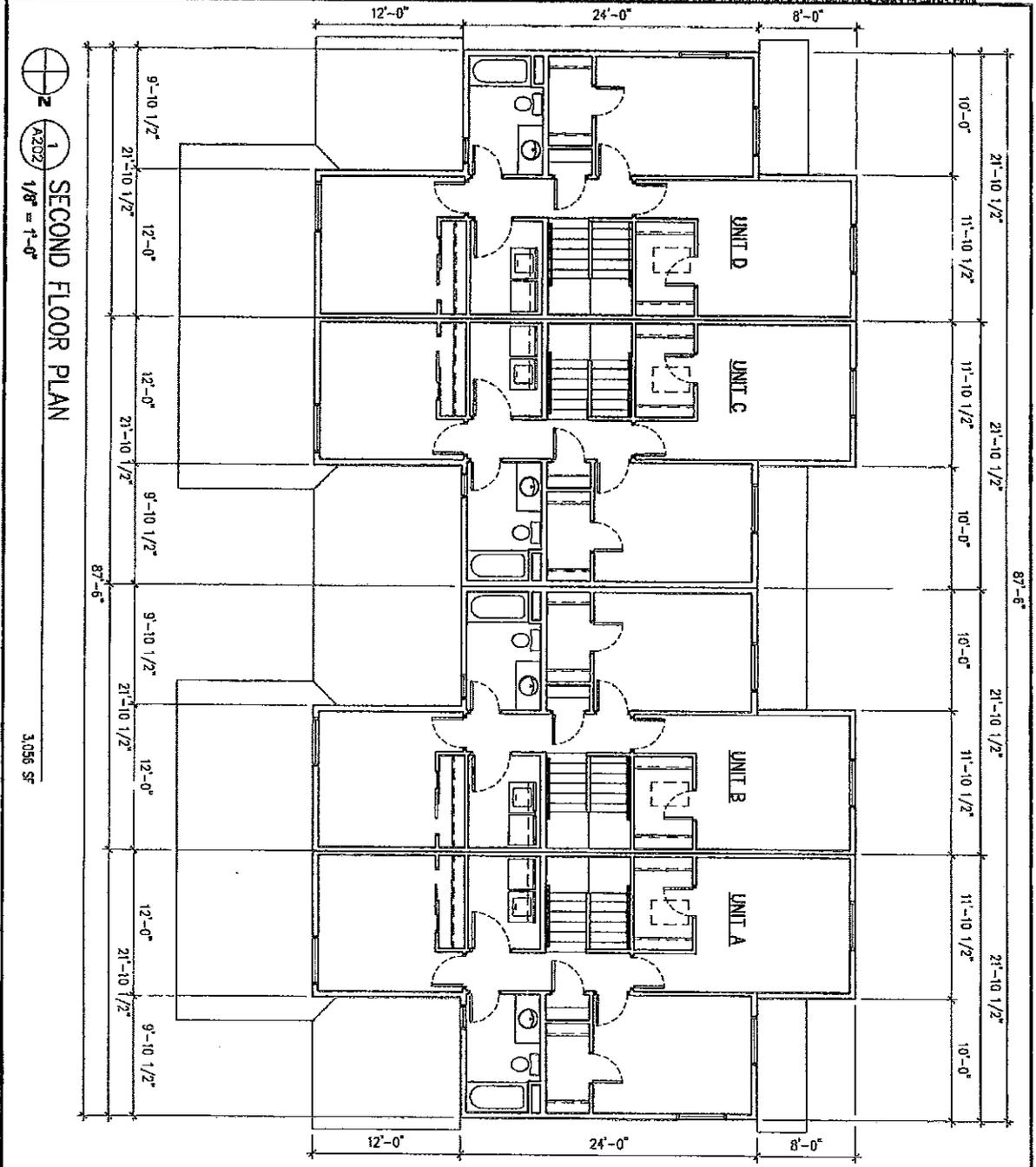
PROJECT: 16TH STREET TOWNHOMES
 4 PLEX

PROJECT NO: 2010220
 DATE: 1/13/2010

DRAWING
C101



File Location: H:\2010\2010220 - FMO 16th Street Townhomes\Drawings\4 PLEX\2010220-1301.dwg
 Plot Date: 12-1-10
 1/13/2010. All other specifications comply. See field notes, notes and other documents and instruments attached to this drawing for complete details. This drawing is subject to the provisions of G.S.P. 125 and other applicable laws, regulations and codes. Includes the copyright notice.

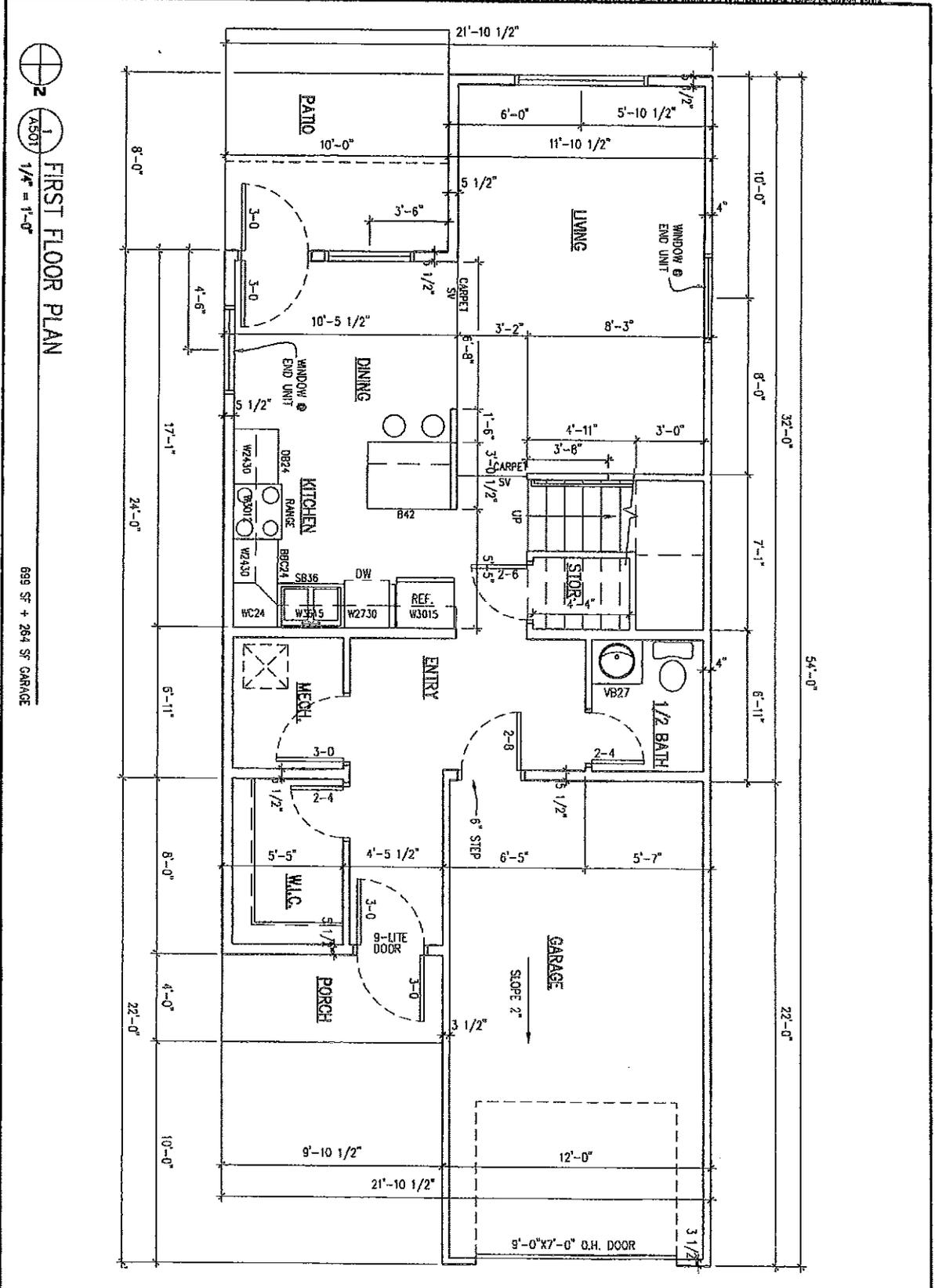


Terry Welle Construction
 3301 15th. St. S. Ste. E.
 P.O. Box 9361
 Fargo, North Dakota 58106
 TELE: 701-241-9157, FAX: 701-293-7431
 CELL: 701-238-0848

PROJECT: 16TH STREET TOWNHOMES
 4 PLEX
EAPC

PROJECT NO: 2010220
 DATE: 1/13/2010

DRAWING
A202



Terry Welle Construction
 3301 15th. St. S. Ste. E.
 P.O. Box 9361
 Fargo, North Dakota 58106
 TELE: 701-241-9157, FAX: 701-293-7431
 CBL: 701-238-0849

PROJECT: 16TH STREET TOWNHOMES
 4 PLEX
EAPC

PROJECT NO:	2010220
DATE:	1/13/2010

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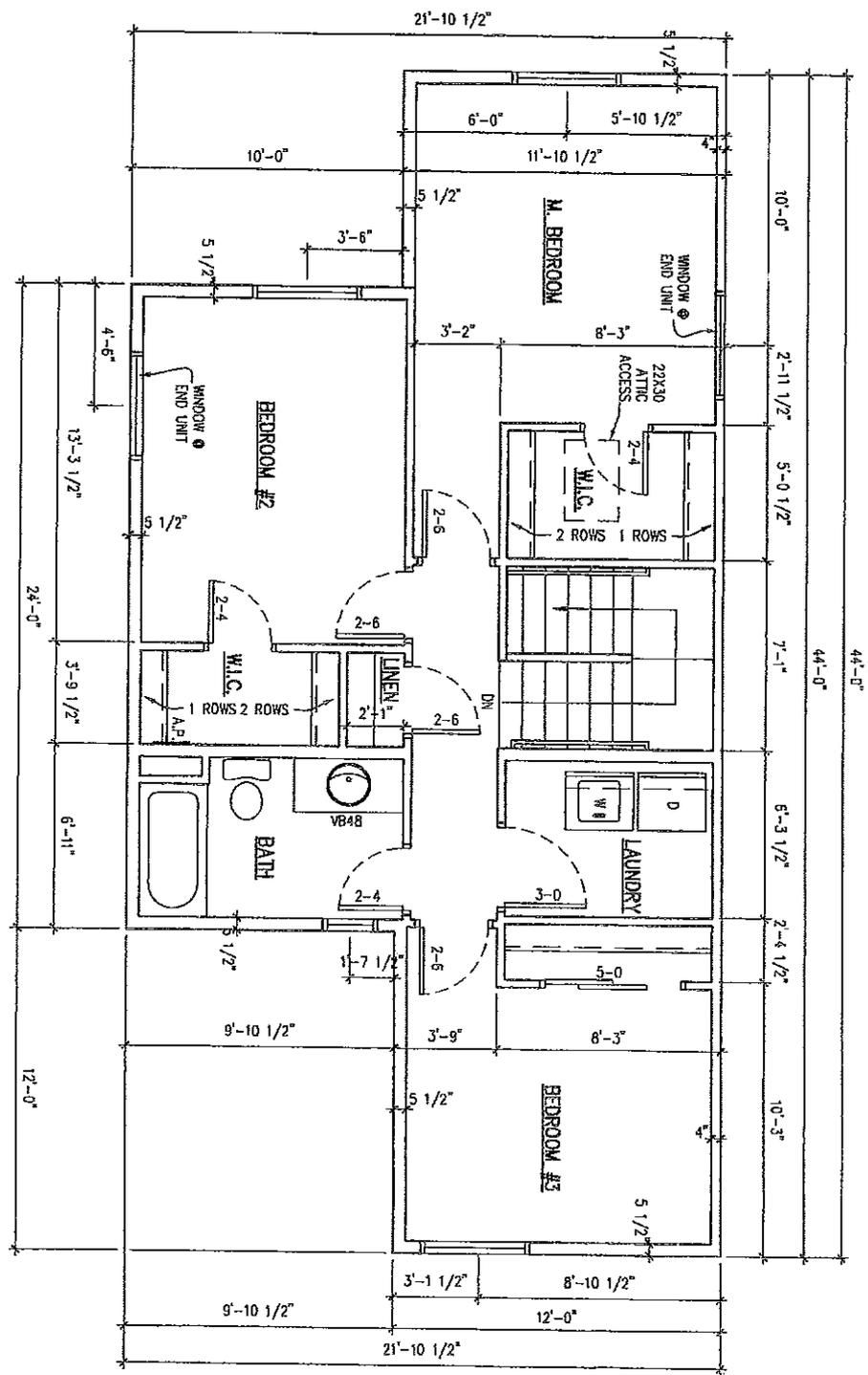
File Location: E:\2010\20100220 - FRD 16th Street Townhomes\Drawings\4 PLEX\20100220-A501.dwg
 Plot Date: 12/13/10
 (P)ROD: All views, modifications, rework etc. Add date notes and other documents and beacons as needed for example of EAPC, EAPC and other notes, including the copyright notice.



AS02
 1/4" = 1'-0"

SECOND FLOOR PLAN

764 SF



Terry Welle Construction
 3301 15th. St. S. Ste. E.
 P.O. Box 9361
 Fargo, North Dakota 58106
 TELE: 701-241-9157, FAX: 701-293-7431
 CELL: 701-238-0848

PROJECT: 16TH STREET TOWNHOMES
 4 PLEX



PROJECT NO: 2010220
 DATE: 1/13/2010

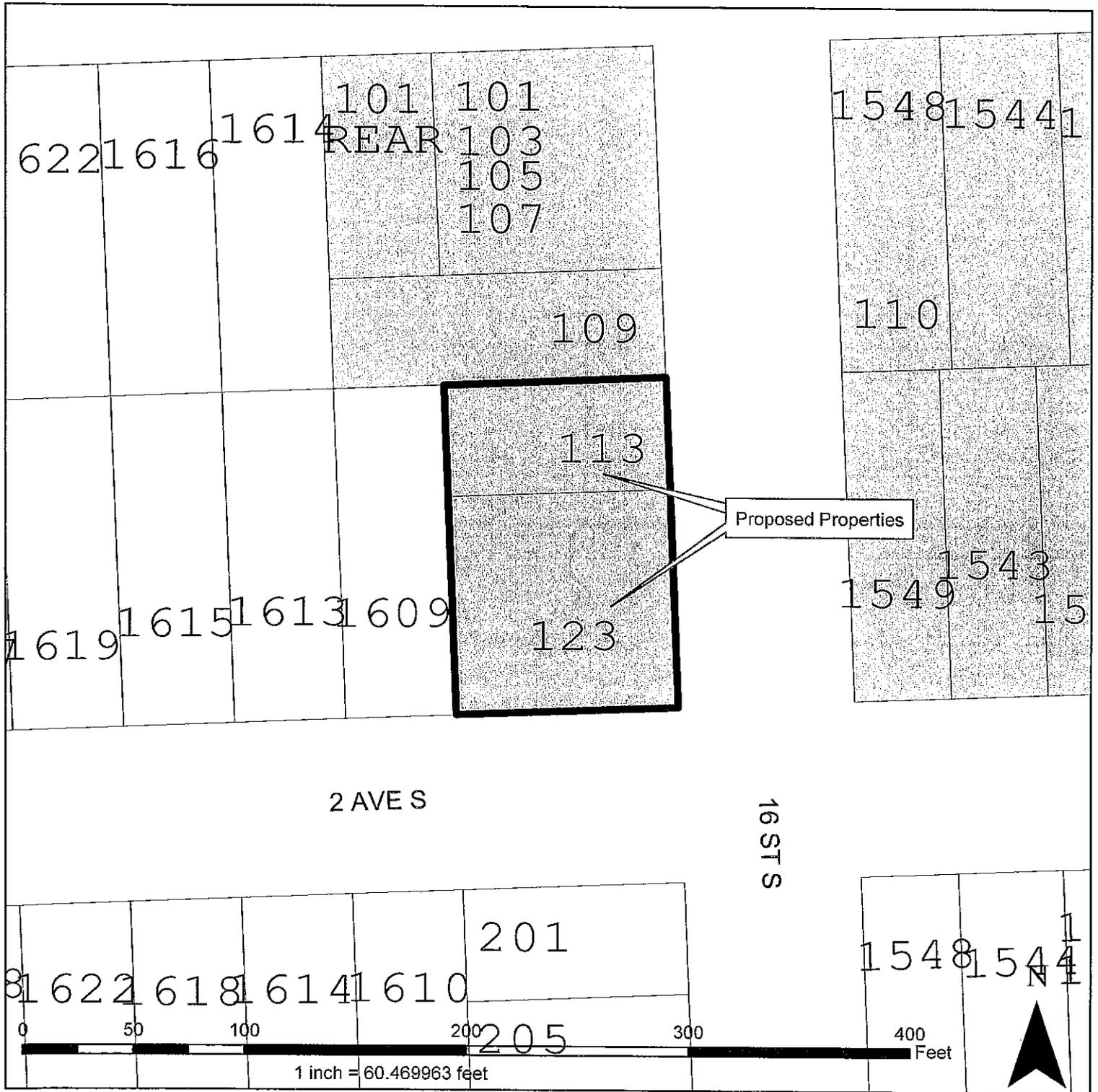
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A502

NSP Multi-family Redevelopment 123 & 113 16 St S



NSP Multi-family Redevelopment

123 & 113 16 St S



Legend

- | | | | |
|-----|------|-------------------|------|
| AG | MR-2 | LI | SR-3 |
| DMU | MR-3 | MHP | SR-4 |
| GC | NC | MR-1 | SR-5 |
| GI | NO | City Limits | |
| GO | P/I | Proposed Property | |
| LC | SR-2 | | |





DATE: February 4, 2010
TO: City Commission
FROM: Dan Mahli, Senior Planner, Community Development
RE: Memorandum of Understanding – Homeless Prevention and Rapid Re-Housing (HPRP) grant

In late 2009, the City of Fargo applied for and was awarded a Homeless Prevention and Rapid Re-Housing grant (HPRP) from the State of North Dakota Division of Community Services. The State received the grant funding from HUD. Fargo was awarded \$441,666.66, CFDA #14.257, to be used to provide housing assistance and services for homeless and precariously housed populations. The attached is a Memorandum of Understanding with the Southeastern North Dakota Community Action Agency (SENDCAA) is to fulfill case management fiscal reporting requirements to the State of ND. SENDCAA will copy the City on all fund activities.

Recommended Action: Approve the attached Memorandum of Understanding with the Southeast Community Action Agency to provide case management and reporting requirements associated with Homeless Prevention and Rapid Re-Housing Grant.



MEMORANDUM OF UNDERSTANDING
Homelessness Prevention and Rapid Re-Housing Program
City of Fargo and Southeastern North Dakota Community Action Agency
Partnership Agreement

This Memorandum of Understanding (MOU) is entered into as of February 9, 2010, by and among the City of Fargo (City), and Southeastern North Dakota Community Action Agency (SENDCAA) with reference to the following:

- A. The American Recovery and Reinvestment Act of 2009 (ARRA) was signed into law on February 17, 2009. ARRA included a special allocation of funds for a Homelessness Prevention Fund, to establish the Homelessness Prevention and Rapid Re-Housing Program (HPRP) to provide financial assistance and services to either prevent individuals and families from becoming homeless or help those who are experiencing homelessness to be quickly re-housed and stabilized.
- B. The State of North Dakota received an allocation of approximately \$2.58M in HPRP funds to be utilized throughout the state, targeted and prioritized to serve households that are most in need of this temporary assistance and are most likely to achieve stable housing, whether subsidized or unsubsidized, outside of HPRP after the program concludes. In late 2009, the City of Fargo applied for and was awarded a Homeless Prevention and Rapid Re-Housing (HPRP) grant of \$441,666 from the State of ND Division of Community Services (DCS) for HPRP programming in Fargo.
- C. The ND Department of Commerce Division of Community Services prepared and submitted to the United States Department of Housing and Urban Development a Substantial Amendment to the State's 2008 Annual Plan outlining the proposed distribution and use of HPRP funds. Eligible applicants were selected based on a competitive application process, after meeting certain threshold requirements.

NOW, THEREFORE, in consideration of the conditions contained in this MOU, the City and SENDCAA agree as follows:

AGREEMENT

1. Purpose. The City of Fargo and SENDCAA enter into this MOU in order to administer efficiently and effectively the City's HPRP program. The purpose of this MOU is to establish responsibilities regarding program operation and related reporting.

2. HPRP Services to Clients. Pursuant to HUD, DCS and the State's Action Plan, eligible HPRP services to clients may include the following:

Financial Assistance

- a. Short to medium term rental assistance 3-18 months (to include rent in arrears)
- b. Security deposits for housing
- c. Moving cost assistance
- d. Utility deposits and payments
- e. Credit repair
- f. Motel/hotel vouchers
- g. Housing Relocation and Stabilization Services

Housing Relocation and Stabilization Services

- a. Case Management (the process of assessment, planning, facilitation, and advocacy for options and services to meet an individual's needs through communication and available resources to promote positive outcomes)
- a. Counseling
- b. Developing, securing and coordinating services (i.e., executing an individualized housing and service plan)
- c. Monitoring and evaluating program participant progress
- d. Outreach and engagement
- e. Housing search and placement (i.e., assisting clients to locate and obtain housing)
- f. Credit repair
- g. Legal services

Data Collection

- a. Homeless Management Information System (HMIS) reporting

3. Lead Entity. SENDCAA, on behalf of the City, shall be the lead entity and shall execute the HPRP grant agreement. SENDCAA shall administer the HPRP grant on behalf of the City in compliance with HUD and State requirements and pursuant to the HPRP application. SENDCAA shall be responsible for ensuring that HPRP requirements (such as program income) are complied with after grant closeout. SENDCAA will also submit required reports to the State.

4. Funding.

Funding shall be provided for the following:

- a. Financial assistance
- b. Intake and assessment to determine client eligibility for HPRP services
- c. Case management of HPRP clientele, including clients referred by other agencies
- d. Outreach and engagement
- e. Housing search and placement
- f. HMIS data entry and evaluation

5. Monthly and quarterly reports. SENDCAA will disburse grant funds, in accordance with the HPRP budget, compile reports to DCS and provide feedback to the City and partner agencies, as appropriate.

6. Responsibilities. SENDCAA shall be responsible for the following:

- a. Day-to-day program coordination, including the convening of monthly advisory team meetings to review and approve housing and service plans
- b. Maintaining records and providing information to the DCS and the City concerning financial assistance, housing stabilization, relocation services, data collection and evaluation
- c. Distributing financial assistance in Fargo on behalf of HPRP clients
- d. Hiring and paying vendors
- e. Performing site inspections
- f. Satisfying environmental review requirements of the National Environmental Policy Act (NEPA) for each project assisted with HPRP funds
- g. Identifying, referring, and completing applications for clients to the HPRP program
- h. Entering HPRP clients into the Homeless Management and Information System (HMIS) and adhering to HMIS standards for data entry.
- i. Following to protocols and procedures developed by the HPRP regulations
- j. Providing case management to clients referred to the HPRP program for services
- k. Developing individualized housing/services plans
- l. Keeping appropriate files and providing documentation and reports as needed to the State of ND

7. Term of Agreement. This MOU shall remain in effect until January 31, 2012 or until all HPRP grant funds have been expended, whichever occurs earlier.

8. Amendments. This agreement may be modified or canceled at any time by any party upon 30 days written notice to the other parties. No amendment or variation of the terms of this MOU shall be valid unless made in writing, and approved and signed by the parties to this MOU. This MOU supersedes any oral promises, representations, or other agreements with respect to the subject matter of this MOU.

9. Approval of Agreement. By execution of this MOU, the signatories of the City of Fargo and SENDCAA certify and represent that this MOU has been authorized by their governing bodies.

City of Fargo:

Dennis R. Walaker, Mayor

Date

Southeast North Dakota Community Action Agency:

James Kappel, Director

Date

DATE: February 4, 2010
TO: City Commission
FROM: Dan Mahli, Senior Planner, Community Development
RE: CDBG Neighborhood Project



In 2009, the City Commission approved \$12,000 in CDBG funds to be used to assist with a neighborhood enhancement project in a low-moderate income area.

The Roosevelt Neighborhood Association is requesting access to the CDBG neighborhood project funding to undertake a proposal that is consistent with the updated Roosevelt neighborhood plan. The project proposal specifies the CDBG funds to be used in partnership with the Fargo School District, NDSU, Roosevelt PTA and Neighborhood Association for signage in the area to increase neighborhood identity and pride. The Roosevelt Neighborhood Association has made application for assistance under the neighborhood project program.

Recommended Action. Provide CDBG neighborhood project funds to the Roosevelt Neighborhood Association for eligible work associated with the neighborhood sign project.

(N)



Memorandum

Date: 4 February 2010
To: Parking Commission Members
From: Robert C. Stein
Re: Contract Extension With Ulteig Engineers For Lighting Evaluation at Radisson Ramp

The City has an existing contract with Ulteig Engineers that included evaluation of the lighting systems at the Island Park Ramp and the GTC Parking Garage. These projects were approved as part of the City's stimulus formula grant. The State of North Dakota also has stimulus funds that are available to cities throughout the State. In order to submit a competitive grant application for these funds, we need an evaluation similar to the studies completed by Ulteig Engineers for the previous grant. Since Ulteig has the background with the previous studies, and since they were selected through a competitive process, we would like to extend their existing contract to include the evaluation at the Radisson Ramp.

Suggested Action: to approve the contract extension with Ulteig Engineers for completion of a lighting study at the Radisson Ramp.



Jill Eggl
701-280-8526
Jill.Eggl@ulteig.com

January 26, 2010

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

Subject: Lighting Upgrade
Radisson Parking Ramp
Fargo, North Dakota

Dear Mr. Stein,

Ulteig Engineers, Inc. appreciates the opportunity to submit this proposal for Lighting Upgrade study and design services on the above referenced project.

The following tasks and services will be included in the lighting Upgrade Study for the Radisson Parking Ramp.

Scope of Work

1. On Site inspection of the following:
 - A. Inventory of existing luminaire and lamp types located within the Radisson Parking Ramp.
 - B. Inspection of existing lighting controls
 - C. Review existing maintenance methods and costs of the existing lighting system.
2. Reviewing existing information gathered from the site investigation to identify the following:
 - A. Areas with lighting deficiencies.
 - B. Areas where lighting control does not promote optimal energy conservation.
3. Compare different lighting scenarios to determine an optimal and a retro-fit lighting upgrade option for the facility.
4. Prepare a report that includes the following for each option.
 - A. Lighting calculation
 - B. Construction Estimates
 - C. Anticipated payback

5. The study portion of the project shall be completed and turned over to the owner by February 12, 2010.

The following tasks and services will be included in the lighting design services for the Radisson Parking Ramp.

Scope of Work

1. Providing bidding documents for the project to complete the work included in the Project Description.
 - A. The project design will be based on the information included in the lighting study completed for the facility.
 - B. The work will include a single design for the facility. No options or alternate designs are included in the proposed fee.
 - C. The bidding documents will be produced for the Radisson Parking Ramp.
 - D. During the design we will meet with the owner to obtain direction pertaining to use of the facilities by the contractor for storage of equipment and materials, use of toilet facilities, provisions for contractor labor parking, etc.
 - E. The construction documents prepared by Ulteig will include the General Conditions and Supplementary conditions.
2. Compiling required site information as needed to complete the construction documents.
3. Assist with bidding and review bids.
4. Complete shop drawing reviews for luminaire and lighting control system submittals.
6. Conduct a final walk through (punch list) for the Radisson Parking Ramp.
5. Construction documents turned over to the owner in electronic format.

The following tasks and services will be included in the lighting Construction Administration services for the Radisson Parking Ramp.

Scope of Work

1. Weekly project observation site visits to each site to view project progress.
2. Provide construction administration services including bi-weekly construction meetings, change proposals and review/clarifications as needed.
3. Verifying contractor compliance to the Bacon Davis Act and the completion of required paperwork.
4. Processing pay requests.

The Scope of work does not include:

1. Construction observations other than those listed above.
2. Drafting electronic floorplans for use as backgrounds for the project. The fee proposed is based on computerized files of current floorplans provided by the owner.

3. Architectural design for any work required to be done to modify the existing structure to accommodate the installation and connection to new luminaires.
4. The proposal is based on the reuse of existing electrical services and existing circuiting. Circuiting revision shown in the construction documents will be for indication of switching control only.
5. The project design is based upon review of existing building documents. Additional design work required due to conflicts of existing structure and proposed work will be completed on an hourly basis. The hourly rate will be \$120/hour.
6. As-built drawings.

We propose to provide the above services for the following lump sum fees:

Radisson Parking Ramp Study and Design Services Fee \$ 13,500

Payment for services will be based on the following schedule and billed on a monthly basis:

Lighting Study	50%
Construction Documents	45%
Bidding	<u>5%</u>
Fee Total	100%

Construction Administration Hourly basis (\$120/hr)

The Advertisement for Bids and the printing and mailing construction documents and specifications shall be handled by Ulteig. The owner shall reimburse Ulteig for these expenses.

The City of Fargo shall reserve the right to stop the project after the completion of the Lighting Study and not continue on with the Construction Documents, Bidding and Construction Administration.

Thank you for the opportunity to work with you on this project, we look forward to an exciting and rewarding project. Please call me if you have any questions or concerns.

Acceptance of this proposal will amend the Engineering Services Agreement dated April 13, 2009 between Ulteig Engineers, Inc. and the City of Fargo to include the additional scope of work, fees and reimbursable expenses indicated herein.

Approved and Accepted:

By: _____ Date: _____
Name



01

ASSESSMENT DEPARTMENT

January 21, 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 Eric & Jessie Berg. 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 \$50 with the City of Fargo's share being \$10.

Sincerely

A handwritten signature in black ink, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

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 Eric + Jessie Berg Phone No. 701-306-1812

2. Address of Property 1257 3rd St. N.

City Fargo State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed Lot 15, blk 5 of
Holes 1st addition

4. Parcel Number ?

5. Mailing Address of Property Owner 1257 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). finished off 1/2 of bsmt (family room)

7. Building Permit No. 20090151 8. Year built if residential property 1956

9. Date of commencement of making the improvement 2-20-09

10. Estimated market value of property before improvement \$ 135,000

11. Cost of making the improvement (all labor, material and overhead) \$ 3,000

12. Estimated market value of property after improvement \$ 138,000

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 [Signature] Date 1-

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 1/21/10

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 _____



52

ASSESSMENT DEPARTMENT

January 26, 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 Aaron & Alyssa Solseng. 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 \$215 with the City of Fargo's share being \$300.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

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 Aaron and Alyssa Solberg Phone No. 701-361-9134

2. Address of Property 49 16 Ave N

City Fargo State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed Finished lower level (50').

4. Parcel Number 49 16

5. Mailing Address of Property Owner 49 16 Ave 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). Inside draintite installed on all basement walls, Sump pump installed. Completed a living room in basement and bed room

7. Building Permit No. 82477 8. Year built if residential property 1954

9. Date of commencement of making the improvement December 2008

10. Estimated market value of property before improvement \$ _____

11. Cost of making the improvement (all labor, material and overhead) \$ 12,500

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 Alyssa Solberg Date 1/16/10

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 1/26/10

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 _____



3

ASSESSMENT DEPARTMENT

January 26, 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 Robert & Celeste Sticca. 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 \$2,230 with the City of Fargo's share being \$290.

Sincerely,

A handwritten signature in cursive script that reads "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

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 Robert & Celeste Sticca Phone No. 864-430-6404

2. Address of Property 1230 5th ST N

City Fargo State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed PT 4 and 5 Block 3 James Holes Addition

4. Parcel Number 01-1370-00380-000

5. Mailing Address of Property Owner 1230 5th 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). remodel main floor - kitchen and baths

7. Building Permit No. 82275 8. Year built if residential property 1879

9. Date of commencement of making the improvement 11-1-08

10. Estimated market value of property before improvement \$ 375,000.00

11. Cost of making the improvement (all labor, material and overhead) \$ 130,000.00

12. Estimated market value of property after improvement \$ 505,000.00

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 Celeste A. Sticca Date 1-19-10

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 1/26/10

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 _____



(54)

ASSESSMENT DEPARTMENT

January 26, 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 John Osborne. 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 \$770 with the City of Fargo's share being \$100.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka". The signature is written in a cursive style with a large initial "B".

Ben Hushka
City Assessor

tla

attachment

**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 John Osborne Phone No. 371-2778

2. Address of Property 1427 5 Ave. S.

City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed,
W 46.82' of Lot E Block 36 Eddy & Fullers Addition

4. Parcel Number 01-0700-02330-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner PO Box 5151

City Fargo State ND Zip Code 58105

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). Remodel interior, replace furnace and roof

7. Building Permit No. None 8. Year Built 1916

9. Date of Commencement of making the improvement December 2009

10. Estimated market value of property before improvement \$ 60,000-

11. Cost of making the improvement (all labor, material and overhead) \$ 45,000-

12. Estimated market value of property after improvement \$ 120,000-

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 [Signature] Date 1-1-10

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 1/26/10

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 _____



05

ASSESSMENT DEPARTMENT

January 27, 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 Clem Schnase. 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 \$260 with the City of Fargo's share being \$35.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

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 Clem Schnase Phone No. (701) 730-5538

2. Address of Property 708 8th St. N.

City Fargo State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed Harwoods 1st Lot # Block 3

4. Parcel Number 01-1120-00180-000

5. Mailing Address of Property Owner Same

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). Kitchen remodel.

7. Building Permit No. _____ 8. Year built if residential property 1908

9. Date of commencement of making the improvement 05-31-09

10. Estimated market value of property before improvement \$ 120,000.00

11. Cost of making the improvement (all labor, material and overhead) \$ 15,000.00

12. Estimated market value of property after improvement \$ 135,000.00

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 [Signature] Date 01/25/10

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 1/27/2010

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 _____



86

ASSESSMENT DEPARTMENT

February 2, 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 David & Heidi Huus. 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 \$700 with the City of Fargo's share being \$10.

Sincerely;

A handwritten signature in black ink, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

**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 David & Heidi Huns Phone No. 701-866-5350
 2. Address of Property 616 1st Street North
 City FARGO State ND Zip Code _____
 3. Legal description of the property for which the exemption is being claimed, LT 5 BLK 39
KEENEY & DEVITTS 2ND
 4. Parcel Number 01540-0321-000 Residential Commercial Central Business District
 5. Mailing Address of Property Owner 616 1st Street North
 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). Attic area into playroom
 7. Building Permit No. 71238 8. Year Built ~~2007~~ 1915
 9. Date of Commencement of making the improvement _____
 10. Estimated market value of property before improvement \$ 96,300
 11. Cost of making the improvement (all labor, material and overhead) \$ 4,000 PERMIT VALUATION
 12. Estimated market value of property after improvement \$ 100,300

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 [Signature] Date 12/30/07

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 2/2/2010

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 _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

57

February 2, 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 Scott & Shannon Dahms. 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 \$100 with the City of Fargo's share being \$15.

Sincerely,



Ben Hushka
City Assessor

tla

attachment

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 SCOTT & SHANNON DAHMIS Phone No. (701) 306-5729

2. Address of Property 423 8 ST S
 City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed PT LTS 10-12, BLK 36, NORTHERN PACIFIC

4. Parcel Number 01-2140-00170-000

5. Mailing Address of Property Owner SAME
 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). 2ND FL BTHRM RMDL

7. Building Permit No. 90211 8. Year built if residential property 1899

9. Date of commencement of making the improvement Jan 4th, 2010

10. Estimated market value of property before improvement \$ 174,900

11. Cost of making the improvement (all labor, material and overhead) \$ 6,000

12. Estimated market value of property after improvement \$ 180,900

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 [Signature] Date 01-07-2010

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 2/2/10

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 _____



58

ASSESSMENT DEPARTMENT

February 2, 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 Renee Godke. 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 \$125 with the City of Fargo's share being \$16.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

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 Renee Godke Phone No. 701-307-5937

2. Address of Property 1138 3rd St North
 City Fargo State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed House
LT 22 BLK 3 HECTORS

4. Parcel Number 01-1160-00590-000

5. Mailing Address of Property Owner 1138 3rd St North
 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). Bathroom Remodel

7. Building Permit No. 1277 8. Year built if residential property 1920

9. Date of commencement of making the improvement 7/24/09

10. Estimated market value of property before improvement \$ 111,000

11. Cost of making the improvement (all labor, material and overhead) \$ 7,200

12. Estimated market value of property after improvement \$ 118,200

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 Renee Godke Date 1/9/10

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 Den Smith Date 2/2/10

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 _____



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ASSESSMENT DEPARTMENT

February 2, 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 Matthew & Janess Sveet. 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 \$300 with the City of Fargo's share being \$40.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

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 Matthew and Janes Sved Phone No. 232-5908

2. Address of Property 362 9th Ave S.

City Fargo State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed Woodruffs Lot 2 Blk 4

4. Parcel Number 01-4100-00690-000

5. Mailing Address of Property Owner Same

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). Master bath addition

7. Building Permit No. 90868 8. Year built if residential property 1916

9. Date of commencement of making the improvement 6/1/09

10. Estimated market value of property before improvement \$ 128,600

11. Cost of making the improvement (all labor, material and overhead) \$ 17,000

12. Estimated market value of property after improvement \$ 145,600

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 Janes Sved Date 12/10/09

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 Alex Kusch Date 2/2/10

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 _____



ASSESSMENT DEPARTMENT

6-10

February 2, 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 Eric Exner. 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 \$370 with the City of Fargo's share being \$50.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka". The signature is fluid and cursive, with a long, sweeping underline.

Ben Hushka
City Assessor

tla

attachment

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 Eric Exner Phone No. 701-793-2882

2. Address of Property 322 24th Avenue North
 City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed, East 60.5 Feet of Lot 29 in Block 4 of Louise S. Newman Addition to the City of Fargo

4. Parcel Number _____ Residential Commercial Central Business District

5. Mailing Address of Property Owner 322 24th Avenue North
 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). egress windows (2), drain tile, Sump pump

7. Building Permit No. 91054 8. Year Built 1955

9. Date of Commencement of making the improvement 9/1/09

10. Estimated market value of property before improvement \$ 131,500

11. Cost of making the improvement (all labor, material and overhead) \$ 21,400

12. Estimated market value of property after improvement \$ 152,900

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 [Signature] Date 11/16/09

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 [Signature] Date 2/2/10

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 _____



0-11

ASSESSMENT DEPARTMENT

February 2, 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 Frank Anderson. 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 \$170 with the City of Fargo's share being \$25.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

**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	<u>Frank Anderson</u>	Phone No.	<u>701 293 9032</u>
2. Address of Property	<u>1225 N Elm</u>		
City	<u>FARGO</u>	State	<u>ND</u> Zip Code <u>58102 58102</u>
3. Legal description of the property for which the exemption is being claimed	<u>1225 N Elm Lot 9 BIK 3 - Ridgewood</u>		
4. Parcel Number	<u>01-2360-00450-000</u>		
5. Mailing Address of Property Owner	<u>1225 N Elm</u>		
City	<u>FARGO</u>	State	<u>ND</u> Zip Code <u>58102</u>

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).	<u>Remodel Kitchen</u>		
7. Building Permit No.	<u>90153</u>	8. Year built if residential property	<u>1958 ²</u>
9. Date of commencement of making the improvement	<u>Jan 2009</u> <u>Not sure</u>		
10. Estimated market value of property before improvement	\$	<u>8133,000</u>	
11. Cost of making the improvement (all labor, material and overhead)	\$	<u>10,000</u>	
12. Estimated market value of property after improvement	\$	<u>143,000</u>	

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 <u>Frank Anderson</u> Date <u>12/17/09</u>

Assessor's Determination

14. The local assessor finds that the improvements in this application <input checked="" type="checkbox"/> has <input type="checkbox"/> has not <input type="checkbox"/> met the qualifications for exemption for the following reason(s): <u>5 YEARS</u>
Assessor's Signature <u>[Signature]</u> Date <u>2/2/10</u>

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied <input type="checkbox"/> Approved <input type="checkbox"/>
Approval subject to the following conditions: _____
Chairman of Governing Body _____ Date _____



5/12

ASSESSMENT DEPARTMENT

January 26, 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 Mark & Alene Dravitz. 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.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$1,200 with the City of Fargo's share being \$155.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka". The signature is fluid and cursive.

Ben Hushka
City Assessor

tla

attachment

**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 "HVK" - Aleiv Draculz Phone No. 701 280-9277
2. Address of Property 2431 Lilac Lane
City FARGO State ND Zip Code 58102
3. Legal description of the property for which the exemption is being claimed RESIDENCE
4. Parcel Number 01-4060-00250-000
5. Mailing Address of Property Owner 2431 Lilac Lane FARGO ND 58102
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). 12x14 addition for dining room + double garage.
7. Building Permit No. 91130 8. Year built if residential property 1971
9. Date of commencement of making the improvement 1/19/10
10. Estimated market value of property before improvement \$ 175,000
11. Cost of making the improvement (all labor, material and overhead) \$ 70,000
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 Aleiv Draculz Date 1/14/10

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): 3 YEARS
Assessor's Signature Don Quast Date 1/26/10

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 _____



513

ASSESSMENT DEPARTMENT

February 2, 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 David & Susan Middaugh. 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.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$300 with the City of Fargo's share being \$40.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ben Hushka".

Ben Hushka
City Assessor

tla

attachment

**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	<u>David & Susan Middaugh</u>	Phone No.	<u>701-237-0266</u>
2. Address of Property	<u>3273 Evergreen Rd N</u>		
City	<u>Fargo</u>	State	<u>ND</u>
		Zip Code	<u>58102</u>
3. Legal description of the property for which the exemption is being claimed	<u>Lot 1 Block 2</u> <u>Addition Golf Course 1st</u>		
4. Parcel Number	<u>01-1001-00250-000</u>		
5. Mailing Address of Property Owner	<u>3273 Evergreen Rd</u>		
City	<u>Fargo</u>	State	<u>ND</u>
		Zip Code	<u>58102</u>

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).	<u>Remodel Family Room</u> <u>in Basement (was 75% finished, is 75% finished)</u>		
7. Building Permit No.	<u>90377</u>	8. Year built if residential property	<u>1972</u>
9. Date of commencement of making the improvement	<u>Summer 2009</u>		
10. Estimated market value of property before improvement	\$	<u>202,000</u>	
11. Cost of making the improvement (all labor, material and overhead)	\$	<u>17,600</u>	
12. Estimated market value of property after improvement	\$	<u>202,000</u>	
		<u>Still 75% finished</u>	

Applicant's Certification and Signature

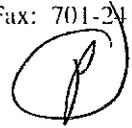
13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
Applicant's Signature <u>Susan Middaugh</u> Date <u>12/18/09</u>

Assessor's Determination

14. The local assessor finds that the improvements in this application <input checked="" type="checkbox"/> has <input type="checkbox"/> has not <input type="checkbox"/> met the qualifications for exemption for the following reason(s): <u>3 YEARS</u>
Assessor's Signature <u>Dee Dushku</u> Date <u>7/2/10</u>

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied <input type="checkbox"/> Approved <input type="checkbox"/>
Approval subject to the following conditions: _____
Chairman of Governing Body _____ Date _____



MEMORANDUM

TO: Board of City Commissioners
FROM: Steven Sprague, City Auditor
SUBJECT: El Zagal Skyway use request
DATE: January 28, 2010

In April 2008 the Board of City Commissioners adopted the Skyway Use Policy. According to the policy, a request for skyway usage by outside parties must include the purpose of the request, the time and date of its proposed usage and a hold harmless pledge to the City from any accidents or destruction of property.

I have received the attached request from the El Zagal Shrine requesting use of the skyway to hang banners promoting the El Zagal Shrine Circus. The banners will be hung on the chains that run through the skyway and will be on display from March 23rd until April 7th. The request meets all of the requirements listed in the Skyway Use Policy.

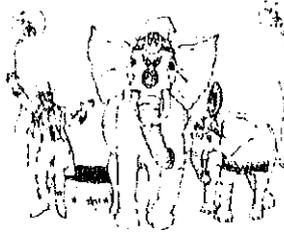
Please approve the request from the El Zagal Shrine to use the skyway to promote the El Zagal Shrine Circus, banners to hang in the skyway from March 8th until March 23rd, 2010.

Recommended Motion:

Approve the request from the El Zagal Shrine to use the skyway to promote the El Zagal Shrine Circus, banners to hang in the skyway from March 8th until March 23rd, 2010.



SHRINE



CIRCUS

1429 3RD STREET NORTH

FARGO, NORTH DAKOTA 58102

March 26, 2009

To: Steve Sprague, City of Fargo
From: Bryan Shinn, El Zagal Shrine Circus Vice Chair
Re: Banners for the Shrine Circus

Dear Steve,

The El Zagal Shriners would like to request permission to display banners (2 ft. x 12 ft, vinyl) in the downtown skyway to promote this years Shrine Circus March 19, 20 and 21, at the Fargodome. The Shriners have been displaying their banners to promote the circus for over 25 years. We have (7) banners and would like to have (2) in the skyway over Broadway, (2) in the skyway east of Metro Drug, (2) in the skyway by the Civic Center and (1) in the part of the skyway with only one window. We would like to put them up on March 8th and would have them taken down no later then March 23rd. The banners will read 'El Zagal Shrine Circus March 19th, 20th and 21st'. We will not hold the city of Fargo responsible for any damage that may happen to our banners including theft. We will hang them as we have done in the past on the chains in the skyway and will not use tape or any other adhesive product.

The Shriners have been strong supporters of the City of Fargo, lining up parades and sponsoring free community events. Thank you for taking time to consider our request and please call Bryan Shinn, El Zagal Shrine Circus Chair/Public Relations Chair @ 701-261-6350 if you have any questions.



701-235-7521
701-235-7522 (FAX)

APPLICATION FOR A LOCAL PERMIT

Page 132
City of Fargo
Rev. 7-03

(Q 2)

Name of Non-profit Organization <i>Cathedral of St. Mary</i>		Date(s) of Activity <i>May 16th, 2010 to May 16, 2010</i>	
Person Responsible for the Gaming Operation <i>Cecelyn Lary - Gaming Operations</i>		Title <i>Secretary</i>	Business Phone Number <i>701-235-4284</i>
Business Address <i>619-7th St. North</i>	City <i>Fargo</i>	State <i>ND</i>	Zip Code <i>58102</i>
Mailing Address (if different)	City	State	Zip Code
Name of Site Where Game(s) will be Conducted <i>Cathedral of St. Mary</i>		Site Address <i>.604 Broadway</i>	
City <i>Fargo</i>	State <i>ND</i>	Zip Code <i>58102</i>	County <i>Cass</i>
Check the Game(s) to be Conducted: <input checked="" type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Bingo	Cash	\$2.00 per game \$40.00	Raffle	Cash	\$ 100
Raffle	BBA Gas Grill	700.00 600.00	Raffle	Cash	100
Raffle	Cash	\$ 500	Raffle	Cash	100
Raffle	Cash	\$ 250	Raffle	Cash	100
Raffle	Cash	\$ 250	Raffle	Giftcard	100
Raffle	Cash	\$ 225	Raffle	Giftcard	50
Raffle	Cash	\$200	Raffle	Holy Picture	60
Raffle	Cash	100	Raffle	Cash	100
Raffle	Cash	100	Raffle	Cash	100
Total:					(Limit \$12,000 per year) \$ 3750.00

Intended uses of gaming proceeds: General Funds Disbursement

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: \$ 3510. This amount is part of the total prize limit of \$12,000 per year.

PRIZE RESTRICTIONS:

A single cash prize cannot exceed \$1,000 and total cash prizes for a raffle cannot exceed \$3,000 in one day.

The retail value of a merchandise prize cannot exceed \$2,500.

The total of all cash prizes and retail value of all merchandise prizes for all games cannot exceed \$12,000 in a fiscal year July 1 through June 30.

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 Top Executive Official <i>Cindy Petrich</i>	Date <i>2-3-2010</i>	Title <i>Chairman</i>	Daytime Phone Number <i>232-5485</i>
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APPLICATION FOR A LOCAL PERMIT

City of Fargo
Rev. 12-09

25.⁰⁰
Q 2-3-10
CR# 5719
Q 3

Fargo Ice Rink

Name of Non-profit Organization <i>Red River Valley Figure Skating Club</i>		Date(s) of Activity <i>MARCH 14, 2010 to March 14, 2010</i>	
Person Responsible for the Gaming Operation <i>Nitch Semancio</i>		Title	Business Phone Number <i>701 730 0885</i>
Business Address <i>1732 Plumtree Road N</i>	City <i>FARGO</i>	State <i>ND</i>	Zip Code <i>58102</i>
Mailing Address (if different)	City	State	Zip Code
Name of Site Where Game(s) will be Conducted <i>Fargo Coliseum</i>		Site Address <i>17th Ave N</i>	
City <i>FARGO</i>	State <i>ND</i>	Zip Code <i>58102</i>	County <i>CASS</i>
Check the Game(s) to be Conducted: <input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize
Raffle	200.00 CASH	\$ 100. ⁰⁰
"	CASH	100. ⁰⁰
"	Oil, Lube, Filter (2) ^{99.00}	98. ⁰⁰
"	West Acres Gift Card	30. ⁰⁰
"	Schools Gift Card (2) ^{25.00}	50. ⁰⁰
"	YMCA 3 mo. Adult Membership	191. ⁰⁰
"	pedicure facial	100. ⁰⁰
"	Limo Certif. (2) ^{25.00}	50. ⁰⁰
"	Lobby's Gift Card (2) ^{40.00}	40. ⁰⁰

Game Type	Description of Prize	Retail Value of Prize
Raffle	Car Wash	\$ 45. ⁰⁰
"	Ruby Tuesday Gift Card	2010. ⁰⁰ = 20. ⁰⁰
"	Family membership AIR MUSEUM	50. ⁰⁰
"	Red Hucks Game tickets	408. ⁰⁰ = 32. ⁰⁰
"	Old Chicago Certif.	10. ⁰⁰
"	Home wood suites Certif.	135. ⁰⁰
"	Hoxby's Gift Card 20 ⁰⁰	100. ⁰⁰ = 200. ⁰⁰
"	Holiday INN 1 night stay	125. ⁰⁰
"	Space Aliens Certif.	15. ⁰⁰
"	marcus theater certificate 100. ⁰⁰	100. ⁰⁰
Total:		(Limit \$12,000 per year) \$ 1556.⁰⁰

Intended uses of gaming proceeds: to defray costs of Professional Event skater at Fargo Ice Rink

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 <i>Nitch Semancio</i>	Date <i>2/3/2010</i>	Title <i>Raffle Director</i>	Day time Phone Number <i>701 730 0885</i>
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APPLICATION FOR A LOCAL PERMIT

City of Fargo
Rev. 12-09

Feb 2-4-10
CR#
25.00
Q 4

Name of Non-profit Organization <i>Rusty Quart Brain Freeze Benefit</i>		Date(s) of Activity <i>Feb 20th 2010 Feb 20 2010</i>	
Person Responsible for the Gaming Operation <i>DARLA WILLOUGHBY</i>		Title	Business Phone Number
Business Address <i>570 32nd St. So</i>		City <i>FARGO</i>	State <i>ND</i> Zip Code <i>58104</i>
Mailing Address (if different)		City	State Zip Code
Name of Site Where Game(s) will be Conducted <i>Hope Lutheran Church</i>		Site Address <i>3636 25th St. So</i>	
City <i>FARGO</i>		State <i>ND</i> Zip Code <i>58104</i>	County <i>CASS</i>
Check the Game(s) to be Conducted: <input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Raffle	Quilt	\$ 100			\$
Raffle	Jewelry	\$ 100			
Raffle	Jersey	\$ 120			
Raffle	Foot ball	\$ 25			
Raffle	Jewelry	100-			
Raffle	Jewelry	150-			
Raffle	Jewelry	150-			
Raffle	Jersey	100-			
Raffle	Jewelry	125-			

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

Intended uses of gaming proceeds: *Medical Expenses Not Covered by Insurance*

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 <i>Melissa L. [Signature]</i>	Date <i>4 Feb 10</i>	Title <i>Lead Volunteer</i>	Day time Phone Number <i>701-238-9495</i>
---	-------------------------	--------------------------------	--



Office of the City Attorney

February 2, 2010

City Attorney
Erik R. Johnson
Assistant City Attorney
Robert L. "Butch" McConn, Jr.

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

City Prosecutors
Scott O. Diamond
Jodi A. Bass

Re: Tharaldson Ethanol Plan - Consent to Assignment for Financing

Dear Commissioners:

I am enclosing for your approval a form of Consent to the assignment by the Tharaldson Ethanol Company, which owns and operates the ethanol production plant near Casselton, to a lender Dougherty Funding LLC, of an assignment which serves in the nature of a mortgage or other security for a loan to the Tharaldson Ethanol Plant Company. Pursuant to the Memorandum of Agreement entered into between the city of Fargo, Cass Rural Water User District and Tharaldson Ethanol Plant I, L.L.C., the parties agree to execute such documents as will enable the parties to continue financing of the project. Approval of this consent form would be consistent with the city's obligation under the MOU.

SUGGESTED MOTION: I move to approve the "Water Supplier and Wastewater Treatment Supplier Certificate", including a consent to the assignment to Dougherty Funding LLC by Tharaldson Ethanol Plant I, L.L.C. of the interest of Tharaldson in the ethanol project, and authorize the Mayor and City Auditor to execute the same.

Sincerely,

A handwritten signature in black ink, appearing to be "ERJ", written over a horizontal line.

Erik R. Johnson

ERJ/jmf
Enclosure (Form of Consent w/o Attachments)

Dougherty Funding LLC
90 South Seventh Street, Suite 4400
Minneapolis, Minnesota 55402

Re: Project: Tharaldson Ethanol Plant ("Project")
Casselton, North Dakota
Owner/Borrower: Tharaldson Ethanol Plant I, L.L.C.
Agreements: Memorandum of Understanding between Tharaldson Ethanol Plant I, L.L.C., Cass Rural Water Users District and the City of Fargo dated July 9, 2007, as amended by First Amendment to Memorandum of Understanding dated September 13, 2007 and Second Amendment to Memorandum of Understanding dated December 15, 2009 ("Agreements")
Service Provided: Water and Wastewater Treatment, including financing and construction of the infrastructure necessary for the delivery of treated wastewater and for the return of plant wastewater ("Services")

Ladies/Gentlemen:

We are supplying water and wastewater treatment services (the "Services") to the Project under the subject Agreements. We understand that you are making a loan to the Borrower to finance the design, construction and installation of the dryer system for the Project ("Loan"). We further understand that the Borrower has collaterally assigned to you all of its right in the Agreements ("Assignment"). We consent to such Assignment and advise you that:

1. Attached hereto as Exhibit A are complete copies of the Agreements. We certify the Agreements constitute all of the agreements to which the City of Fargo is a party pertaining to the Services.
2. Upon the occurrence of a default and subsequent failure to cure by the Borrower under the Agreements we shall notify you in writing at your address above and you shall have the right, exercisable for 30 days after such notice, to elect in writing to us to require us to continue performance under the Agreements in which case we shall thereafter continue to provide the Service under the Agreements provided we are reimbursed in accordance with the Agreements for our Services.
3. All approvals, permits, licenses, and/or rights-of-way easements necessary to commence construction of any facilities necessary to provide the Services in the Agreements have been obtained.
4. Treated Wastewater may be delivered pursuant to the rights granted in the Industrial Water Permit No. 5897 issued by the North Dakota Water Commission to the City of Fargo on May 22, 2007.
5. The City of Fargo's City Commission has approved the Agreements.
6. All preconditions necessary to furnish the Services in the Agreements have been satisfied. Additional preconditions and responsibilities of all parties as a prerequisite to furnishing Services are outlined in the Agreements.

7. All contracts, from the standpoint of the City of Fargo, necessary to complete such facilities have been executed and delivered.
8. Other than the termination rights of the City identified in the MOU, and specifically in MOU Sections 10, 34 and 35, any right to terminate the Agreements other than by reason of the failure of the Borrower to perform its obligations thereunder are expressly waived. In that connection the Borrower has deposited with us all cash payments and security required under the Agreements.
9. The date of substantial completion was October 15, 2008.

[See attached signature page]

Dated: _____, 2010

CITY OF FARGO, NORTH DAKOTA

By: _____

Name: Dennis R. Walaker

Its: Mayor

ATTEST:

Steve Sprague, City Auditor

[Signature page to City Water & Wastewater Treatment Certificate]

EXHIBIT A

Water Service Agreement

5

REPORT OF ACTION
UTILITY COMMITTEE

Project No. 5726-1 Type: Contract Amendment No. 2
Anderson Lift Station, Lift Station #25 and Forcemain

Location: Lift Station #23 (19th Avenue North)
Chemical Injection Station (25th Street and 30th Avenue South)

Date of Hearing: 2/03/10

Routing _____ Date _____
City Commission _____ 2/08/10
Project File _____

Brenda Derrig, Senior Engineer, submitted the attached memo and Contract Amendment No. 2 for Project 5726-1 (Engineering for Anderson Lift Station, Lift Station #25 and Forcemain). The contract amendment is in the amount of \$31,650 for completing the design and equipment specifications for upgrading liquid-phase equipment at the Chemical Injection Station and installing vapor-phase equipment at Lift Station #23.

Ulteig Engineers previously completed an Odor and Corrosion Control Master Plan which contained recommendations for strategically placed liquid-phase and vapor-phase sulfide treatment equipment. All of the recommendations were able to be incorporated into the various 45th Street interceptor sewer projects, with the exception of two locations. Therefore, a contract amendment was requested from Ulteig Engineers under their existing engineering contract 5726-1 to complete the final two Master Plan recommendations. Contract Amendment No. 2 includes the following additional design and specification work items:

- Chemical Injection Station Liquid-Phase equipment Upgrades
- Lift Station #23 Vapor-Phase Equipment Installation

A summary of the engineering contract and amendments is shown below:

Original Contract Amount	\$770,525
Amendment #1	\$ 82,250
Amendment #2	\$ 31,650
Current Contract Amount	\$884,425

On a motion by Mark Bittner, seconded by Jim Hausauer, the Utility Committee voted to approve Amendment No. 2 for \$31,650 with Ulteig Engineers for Project 5726-1.

COMMITTEE:	Present	Yes	No	Unanimous
				X
				Proxy
Dennis Walaker, Mayor	X			
Mike Williams, City Commissioner				
Pat Zavoral, City Administrator	X			
Mark Bittner, City Engineer	X			
Kent Costin, Director of Finance	X			
Ron Hendricksen, Water Plant Supt.	X			
Peter Bilstad, Wastewater Plant Supt.				
Bruce Grubb, Enterprise Director	X			
Scott Liudahl, City Forester	X			
Terry Ludlum, Solid Waste Utility Manager	X			
James Hausauer, Wastewater Util. Manager	X			
Al Weigel, Public Works Operations Manger	X			

ATTEST: 
Bruce P. Grubb
Enterprise Director

C: Commissioner Mahoney
Commissioner Wimmer
Commissioner Piepkorn

This is EXHIBIT K, consisting of one (1) page, referred to in and part of the Agreement between Owner and Engineer for Professional Services Dated Feb 27, 2008

AMENDMENT NO. 3 TO OWNER-ENGINEER AGREEMENT

Subject of Amendment:

1. Background Data:

- a. Effective Date of OWNER-ENGINEER Agreement: February 27, 2008
- b. OWNER: City of Fargo
- c. ENGINEER: Ulteig Engineers, Inc.
- d. Project: Fargo Sanitary Collection System Improvements (Fargo Project #5726)

2. Nature of Amendment

Additional Services to be performed by ENGINEER

Modifications to Payment to ENGINEER

3. Description of Modifications

Attachment 1, "Modifications"

OWNER and ENGINEER hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is November 25, 2009.

OWNER:

ENGINEER:

By: _____

By: Chris White

Title: _____

Title: VICE PRESIDENT

Date Signed: _____

Date Signed: 11/25/09

Modifications:

1. Engineer shall perform the following additional services:

Project #5726 – Liquid Phase and Vapor Phase Odor Control Improvements at Existing Chemical Injection Station (25th Street & 30th Ave) and Sanitary Lift Station No. 23.

Amend Exhibit A, Paragraph A1.02 (Preliminary Design Phase – 60%), A, 5 as follows:

- 5. Perform or provide the following additional Preliminary Design Phase tasks or deliverables:
 - A. Engineer shall provide preliminary design for liquid phase chemical injection improvements at the existing FeCl₂ station on 25th Street and 30th Ave.
 - B. Engineer shall provide preliminary design alternatives for vapor phase odor control improvements at Sanitary Lift Station No. 23.

Amend Exhibit A, Paragraph A1.03 (Final Design Phase – 100%), A, 4 as follows:

- 4. Perform or provide the following additional Final Design Phase tasks or deliverables:
 - A. Engineer shall provide preliminary design for liquid phase chemical injection improvements at the existing FeCl₂ station on 25th Street and 30th Ave.

Amend Exhibit A, Paragraph A1.04 (Bidding or Negotiating Phase), A, 5 as follows:

- 4. Perform or provide the following additional Negotiating Phase tasks or deliverables:
 - A. Engineer shall provide negotiating phase services for liquid phase chemical injection improvements at the existing FeCl₂ station on 25th Street and 30th Ave.

Amend Exhibit A, Paragraph A1.05 (Construction Phase), A, 18 as follows:

- 18. Perform or provide the following additional Construction Phase tasks or deliverables:
 - A. Engineer shall provide construction administration services for liquid phase chemical injection improvements at the existing FeCl₂ station on 25th Street and 30th Ave.

This is Attachment 1 to EXHIBIT K, consisting of three (3) pages, to Amendment No.3, dated November 25, 2009.

Amend Exhibit A, Paragraph A1.06 (Post Construction Phase), A, 5 as follows:

5. Perform or provide the following additional Post Construction Phase tasks or deliverables:

A. Engineer shall provide post construction phase (start up) services for liquid phase chemical injection improvements at the existing FeCl₂ station on 25th Street and 30th Ave.

2. For the aforementioned additional services Owner shall pay Engineer the following additional compensation:

A. Project #5726 – Liquid Phase and Vapor Phase Odor Control Improvements at Existing Chemical Injection Station (25th Street & 30th Ave) and Sanitary Lift Station No. 23.

1. Preliminary Design Phase:	\$11,500
2. Final Design Phase:	\$ 7,500
3. <u>Negotiating Phase:</u>	<u>\$ 3,000</u>
Sub Total:	\$22,000

4. Construction Admin. Phase:	\$ 5,250
5. <u>Post Const. Phase:</u>	<u>\$ 4,400</u>
Sub Total:	\$ 9,650

Total: \$31,650

3. **Modifications to Exhibit ‘C’ – Payments to Engineer for Services and Reimbursable Expenses.**

Amend Exhibit C, Paragraph C2.01 Compensation for Basic Services (other than Resident Project Representative, Construction Staking, Construction Reimbursable, Quality Control Testing) – Lump Sum Method of Payment, A.1 as follows:

1. A Lump Sum amount of \$462,950 for project #5726 is based on attachment C-5726 (from original contract) totaling a Lump Sum fee of \$358,700 , and \$82,250 as per Amendment No.1 and an additional Lump Sum fee of \$22,000 as per Amendment No.3. The newly amended lump sum fee of \$462,950 does not include hourly services for construction observation (RPR), construction staking, reimbursables during construction phase or quality control testing during the construction phase.

Amend Exhibit C, Paragraph C2.04 Compensation for Residential Project Representative, Construction Staking, Construction Reimbursables, Quality Control Testing – Standard Hourly Rates Method of Payment, A.1 as follows:

This is Attachment 1 to EXHIBIT K, consisting of three (3) pages, to Amendment No.3, dated November 25, 2009.

1. *Resident Project Representative, Construction Staking, Construction Reimbursables, Quality Control Testing.* For services as listed, if any, under paragraph A1.05A of Exhibit A, an amount equal to the cumulative hours charged to the project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class for all Resident Project Representatives services performed on the Project, plus related Reimbursable expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$417,075 based upon Contract Times set forth herein. The total compensation includes an amended amount of \$5,250 from the subject amendment no. 3 and the original contract amount of \$411,825.

2. *Post Construction Phase Services.* For Post Construction Phase services under Paragraph A1.06 of Exhibit A, an amount equal to the cumulative hours charged to the project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class for all services performed on this project, plus related reimbursable expenses and Engineer's consultant charges if any. The total compensation under this paragraph is estimated to be \$4,400.



REPORT OF ACTION

UTILITY COMMITTEE

Project No. NA Type: Effluent Reuse Facility (ERF)
 Technical Support Services Agreement

Location: Wastewater Treatment Plant (WWTP)

Date of Hearing: 2/03/10

Routing	Date
City Commission	2/08/10
Project File	

Jim Hausauer, Wastewater Utility Manager, presented the attached memo and technical support services agreements related to the Effluent Reuse Facility at the Wastewater Treatment Plant. In 2009, the ERF supplied in excess of 228 million gallons of water to the Tharaldson Ethanol plant. However, the technical support services provided by Moore Engineering and Siemens Water Technologies under their original design and procurement contracts is ending. It is the opinion of Wastewater staff that the technical support services should continue, on an as needed basis, to minimize ERF downtime due to technical interruptions and difficulties. At a peak capacity, ERF downtime equates to a loss of \$4,500 per day in effluent water sales.

Therefore, support services contract proposals were requested from Moore Engineering and Siemens Water Technologies as reflected on the attached. The proposals are generally summarized as follows:

Firm	Annual Support	Cost
Moore Engineering	144 Hours	\$20,200
Siemens Water Technologies	120 Hours	\$23,050

It was suggested that the language limiting the engineer's liability to \$50,000 be removed from the Moore Engineering agreement prior to final approval.

On a motion by Mark Bittner, seconded by Kent Costin the Utility Committee voted approve the attached technical support services agreements with Moore Engineering and Siemens Water Technologies related to the Effluent Reuse Facilities.

COMMITTEE:	Present	Yes	No	Unanimous
				X
				Proxy
Dennis Walaker, Mayor	X			
Mike Williams, City Commissioner				
Pat Zavoral, City Administrator	X			
Mark Bittner, City Engineer	X			
Kent Costin, Director of Finance	X			
Ron Hendricksen, Water Plant Supt.	X			
Peter Bilstad, Wastewater Plant Supt.				
Bruce Grubb, Enterprise Director	X			
Scott Liudahl, City Forester	X			
Terry Ludlum, Solid Waste Utility Manager	X			
James Hausauer, Wastewater Util. Manager	X			
Al Weigel, Public Works Operations Manger	X			

ATTEST:

Bruce P. Grubb

Bruce P. Grubb
 Enterprise Director

C: Commissioner Mahoney
 Commissioner Wimmer
 Commissioner Piepkorn

Siemens Water Technologies Corp
6980 Oxford Street, Unit 120
St. Louis Park, MN. 55426

City of Fargo
Fargo WWTP
3400 North Broadway
Fargo, ND. 58102

Name	Gene Cerilli
Title	Municipal Services Business Developer
Office	724-640-5933
Fax	724-468-1081
E-mail	Gene.cerilli@siemens.com
Internet	www.siemens.com/water
Date	January 14, 2010

Subject: Memcor Service Proposal

Siemens Water Technologies service program is designed to provide a proactive practical monitoring package to limit breakdown risk and ensure optimum performance and plant life. The equipment covered is the Siemens microfiltration units and the Siemens supplied ancillaries.

Siemens proposes that if an on-site service visit is required the cost of that visit will be determined through negotiations with Siemens and the City of Fargo. The scope of work to be performed on-site will also be determined at that time.

This service contract will provide 120 hours of remote service consisting of dial-in and telephone support. The intention is to assist in system optimization, provide reports and recommendations, support Clean –in-Place operation and troubleshooting. Service will be billed monthly based on number of hours used. If 120 annual hours is exceeded, pricing will be negotiated between Siemens and the customer.

Also included in the service contract is a Membrane Care Program. This will consist of a SEM analysis of the membrane to help determine foulant(s). The Program also includes a Cleaning Study of the membranes to help validate chemical regime and optimize cleaning protocol. This is a one time annual service. **This service has been completed.**

The Siemens system includes several processes that all work together to make up a complete operable unit. It is necessary to regularly check/analyze a system to ensure it is functioning efficiently.

Our service is designed to monitor and check the system performance. The next few pages will detail exactly what we will be doing during our service visit.

Contact Jim Hausauer
Company: City of Fargo
Address: 3400 North Broadway
City/ State/ Fargo, ND. 58102

Dear Mr. Hausauer,

I am pleased to present this Preventive Maintenance Agreement proposal for the Memcor Membrane Filtration system located at the City of Fargo waste water treatment plant.

This proposal includes a price quotation for the proposed services and a MAINTENANCE AGREEMENT document, which defines the terms of the maintenance services. In general, the Preventive Maintenance Agreement Program:

- Provides documentation of component operation
- Reduces the likelihood of a major system failure.
- Allows you to schedule downtime for services and repairs at YOUR convenience.
- Extends the life of the system.
- Generally reduces repair costs and protects against downtime.
- Provides an annual projected operations cost for services and expendables.
- Provides Priority Emergency Service.

This Preventative Maintenance Agreement covers the period from **FEBRUARY, 2010 to JANUARY, 2011.**

The Annual Contract Value will be **\$23,050.00** on a net 30 days term.

Proposal Attachments

Schedule "A" - Covered Equipment	Page 4
Schedule "B" - Additional Services	Page 5
Schedule "C" - Customer Responsibilities	Page 5
Schedule "D" - Terms of Conditions	Page 6

Please return one signed copy of the Maintenance Agreement with attached Schedules and a copy of your purchase order to:

Siemens Water Technologies
Attn: Gene Cerilli
6980 Oxford Street, Unit 120
St. Louis Park, MN. 55426

If it is your company's policy to issue purchase orders, please attach a copy of that document to the maintenance agreement. The order should cover the agreed upon services for the term of the agreement.

Thank you again, for your continued interest in Siemens. If there is anything else we may help you with, please call me at 724-640-5933.

Sincerely,

Gene Cerilli
Municipal Services Business Development Specialist
SIEMENS Water Technologies

```

=====
Company Name : City of Fargo
Address:      3400 North Broadway
Site Location:
City:         Fargo
State:        ND. 55426
Telephone:    701-241-1454
Start Date:   ___ Finish Date:
Renewal Date: _____(for CPI Increase)

Site Number:
Trade Class:
Billing Address:
Contact:      Jim Hausauer
Telephone    701-241-1454
Contact Amount: $ 23,050.00
=====

```

Acceptance

Tax Exempt Number: _____

Date: _____, 20____ **Purchase Order Number:** _____

By: _____
Siemens Representatives Name

By: _____ **Title:** _____
Account Representative Name

Siemens Authorized Signature

Account Representative Authorized Signature

TERMS AND CONDITIONS ARE ATTACHED
THIS AGREEMENT IS SUBJECT TO THE TERMS AND CONDITIONS PRINTED ON ONE SHEET AND
ATTACHMENTS WHICH ARE MADE A PART HEREOF AND WHICH CUSTOMER ACKNOWLEDGES TO
HAVE READ, THERE ARE 2 PAGES OF ATTACHMENTS

SCHEDULE A – COVERED EQUIPMENT

Customer:

The following is a list of the equipment and/or components covered under the service contract. Maintenance services in Schedule B will be provided for the following equipment:

CATALOG NO. DESCRIPTION OF APPLICABLE EQUIPMENT

CATALOG NO.	DESCRIPTION OF APPLICABLE EQUIPMENT
	3 x 120L20V Memcor units

SCHEDULE "B" - ADDITIONAL SERVICES

Additional emergency or service visits are billed at the following rates:

Normal Business Hours: \$ 150.00/hr. 2 hour minimum
Monday through Friday
8:00 a.m. to 4:00 p.m.

After Normal Business Hours: \$190.00/hr. 2 hour minimum

Weekends:

Saturdays: \$190.00/hr. 4 hour minimum

Sundays: \$190.00/hr. 4 hour minimum

The above rates include travel time to and from the system location. Additional time on site above the minimum, will be billed in increments of full hours only

SCHEDULE "C" - CUSTOMER RESPONSIBILITY

Detailed below is a list of the customer's responsibilities for providing continual maintenance of the system.

1. Monitor the system daily and record the operating parameters as required in the O & M manual logs.
2. Notify Siemens by the next business day of any malfunction or operation of the system outside normal operating conditions, as specified upon start-up.
3. Provide for and supply all necessary utilities. Notify Siemens by the next business day, of any change in feed water characteristics or the volume of water used.
4. The customer will either provide the labor and/or materials or issue a supplemental Purchase Order for:
 - a. Any additional service time, if required, between scheduled service visits.
 - b. Any repairs that are not specifically covered on Schedule B. These repairs may be under separate quote
5. Provide a minimum of 4 hours down time of the system, for Siemens to perform each scheduled PM service visit.
6. The Customer is suggested to have an inventory of spare parts that are considered typical ware parts. Please consult the manual for a list of suggested spare parts, or the appropriate Siemens Business Center.

1. **Applicable Terms.** These terms govern the Service Order on the reverse side or attached hereto and Siemens' associated proposal, quotation, or acknowledgement ("Siemens Documentation"). Whether these terms are included in an offer or an acceptance by Siemens, such offer or acceptance is conditioned on Customer's assent to these terms. Siemens rejects all additional or different terms in any of Customer's forms or documents.
2. **Payment.** Customer shall pay Siemens the full service fee as set forth in the Siemens Documentation. Unless the Siemens Documentation provides otherwise, all taxes, duties or other governmental charges relating to the services provided shall be paid by Customer. If Siemens is required to pay any such charges, Customer shall immediately reimburse Siemens. All payments are due within 30 days after receipt of invoice. All orders are subject to credit approval.
3. **Scope of Services.** Siemens shall provide the services specifically described in the Siemens Documentation during normal business hours, unless otherwise specified in the Siemens Documentation. Services requested or required by the Customer outside of these hours will be charged at Siemens' then current schedule of rates and will be in addition to the charges outlined in the Siemens Documentation. Where the Customer requests additional Services which are outside of the scope of work itemized in the Siemens Documentation, Siemens may provide those services at standard time and material rates and conditions then in effect.
4. **Ownership of Materials.** All devices, equipment, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by Siemens in connection with services provided, and all related intellectual property rights, shall remain Siemens' property. Siemens grants Customer a non-exclusive, non-transferable license to facilitate Customer's use of the equipment serviced. Customer shall not disclose any such material to third parties without Siemens' prior written consent.
5. **Changes.** Siemens shall not implement any changes in the scope of services described in the Siemens Documentation unless Customer and Siemens agree in writing to the details of the change and any resulting price, schedule or other contractual modifications. This includes any changes necessitated by a change in applicable law.
6. **Warranty.** Siemens warrants that while providing services to the Customer as outlined in Siemens's Documentation all work will be carried out with due care and attention and that Siemens will use suitably qualified personnel. Customer's service warranty is ninety days from the date of the service provided. In the event of a warranty claim, Siemens shall, at its sole option and as Customer's sole remedy, repeat the service at its own expense or refund the service fee actually paid to Siemens. If Siemens determines that any warranty claim is not, in fact, covered by this service warranty, Customer shall pay Siemens its then customary charges for any additionally required service. Siemens' service warranty is conditioned on Customer's (a) operating and maintaining the Equipment in accordance with Siemens' instructions, (b) not making any unauthorized repairs or alterations which affect the service, and (c) not being in default of any payment obligation to Siemens. Siemens' service warranty does not cover damage caused by negligent operation of the water system by Customer, chemical action or abrasive material or misuse which has damaged the equipment serviced, usage of non-potable feedwater with SDI equipment, or improper installation (unless installed by Siemens). THE WARRANTIES SET FORTH IN THIS SECTION ARE SIEMENS' SOLE AND EXCLUSIVE WARRANTIES. SIEMENS MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.
7. **Indemnity.** Siemens shall indemnify, defend and hold Customer harmless from any claim, cause of action or liability incurred by Customer as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Siemens' negligence. Siemens shall have the sole authority to direct the defense of and settle any indemnified claim. Siemens' indemnification is conditioned on Customer (a) promptly, within the service warranty period, notifying Siemens of any claim, and (b) providing reasonable cooperation in the defense of any claim.
8. **Force Majeure.** Under no circumstances shall either Siemens or Customer have any liability for any breach (except for payment obligations) caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, change in law or other act of government or any other cause beyond such party's reasonable control.
9. **Cancellation.** Either party may terminate the services specified in the Siemens Documentation by providing reasonable notice sufficient to avoid costs incurred by the other party. If Customer cancels or suspends its service order for any reason other than Siemens' breach, Customer shall pay Siemens for work performed prior to cancellation or suspension and any other direct costs incurred by Siemens as a result of such cancellation or suspension.
10. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SIEMENS SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND SIEMENS' TOTAL LIABILITY ARISING AT ANY TIME FROM THE SERVICE OR USE OF THE EQUIPMENT SHALL NOT EXCEED THE PRICE PAID UNDER THIS AGREEMENT. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.
11. **Leased Equipment.** Any Leased Equipment provided by Siemens shall at all times be the property of Siemens with the exception of certain miscellaneous installation materials purchased by the Customer, and no right or property interest is transferred to the Customer hereunder, except the right to use any such Equipment as provided here. Customer agrees that it shall not pledge, lend, or create a security interest in, part with possession of, or relocate the equipment. Customer shall be responsible to maintain the Equipment in good and efficient working order. Upon the expiration or termination of this Agreement, Customer shall promptly make any Leased Equipment available to Siemens for removal. Customer hereby agrees that it shall grant Siemens access to the Equipment location and shall permit Siemens to take possession of and remove the Equipment without resort to legal process and hereby releases Siemens from any claim or right of action for trespass or damages caused by reason of such entry and removal.
12. **Miscellaneous.** If these terms are issued in connection with a government contract, they shall be deemed to include those federal acquisition regulations that are required by law to be included. These terms, together with any quotation, purchase order or acknowledgement issued or signed by Siemens, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede any terms contained in Customer's documents, unless separately signed by Siemens. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. Customer may not assign or permit any other transfer of the Agreement without Siemens' prior written consent. The Agreement shall be governed by the laws of the state of Delaware without regard to its conflict of laws provisions.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

**SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

**City of Fargo, ND
Effluent Reuse Facility Engineering Support & Technical Services
13821-070**

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. C-700, 2002 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other.

SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between

City of Fargo, ND _____ (“Owner”)

and Moore Engineering Inc. _____ (“Engineer”)

Engineer agrees to provide the services described below to Owner for ERF Engineering Support & Technical Services _____ (“Project”).

Description of Engineer’s Services: Per Appendix 2 attached

Owner and Engineer further agree as follows:

1.01 Basic Agreement

A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Engineer for such Services as set forth in Paragraph 9.01.

2.01 Payment Procedures

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer’s standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer’s invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer’s employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer’s employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer’s consultants’ charges, if any.

4.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement’s terms through no fault of the terminating party.
 - b. By Engineer;
 - 1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer’s responsibilities as a licensed professional;

or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon the receipt of notice by Engineer.

B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.01 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

6.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but

without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Engineer.

E. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition).

F. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

G. Engineer's Liability Limited to Amount of Insurance Proceeds. Engineer shall procure and maintain insurance set forth in certificate attached to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants, and any of them, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied, of Engineer or Engineer's officers, directors, partners, employees, agents, or Engineer's Consultants, or any of them (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal).

If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants, and any of them to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's claims shall not exceed \$50,000.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

8.01 Total Agreement

A. This Agreement (consisting of pages 1 to 4 inclusive together with any expressly incorporated appendix), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

9.01 Payment (Hourly Rates Plus Reimbursable Expenses)

A. Using the procedures set forth in paragraph 2.01, Owner shall pay Engineer as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class for all services performed on the Project, plus reimbursable expenses and Engineer's consultants' charges, if any.

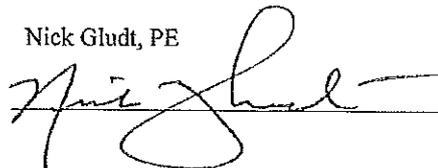
2. Engineer's Standard Hourly Rates are attached as Appendix 1. (adjusted annually as of Jan 1)

3. The total compensation for services and reimbursable expenses is estimated to be \$ 20,200

B. The Engineer's compensation is conditioned on the time to complete construction not exceeding na months. Should the time to complete construction be extended beyond this period, total compensation to Engineer shall be appropriately adjusted.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: Dennis Walaker
By: _____
Title: Mayor
Date Signed: _____

ENGINEER: Nick Gludt, PE
By: 
Title: VP
Date Signed: 2-4-10

License or Certificate No. and State ND 3321

Address for giving notices:

Address for giving notices:
925 10th Ave E. West Fargo, ND 58078

APPENDIX 2

DESCRIPTION OF ENGINEER'S SERVICES

- Moore Engineering will provide technical support as requested by City of Fargo
- Provide monthly reports and year end summary of plant production and operations
- Provide liaison with equipment provider Siemens
- Assist plant operator in fine tuning operation
- Provide personnel for plant operations as required by the City during upset conditions
- Provide personnel for plant operations as required by the City in event of shortage in City staff
- Evaluate plant efficiency - recommend changes
- Trouble shoot plant operations
- Provide warranty review of equipment and replacement schedule
- Forecast membrane life and review plans for maximizing longevity
- Review new technologies for future updates to plant operation
- Provide liaison with control system designer and service
- Assist City in revenue/expenditure review

Schedule

The intent of this Agreement is to provide the above services on an annually basis with an end date of December 31st. This contract is to be re-negotiated on an annually basis. Estimate is based on 12 hours of Senior Project Engineer time per month for a 12 month period.

Services will be provided as requested by City. Tasks will be completed per mutually agreed upon schedule. Moore Engineering's contract can be cancelled at any time by City for reasonable cause such as Ethanol Plant shut down.



CERTIFICATE OF LIABILITY INSURANCE

OP ID S1
MOORE-4

DATE (MM/DD/YYYY)
02/03/10

PRODUCER Dawson Insurance 721 1st Ave N, PO Box 1958 Fargo ND 58102 Phone: 701-237-3311 Fax: 701-232-4442	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 COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Moore Engineering Inc. 925 10th Avenue East West Fargo ND 58078	INSURER A	St. Paul Travelers Insurance
	INSURER B	
	INSURER C	
	INSURER D	
	INSURER E	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR ADD'L LTR	INSRC	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	I-680-6476L012-TIL-	0910/25/09	10/25/10	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/POP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	BA-71L50280-09-SEL	10/25/09	10/25/10	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
A		EXCESS / UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 5,000	ISH-CUP-7780V550-1110-09	10/25/09	10/25/10	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below Y/N <input type="checkbox"/>	IHUB-71L4127-1-09 (MN WORK COME)	10/25/09	10/25/10	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A		OTHER Professional Liab	105261914	04/01/09	04/01/10	Per Claim 2,000,000 Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
PROJECT: EFFLUENT REUSE FACILITY ENGINEERING SUPPORT

CERTIFICATE HOLDER

CANCELLATION

C--FARG2 City of Fargo 200 North 3rd Street Fargo ND 58102	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE
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ACORD 25 (2009/01)

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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

4

REPORT OF ACTION

UTILITY COMMITTEE

Project No. NA Type: Qualified Energy Conservation Bonds (QECBs) – Wind Turbine Project
 Location: SW ¼ of the NW ¼, Section 28, Township 140, Range 57
 Date of Hearing: 2/03/10

<u>Routing</u>	<u>Date</u>
City Commission	<u>2/08/10</u>
Project File	<u> </u>

Bruce Grubb, Enterprise Director, presented the attached memo and application for bonding authority under the State of North Dakota QECBs program. The federal government allocates funding to each State based on population for subsequent distribution to qualified projects. In 2009, North Dakota received a federal allocation of \$6,655,000. At this point, North Dakota has not received any applications for funding distribution.

Since the City's recent application for 2009 Clean Renewable Energy Bonds (CREBs) for a wind turbine was not approved, it is the staff recommendation to pursue QECBs funding through the State to finance a wind turbine project.

On a motion by Al Weigel, seconded by Terry Ludlum, the Utility Committee voted to approve the submittal of an application for a wind energy project to the North Dakota Industrial Commission for bonding authority under the State QECBs program.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Dennis Walaker, Mayor	<u>X</u>			
Mike Williams, City Commissioner				
Pat Zavoral, City Administrator	<u>X</u>			
Mark Bittner, City Engineer	<u>X</u>			
Kent Costin, Director of Finance	<u>X</u>			
Ron Hendricksen, Water Plant Supt.	<u>X</u>			
Peter Bilstad, Wastewater Plant Supt.				
Bruce Grubb, Enterprise Director	<u>X</u>			
Scott Liudahl, City Forester	<u>X</u>			
Terry Ludlum, Solid Waste Utility Manager	<u>X</u>			
James Hausauer, Wastewater Util. Manager	<u>X</u>			
Al Weigel, Public Works Operations Manger	<u>X</u>			

ATTEST:



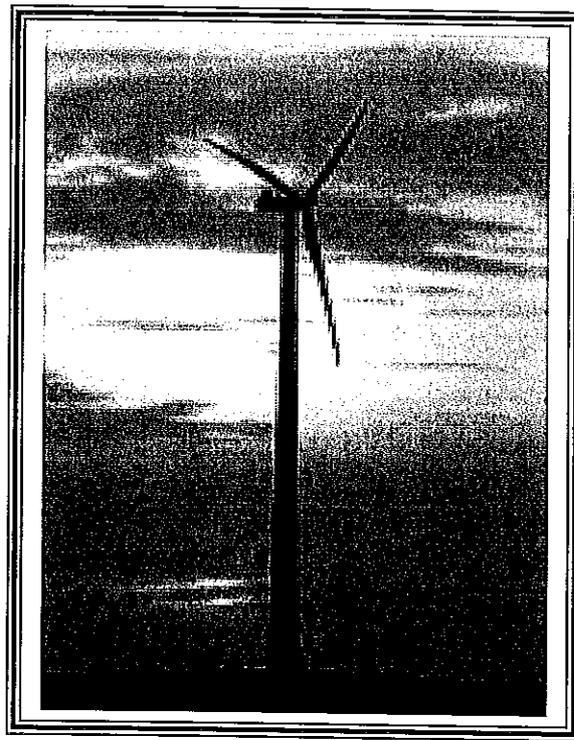
Bruce P. Grubb
 Enterprise Director

C: Commissioner Mahoney
 Commissioner Wimmer
 Commissioner Piepkorn

QUALIFIED ENERGY CONSERVATION BONDS

City of Fargo Wind Turbine I

February 8, 2010



CITY OF
Fargo

**APPLICATION FOR ALLOCATION OF
QUALIFIED ENERGY CONSERVATION BONDS**

North Dakota Industrial Commission
QECCBs Allocations
State Capitol
600 Boulevard Avenue
Dept. 405
Bismarck, ND 58505-2820

The following constitutes the application (“Application”) of the **City of Fargo** (the “Applicant”) for an allocation of the State of North Dakota’s qualified energy conservation bonds (“QECCBs”) volume cap under Section 54D(e)(1) of the Internal Revenue Code (the “Code”) (unless otherwise noted, section references herein are to the Code) to finance the project described below.

1. Name of Applicant/Issuer:

City of Fargo
435 14th Avenue South
Fargo, ND 58103
Telephone: 701-241-1525
Fax: 701-241-8110

2. Status of Issuer:

The Issuer is an “eligible issuer” under Section 54D(e)(2) because it is a political subdivision of the State and a large local government.

3. Name of Qualified Renewable Energy Facility Owner:

City of Fargo
435 14th Avenue South
Fargo, ND 58103
Telephone: 710-241-1525
Fax: 701-241-8110

4. Name of Qualified Renewable Energy Facility.

City of Fargo Wind Turbine I

5. Detailed Description of the Qualified Conservation Purpose.

A reasonably detailed description of the qualified conservation purpose (the "Project") is set forth in the attached Exhibit A.

6. Qualified Conservation Purpose.

The Project meets the definition of a "qualified conservation purpose" within the meaning of section 54D(f) of the Code because it involves construction of a community owned wind turbine to produce electricity from a renewable energy resource and thereby, reduce the City's consumption of fossil derived electricity.

7. Construction Commencement Date and Placed in Service Date.

The Borrower begun or expects to begin the construction, installation and equipping of the Project on **September 1, 2010**. The Borrower expects that the Project will be placed into service on or before **December 1, 2011**.

8. Independent Engineer's Certificate:

Attached as Exhibit B hereto is a certification by an independent, licensed engineer to the effect that the Project is technically viable and will produce electricity.

9. Location of the Project:

The location of the project is illustrated on the attached Exhibit C and legally described as follows:

The Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section Twenty-eight (28), in Township One Hundred Forty (140), Range Fifty-seven (57), Barnes County, North Dakota containing 40.00 acres more or less.

10. Individual to contact for more information about the Project:

Bruce P. Grubb, Enterprise Director
City of Fargo
435 14th Avenue South
Fargo, ND 58103
Telephone: 701-241-1525
Fax: 701-241-8110
Email: bgrubb@cityoffargo.com

11. Regulatory Approvals.

FAA – Presumed Hazard Determination
Barnes County – Planning Commission Approval

12. Plan of Financing.

The project costs are intended to be financed with proceeds from the QECBs issuance. Thereafter, the bond repayments and annual operating/maintenance costs are intended to be paid from the sale of electricity produced by the wind turbine. A detailed financing plan is included as Exhibit D.

13. Dollar Amount of Allocation Requested for the Project.

To finance the Project, the Applicant hereby requests a QECB allocation in the amount of \$ 2,875,000.

I hereby certify that I am an authorized officer or official of the Applicant and am duly authorized to execute legal documents on behalf of the Applicant in connection with incurring debt and that I am duly authorized to execute legal documents on behalf of the Applicant in making this Application. Under penalties of perjury, I declare that (i) I have knowledge of the relevant facts and circumstances relating to this Application and the Project(s), (ii) I have examined this Application, and (iii) to the best of my knowledge and belief, all of the facts contained in this Application are true, correct and complete.

By: _____
Dennis R. Walaker, Mayor

Date: _____

EXHIBIT A
DESCRIPTION OF THE PROJECT

The proposed project consists of a 1.5MW wind turbine to be interconnected to the local utility company's electrical distribution system. The purpose of the project is to generate power for sale to the local utility company to offset the electrical consumption by City of Fargo owned facilities. The proposed wind turbine would be constructed on leased property within an ideal wind regime as illustrated on the attached Exhibit C.

The proposed project will assist the City of Fargo in lowering its carbon footprint and further the City's efforts to become a "greener" community.

**EXHIBIT B
ENGINEER'S CERTIFICATE**

This certificate is being provided to the North Dakota Industrial Commission in connection with an application by the **City of Fargo** requesting an allocation of the State of North Dakota volume cap authority to issue qualified energy conservation bonds (QECBs) under section 54 of the Internal Revenue Code, as amended. The QECBs are being issued to make a loan to the **City of Fargo** to finance the costs of a wind turbine facility as described in the Application. The undersigned hereby certifies the Project as follows:

1. I am an independent, licensed engineer, duly qualified to practice the profession of engineering under the laws of the State of **North Dakota**, and I am not an officer or employee of the Issuer or the Borrower.

2. I have reviewed the Application for a QECBs volume cap allocation (including the exhibits thereto) of the Issuer with respect to the Project location. To the best of my knowledge, information, and belief, the Project will meet the requirements to be a "qualified conservation purpose" under section 54D(f) of the Code.

3. To the best of my knowledge, information and belief, the Project is technically viable and, when constructed, will produce electricity.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on the date of this Engineer's Certificate.

Seal and/or License number:

By: _____

Name and Title: **Rodney W. Ambrosie**
Executive Vice President

Company: **Wenck Associates Inc.**

**EXHIBIT C
PROJECT LOCATION**

The Southwest Quarter (SW ¼) of the Northwest Quarter (NW ¼) of Section Twenty-eight (28), in Township One Hundred Forty (140), Range Fifty-seven (57), Barnes County, North Dakota containing 40.00 acres more or less.

I-94

Existing Infinity
Tower



**EXHIBIT D
PLAN OF FINANCING**

The City of Fargo will own and operate the wind turbine facility and be responsible for the initial construction and ongoing operation/maintenance of the facility. The City of Fargo intends to appropriate resources annually, subject to operational budget planning, to pay for the required debt service amortization payments. The source and security for payment of the QECBs issuance will be a power purchase agreement with Minkota Power Cooperative. It is anticipated that energy sales will be approximately \$290,000 per year. There is no long term outstanding debt for which energy sales revenues have been pledged. The City of Fargo has the financial ability to adequately service the required debt repayments.

- The bonds are expected to be issued prior to July 1, 2010.
- The place in service date is expected to be prior to December 31, 2010.
- The total amount of bonds issued would be \$2,875,000.
- The total amount of QECB allocation requested is \$2,875,000.

CAPITAL COSTS

DESCRIPTION	Quantity	Unit Cost	Total
A. Wind Turbine			
Turbine/Tower (1.5MW, 90m hub height)	1	\$ 2,000,000	\$ 2,000,000
FAA Lighting	1	\$ 5,000	\$ 5,000
VAR Support	1	\$ -	\$ -
B. Balance of Plant			
Foundation	1	\$ 100,000	\$ 100,000
Transformer	1	\$ 20,000	\$ 20,000
Erection Crane	1	\$ 100,000	\$ 100,000
Erection Labor	1	\$ 20,000	\$ 20,000
Electrical Labor	1	\$ 20,000	\$ 20,000
Access Roads (feet)	1,000	\$ 50	\$ 50,000
Transmission Lines (feet)	1,000	\$ 15	\$ 15,000
C. Interconnection			
Facilities Study	1	\$ 50,000	\$ 50,000
Transformer	1	\$ 75,000	\$ 75,000
Inerconnection	1	\$ 30,000	\$ 30,000
D. Other			
Land Acquisition	1	\$ -	\$ -
Professional Fees	1	\$ 15,000	\$ 15,000
Subtotal			\$ 2,500,000
Contingency (15%)			\$ 375,000
Total			\$ 2,875,000

ECONOMIC ANALYSIS

DESCRIPTION	INPUT	COMMENTS
<u>A. Financial</u>		
Total Cost	\$ 2,875,000	- 1.5 MW, 90 m Hub Height
Down payment	\$ -	- Not Required
Amount Financed	\$ 2,875,000	- QECB Financing Terms
Loan Rate	% 0	- Interest Free QECBs
Loan Term	Yrs 16	- QECB Repayment Terms
<u>B. Revenue</u>		
Annual Energy Output	kwh/yr. 5,520,000	- Estimated Energy Output
Capacity Factor	% 42.0	- Estimated Capacity Factor
Interest on Replacement Reserve	% 3.0	- Starting in year 11
Power Purchase Rate	\$/kwh 0.0525	- Based on Landfill Power Purchase Agreement
<u>C. Expenses</u>		
Landowner Payment	\$ 15,000	- Based on Property Owner Lease Agreement
Standard Warranty	Yrs 2	- Included with initial purchase
Additional Warranty	Yrs 3	- Total of 5 years recommended
Additional Warranty Cost/yr.	\$ 15,000	- Estimated (3 years)
Annual Service & Maintenance	\$ 15,000	- Estimated
Business Interruption Ins.	\$ 1,200	- Estimated
Property Ins.	\$ 10,000	- Estimated
Liability Ins.	\$ 3,000	- \$2 million coverage requirement
Replacement Reserve	\$ 5,000	- Starting in year 11
<u>D. Escalators</u>		
Energy Sales Rate	% 1	- Minnkota Power Cooperative (every 5 years)
Inflation Rate	% 3	- General Inflation Rate

WIND TURBINE LIFE CYCLE

	1	2	3	4	5	6	7	8	9
A. INCOME									
Revenue from Energy Sales	289,800	289,800	289,800	289,800	289,800	304,300	304,300	304,300	304,300
Interest Earned on RR									
B. EXPENSES									
Principle Payment on Debt	179,688	179,688	179,688	179,688	179,688	179,688	179,688	179,688	179,688
Landowner Payments	8,700	8,961	9,230	9,507	9,792	10,086	10,388	10,700	11,021
Additional Warranty			15,000	15,000	15,000				
Service and Maintenance	20,000	20,600	21,218	21,855	22,510	23,185	23,881	24,597	25,335
Liability Insurance	3,000	3,060	3,152	3,246	3,344	3,444	3,547	3,654	3,763
Property Insurance	10,000	10,300	10,609	10,927	11,255	11,593	11,941	12,299	12,668
Business Interruption Insurance	1,200	1,236	1,273	1,311	1,351	1,391	1,433	1,476	1,520
Replacement Reserve (RR)									
C. NET	67,212	65,955	49,630	48,266	46,860	74,913	73,422	71,886	70,305
D. ACCUMULATED NET	67,212	133,167	182,797	231,063	277,923	352,836	426,258	498,144	568,449

WIND TURBINE LIFE CYCLE

	10	11	12	13	14	15	16	17	18
A. INCOME									
Revenue from Energy Sales	304,300	319,500	319,500	319,500	319,500	319,500	335,500	335,500	335,500
Interest Earned on RR			150	305	464	628	796	970	1,149
B. EXPENSES									
Principle Payment on Debt	179,688	179,688	179,688	179,688	179,688	179,688	179,688		
Landowner Payments	11,352	11,692	12,043	12,404	12,776	13,160	13,554	13,961	14,380
Additional Warranty									
Service and Maintenance	26,095	26,878	27,685	28,515	29,371	30,252	31,159	32,094	33,057
Liability Insurance	3,876	3,992	4,112	4,235	4,362	4,493	4,628	4,767	4,910
Property Insurance	13,048	13,439	13,843	14,258	14,686	15,126	15,580	16,048	16,529
Business Interruption Insurance	1,566	1,613	1,661	1,711	1,763	1,815	1,870	1,926	1,984
Replacement Reserve (RR)		5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
C. NET	68,675	77,198	75,618	73,994	72,318	70,594	84,817	262,674	260,789
D. ACCUMULATED NET	637,124	714,322	789,940	863,934	936,252	1,006,846	1,091,663	1,354,337	1,615,126

WIND TURBINE LIFE CYCLE

	19	20	21	22	23	24	25
A. INCOME							
Revenue from Energy Sales	335,500	335,500	352,300	352,300	352,300	352,300	352,300
Interest Earned on RR	1,334	1,524	1,570	1,617	1,665	1,715	1,767
B. EXPENSES							
Principle Payment on Debt							
Landowner Payments	14,811	15,256	15,713	16,185	16,670	17,170	17,685
Additional Warranty							
Service and Maintenance	34,049	35,070	36,122	37,206	38,322	39,472	40,656
Liability Insurance	5,057	5,209	5,365	5,526	5,692	5,863	6,039
Property Insurance	17,025	17,535	18,061	18,603	19,161	19,736	20,328
Business Interruption Insurance	2,043	2,105	2,168	2,233	2,300	2,369	2,440
Replacement Reserve (RR)	5,000	5,000	5,000	5,000	5,000	5,000	5,000
C. NET	258,849	256,849	271,441	269,164	266,820	264,405	261,919
D. ACCUMULATED NET	1,873,975	2,130,824	2,402,265	2,671,429	2,938,249	3,202,654	3,464,573



REPORT OF ACTION
UTILITY COMMITTEE

Project No. WW0901 Type: Intermediate Clarifier Improvements
 Location: Wastewater Treatment Plant
 Date of Hearing: 2/03/10

Routing _____ Date _____
 City Commission _____ 2/08/10
 Project File _____

Jim Hausauer, Wastewater Utility Manager, presented the attached memo and Change Order documents related to a project involving replacement of equipment in intermediate clarifiers No. 1 and No. 2 at the Wastewater Treatment Plant (WWTP). The project received ARRA of 2009 stimulus funding through the ND Clean Water State Revolving Fund (CWSRF) in the form of an \$800,000 loan at 1% interest. The original project bid amount was \$320,757 which included a General Contract A (\$294,760) and Electrical Contract B (\$25,997).

However, after the project was bid, the general contractor emptied clarifier No. 2 and discovered excessive corrosion in the metal components and mechanisms. Since replacement of these items was not included in the original bid, the general contractor inquired about the City's desire to replace the items at this time. Upon further inspection by WWTP staff, it was determined that the new energy dissipating equipment (original bid) could not be installed due to excessive corrosion of metal structure components in clarifier No. 2.

For that reason and to take advantage of the full ARRA loan amount, change orders were requested from the general contractor (Contract A) and electrical contractor (Contract B) for supplying and installing the following new mechanical components:

- Center Drive Unit
- Walkway, Platform and Handrail
- Center Influent Column
- Energy Dissipating Inlet
- Center Feed Well
- Rotating Center Cage
- Sludge Rake Arms & Scraper Blades
- Weir and Launder

The respective Change Order amounts are \$309,416 (Contract A) and \$18,231 (Contract B) which would result in a new project total of \$648,404.

On a motion by Kent Costin, seconded by Terry Ludlum, the Utility Committee voted to approve Change Order No. 1 in the amount of \$309,416 for Contract A (PKG Contracting) and Change Order No. 1 in the amount of \$18,231 for Contract B (JDP Electric).

COMMITTEE:	Present	Yes	No	Unanimous
				X
				Proxy
Dennis Walaker, Mayor	X			
Mike Williams, City Commissioner				
Pat Zavoral, City Administrator	X			
Mark Bittner, City Engineer	X			
Kent Costin, Director of Finance	X			
Ron Hendricksen, Water Plant Supt.	X			
Peter Bilstad, Wastewater Plant Supt.				
Bruce Grubb, Enterprise Director	X			
Scott Liudahl, City Forester	X			
Terry Ludlum, Solid Waste Utility Manager	X			
James Hausauer, Wastewater Util. Manager	X			
Al Weigel, Public Works Operations Manger	X			

ATTEST:

Bruce P. Grubb

Bruce P. Grubb
Enterprise Director

C: Commissioner Mahoney
 Commissioner Wimmer
 Commissioner Piepkorn

Change Order No. 1A

Date of Issuance: January 22, 2010 Effective Date: January 22, 2010

Project: Primary and Secondary Clarifier Improvements	Owner: City of Fargo, ND	Owner's Contract No.: 09.01001
Contract: Primary and Secondary Clarifier Improvements – General Construction		Date of Contract: November 1 st , 2009
Contractor: PKG		Engineer's Project No.: 09.01001

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

Replacement of process equipment in intermediate clarifier no. 2.

See attached proposals from PKG and Walker Process Equipment.

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price: \$294,760.00 [Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0 \$0.00 Contract Price prior to this Change Order: \$294,760.00 [Increase] [Decrease] of this Change Order: \$309,416.00 Contract Price incorporating this Change Order: \$604,176.00	Original Contract Times: <input type="checkbox"/> Working days <input type="checkbox"/> Calendar days Substantial completion (date): <u>March 15, 2010</u> Ready for final payment (date): <u>April 15, 2010</u> [Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0 Substantial completion (days): <u>NA</u> Ready for final payment (days): <u>NA</u> Contract Times prior to this Change Order: Substantial completion (date): <u>March 15, 2010</u> Ready for final payment (date): <u>April 15, 2010</u> [Increase] [Decrease] of this Change Order: Substantial completion (days or date): <u>November 30, 2010</u> Ready for final payment (days or date): <u>December 10, 2010</u> Contract Times with all approved Change Orders: Substantial completion (date): <u>November 30, 2010</u> Ready for final payment (date): <u>December 10, 2010</u>
---	---

RECOMMENDED: By: <u>[Signature]</u> Engineer (Authorized Signature) Date: <u>1/22/2010</u>	ACCEPTED: By: _____ Owner (Authorized Signature) Date: _____	ACCEPTED: By: <u>[Signature]</u> Contractor (Authorized Signature) Date: <u>1/22/10</u>
Approved by Funding Agency (if applicable): _____	_____	Date: _____

PKG CONTRACTING, INC.
4301 SOUTH UNIVERSITY DRIVE, FARGO, ND 58104
PHONE: (701) 232-3878 FAX: (701) 232-3935
e-mail: admin@pkg-inc.com

January 22, 2010

sent: via e-mail

Karla J. Olson
Ulteig Engineers, Inc.
3350 38th Avenue South
Fargo, ND 58104

RE: Fargo WWTP Primary and Secondary Clarifier Improvements – Project #09.01001
Intermediate Clarifier No. 2 – Mechanism Replacement
Fargo, North Dakota

Dear Ms. Olson:

The proposal shall include all labor, equipment, materials and all applicable taxes for replacement of the existing Intermediate Clarifier No. 2 mechanism located at the Fargo Waste Water Treatment Facility. The proposal is based on the Ulteig Request for Proposal letter dated 1/12/2010, specification section 11352 Intermediate Clarifier No. 2 Equipment, plan sheets D7, D8, C7, C8, E3, E4 and the original contract documents for the above noted project.

All work shall be performed for the sum of:

Three Hundred Nine Thousand Four Hundred Sixteen Dollars..... \$309,416.00

List of Inclusions:

1. Demo, removal and disposal of existing steel launders, launder supports, rake arms, feedwell, center drive cage, walkway/handrail, drive unit, steel center column. (grating, handrails and walkway will be given to the owner as requested per note 2 on sheet D7)
2. Installation of new steel launder supports, steel launder troughs and FRP v-notch weirs.
3. Installation of new steel clarifier mechanism in accordance with the plans, and specifications as provided by Ulteig and the approved manufacturer's design.
4. Training and start-up assistance with the owner, engineer and manufacturer's field staff.
5. One year warranty from the date of substantial completion for the contractor's installation.
6. Five year warranty from the date of substantial completion for the manufacturer's equipment.
7. Eliminate the furnishing and installation of the Walker Process Equipment supplied feed well and EDI unit per the original scope of work for Intermediate Clarifier No. 2. The credit value for this work and material is included in the above lump sum proposal.
8. Coatings as Specified.
9. Bonds and Insurance.
10. Proposed clarifier equipment to be furnished by Walker Process Equipment.

Karla J. Olson
1/22/2010
Page 2

List of General Exclusions:

1. City of Fargo Building Permits.
2. Electrical and Controls.

Please see the attached breakdown of costs and clarifier manufacturers pricing for further detail.

If you have any questions or comments concerning this proposal, please feel free to contact this office.

Thank you for the opportunity to quote this project and we look forward to hearing from you.

Respectfully Submitted,

PKG Contracting, Inc.



John Spiekemeier
Project Manager

cc: 0909 - Change Proposal File

Breakdown of Costs

For (contract):		Primary & Secondary Clarifier Improvements - Fargo WWTF	
		A	B
Item No.	Description	Item	Scheduled Value
	General Items		
1	Bonds and Insurance Costs		\$6,600.00
	Division 02 - Demolition		
2	Mechanical Demo and Removals @ Intermediate Clarifier No. 2		\$28,000.00
3	Eliminate Demo of EDI/Feedwell @ I.C. No. 2 per the original scope of work		(\$3,000.00)
	Division 11 - Equipment		
4	Install Clarifier Mechanism, Steel Launderers, FRP Weirs		\$45,816.00
5	Intermediate Clarifier Equipment - Walker Process Equipment		\$251,000.00
6	Eliminate EDI/Feedwell installation per original scope of work		(\$3,500.00)
7	Eliminate EDI/Feedwell Material (WPE) @ IC No. 2 per original scope of work		(\$15,500.00)
Net Price Change per Uiteig Request for Proposal dated 1/12/10			\$309,416.00



Division of McNish Corporation

Dedicated to the
Water and
Wastewater Industry

Walker Process Equipment

840 North Russell Avenue
Aurora, Illinois 60506-2853

E-Mail: walker.process@walker-process.com

Website: www.walker-process.com

Phone: 630-892-7921

Fax: 630-892-7951

DATE: January 21, 2010

TO: PKG Contracting, Inc.
ATTN: John Spiekermeier

SUBJECT: Fargo, ND
ENGINEERS: Ulteig Engineers
BID DATE: January 21, 2010
PROPOSAL NO.: 10-0010S

Gentlemen:

We are pleased to submit this proposal as our offer to sell and furnish the following equipment:

Section 11352 Intermediate Clarifier No. 2 Equipment

This proposal is divided into the following sections that together form our complete proposal:

Pricing Summary	Pg. 2 - 4
Scope of Supply and Clarifications	Pg. 5, 6
General Items	Pg. 7, 8
Terms and Conditions of Sale	Pg. 9, 10
Mechanical Warranty	Pg. 11

If we can furnish any clarifications or additional information, please contact our Representative, Dave Kluck of Northwestern Power Equipment Company at 701-261-8483. We look forward to the opportunity of working with you in the execution of this project.

Sincerely,
WALKER PROCESS EQUIPMENT
Division of McNish Corporation

Daniel E. Harker, P.E.
Regional Sales Manager

PRICING SUMMARY

Listed below is a summary of prices for equipment as noted within this proposal. The prices are for equipment as described herein, F.O.B. shipping point with freight prepaid via truck, exclusive of any taxes. Prices quoted herein are based upon the estimated schedules shown, and receipt of approved submittal drawings in our factory within six (6) weeks from the date of our transmittal letter.

NOTE: Please refer to the following pages for clarifications to our scope of supply.

<p>ITEM A – One (1) 110'-0" type RS-S Mechanism for Intermediate Clarifier #2 <u>\$119,000</u></p> <p>OPTIONAL ITEMS: (Add to base price) Steel Effluent Trough System including FRP weir plates and Scum Baffles. <u>\$98,500</u></p>	<p>217,500 + tax</p>
--	----------------------

<p>ITEM B – Revision to Price of WPE Contract Q00202AR to provide only one (1) of the original two (2) lots of Retrofit components.</p>	<p>Deduct 1-Lot Parts \$13,800</p> <p>+ tax</p>
--	---

EXISTING STRUCTURE NOTE: The Contractor shall be solely responsible for measuring and providing Walker Process Equipment, a division of McNish Corporation ("WPE") with accurate as built dimensions for all existing structures where WPE is furnishing equipment. This information must be made available to WPE in a timely manner to avoid delaying the equipment delivery schedules outlined within this proposal. In the event that dimensions are not provided or the provided dimensions are in error, which results in modifications to either the equipment or the adjacent structures, the Contractor shall be solely responsible for all labor, materials and associated costs to correct the resulting situation.

TIME OF ACCEPTANCE: This offer to sell is subject to receipt of your purchase order on or before February 12, 2010.

The number of this proposal must be referenced in the Purchaser's purchase order. The prices quoted in this proposal are based upon and subject to Purchaser's acceptance of the Terms and Conditions of Sale attached to this proposal. WPE reserves the right to change the prices quoted if the subsequent Purchase Order changes or modifies in any manner, the Scope of Supply or the attached Terms and Conditions of Sale, unless WPE's written consent is first obtained. This proposal shall become a binding contract for the scope of equipment supply and mechanical warranty

Change Order No. 1B

Date of Issuance: January 22, 2010 Effective Date: January 22, 2010

Project: Primary and Secondary Clarifier Improvements	Owner: City of Fargo, ND	Owner's Contract No.: 09.01001
Contract: Primary and Secondary Clarifier Improvements – Electrical Construction		Date of Contract: November 1 st , 2009
Contractor: JDP	Engineer's Project No.: 09.01001	

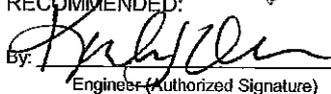
The Contract Documents are modified as follows upon execution of this Change Order:

Description:

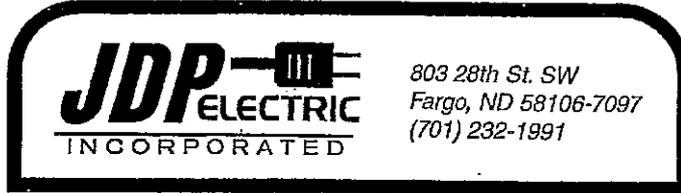
Replacement of electrical equipment in intermediate clarifier no. 2.

See attached proposal from JDP.

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$25,997.00	Original Contract Times: <input type="checkbox"/> Working days <input type="checkbox"/> Calendar days Substantial completion (date): <u>March 15, 2010</u> Ready for final payment (date): <u>April 15, 2010</u>
[Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0 \$0.00	[Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0 Substantial completion (days): <u>NA</u> Ready for final payment (days): <u>NA</u>
Contract Price prior to this Change Order: \$25,997.00	Contract Times prior to this Change Order: Substantial completion (date): <u>March 15, 2010</u> Ready for final payment (date): <u>April 15, 2010</u>
[Increase] [Decrease] of this Change Order: \$18,231.00	[Increase] [Decrease] of this Change Order: Substantial completion (days or date): <u>November 30, 2010</u> Ready for final payment (days or date): <u>December 10, 2010</u>
Contract Price incorporating this Change Order: \$44,228.00	Contract Times with all approved Change Orders: Substantial completion (date): <u>November 30, 2010</u> Ready for final payment (date): <u>December 10, 2010</u>

RECOMMENDED: By: <u></u> Engineer (Authorized Signature)	ACCEPTED:- By: _____ Owner (Authorized Signature)	ACCEPTED: By: <u></u> Contractor (Authorized Signature)
Date: <u>1/22/2010</u>	Date: _____	Date: <u>1-22-10</u>
Approved by Funding Agency (if applicable): _____	Date: _____	

Proposal



PROPOSAL SUBMITTED TO FARGO WWT PLANT		PHONE	DATE 1-22-10
STREET 3500 - No. BROADWAY		JOB NAME INTERM. CLARIFIER #2	
CITY, STATE AND ZIP CODE FARGO, ND 58102		JOB LOCATION	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimates for:

ELECTRICAL DEMOLITION, INSTALLATION, AND CONTROL PANEL PER PROPOSAL REQUEST OF 1-12-10 AND PLANS/SPECIFICATIONS PER ATTACHED ESTIMATE.

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

EIGHTEEN THOUSAND TWO HUNDRED THIRTY ONE dollars (\$ **18,231.-**).
Payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature

Brian Basson

Note: This proposal may be withdrawn by us if not accepted within _____ days.

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

Signature _____

Signature _____

Date of Acceptance: _____

JOB NAME <u>Fargo WWTP</u>	BASE/ALT. NO. <u>Intermed. Class #2</u>	ESTIMATE NO.
LOCATION <u>No. Broadway</u>	ARCHITECT	DATE <u>1-19-10</u>
ESTIMATOR	CHECKED BY	BID DATE <u>1-22-10</u>

DESCRIPTION	MATERIAL			LABOR	
	QUANTITY	PRICE	EXTENSION	UNIT	EXTENSION
Demo existing control panel	1				
} fixtures conduit, flex on bridge wire, motor, toggle sw trace cable, SW, Recept	3			1-	4-
	180'				3-
	LOT				6-
	LOT				3-
	LOT				2-
Install new control panel	1		8907-		5-
Galv. Unistrut (Panel mtg)	10'	170	17-	10%	1-
Unistrut spring nuts w/bolts	8	67	536		
3/4" Rigid Alum. Conduit	180'	275	49500	10%	18-
1/4" " " " "	30'	144	4320	14%	4 2/3
XP 2 gang alum. box	1		8312		1-
XP switch cover	1		7495		5/
XP pilot lite	1		13720		6/
XP alum. junction box	3	3856	11568	7/	2 1/2
XP 3/4" sealoff	6	940	5640	3/	1 8/
1/4" → 3/4" Red. bushing	3	840	2520		
Chico # fiber	LOT		500		1-
XP 3/4" alum LB	2	2340	4680	3/	6/
XP 3/4" C box	1		3770		3/
XP 3/4" union	5	630	3150	2/	1-
XP 150w Incand. fixture	3			15/	4 5/
HPS 150w mini pack	1	BSE	128500		2-
1/2" Sealoff	6'	97	582		3/
1/2" Conn.	4	370	1480	1/	4/
3/4 x 1/2" Red. bushing	4	210	840		
#12 THHN cu	750'	11	8250	80/m	6-
Connect motor & toggle sw	1+1			25/	15/
Connect/test control panel & alarm circuits					3-
St. Steel fixture & conduit mounting	LOT		2500		2-
20amp SP switch	1		285		3/
St. Steel Unistrut	10'	850	8500	10%	1-
Mobilize, materials, shop					4-
TOTALS THIS PAGE →			1159048		80 1/2

Fargo Clarifier Bill Of Material

1. Quantity one (1) Clarifier Control Panel for Clarifier as specified including:
 - a. Nema 4X Enclosure
 - b. Lighting Arrestors
 - c. Main Circuit Breakers
 - d. Feeder Breakers
 - e. FVNR Motor Starter
 - f. Relays
 - g. Push Buttons
 - h. W.P. Alarm Beacon
 - i. W.P. Alarm Horn
 - j. Terminal Blocks
 - k. Miscellaneous Interface Hardware
2. General Services
 - a. Complete System Drawings & Submittals
 - b. UL Panel Listings
 - c. Warranty
 - d. Freight to the jobsite is included

The total price for this proposal is \$8,907.00 net, excluding sales and use taxes.

DAKOTA SUPPLY GROUP
 P.O. BOX 2886
 2601 3RD AVE N.
 FARGO, ND 58108-2886
 PH #: 701/237-9440
 SUBMITTED BY: SHANE MCCOLLUM

DATE: 1/19/2010

PAGE 2

QUOTATION TO:

PROJECT: 1723

 011301
 JDP ELECTRIC INC
 PO BOX 7097
 FARGO, ND 58106 7097

QUOTE NO: 5260403
 ORDERED BY:

QTY	PROD #/DESCRIPTION	UNIT PRICE	UOM	EXT PRICE
1 EA	/13002308619 SWB11	83.12000	EA	83.12
1 EA	3/4" 5 7/8X6 1/2X2 1/4 SWB BODY KLXNS1C	74.95000	EA	74.95
1 EA	COVER X-PROOF ALUM SWITCH 1G SWITCH NOT INCLUDED	137.20000	EA	137.20
1 EA	/13002308747 XCSOB24GL	38.56000	EA	38.56
1 EA	/13102308749 GRT75A	275.12000	C	82.54
30 FT	ALUM1 1/4 CONDUIT ALUM 1-1/4"	143.70000	C	287.40
200 FT	ALUM3/4 CONDUIT ALUM 3/4"			
	* * BRIAN- EYSF75A IS OBSOLETE AND NO LONGER AVAILABLE.			

BID TOTAL

703.77

** END OF BID **



January 22, 2010

Mr. James Hausauer
Fargo Wastewater Treatment Facility
3400 N. Broadway
Fargo, ND 58102

Subject: Primary and Secondary Clarifier Improvements – Project #09.01001
Change Order #1 – Intermediate Clarifier #2

Dear Mr. Hausauer,

During field investigation, it was discovered that the existing equipment in intermediate clarifier #2 (IC #2) was unable to be retrofit with the process equipment proposed under the original contract, as referenced above. Due to the existing equipment's unfavorable condition and age, Ulteig solicited proposals on behalf of the City of Fargo from PKG and JDP to remove and replace the process and electrical equipment in IC #2.

Based on the attached change order documents, Ulteig recommends that the City approve the proposed change order by February 8, 2010 to secure ARRA Funding administered through the North Dakota Department of Health.

Please sign all eight (8) documents and return them to me at your earliest convenience. Should you have any questions, feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Karla J. Olson".

Karla J. Olson, PE
Project Manager

CC: Bruce Grubb, PE – City of Fargo
Peter Bilstad – City of Fargo
Tom Welle, PE – Ulteig
Seth Lynne, PE – Ulteig

CHANGE ORDER

No. 4

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DATE OF ISSUANCE January 11, 2010 EFFECTIVE DATE January 11, 2010

OWNER City of Fargo

CONTRACTOR CB&I Constructors, Inc.

Contract: Contract No. 4 – Combined General, Tower, and Electrical Construction

Project: 64th Avenue South Water Tower

OWNER's Contract No. 5584 ENGINEER's Contract No. P00803-0018-060

ENGINEER Advanced Engineering and Environmental Services, Inc.

You are directed to make the following changes in the Contract Documents:

Description:

This change order includes costs for completing various changes to the Contract Documents.

Reason for Change Order:

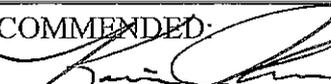
The equipment specified for the city-wide radio telemetry system was changed from iNet2 Dual Gateway radios to MDS Mercury radios per the direction of City staff. The Contractor spent additional, unanticipated, time to relocate the radio telemetry antenna on the water tower to provide a continuous, reliable, signal to the WTP. The Contractor excavated and reset a buried valve box on an existing valve at the water tower site since it was crooked and made operation of the valve impossible.

Attachments: (List documents supporting change)

Attached is documentation submitted by the Contractor documenting the costs for the Work included in this change order.

CHANGE IN CONTRACT PRICE:
Original Contract Price \$ <u>2,223,000.00</u>
Net Increase (Decrease) from previous Change Orders No. <u>1</u> to <u>3</u> : \$ <u>25,720.00</u>
Contract Price prior to this Change Order: \$ <u>2,248,720.00</u>
Net increase (decrease) of this Change Order: \$ <u>6,544.00</u>
Contract Price with all approved Change Orders: \$ <u>2,255,264.00</u>

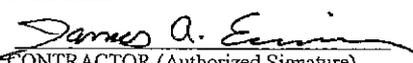
CHANGE IN CONTRACT TIMES:
Original Contract Times: Substantial Completion: <u>November 1, 2008</u> Ready for final payment: <u>December 1, 2008</u> (days or dates)
Net change from previous Change Orders No. <u>1</u> to No. <u>3</u> : Substantial Completion: <u>334</u> Ready for final payment: <u>335</u> (days)
Contract Times prior to this Change Order: Substantial Completion: <u>September 30, 2009</u> Ready for final payment: <u>October 31, 2009</u> (days or dates)
Net increase (decrease) this Change Order: Substantial Completion: <u>0</u> Ready for final payment: <u>0</u> (days)
Contract Times with all approved Change Orders: Substantial Completion: <u>September 30, 2009</u> Ready for final payment: <u>October 31, 2009</u> (days or dates)

RECOMMENDED:
By: 
ENGINEER (Authorized Signature)

Date: 1-11-10

APPROVED:
By: _____
OWNER (Authorized Signature)

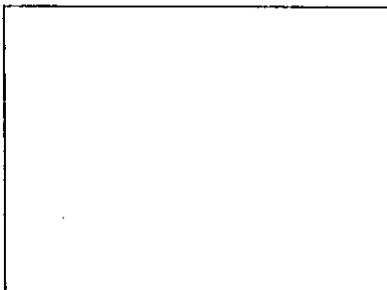
Date: _____

ACCEPTED:
By: 
CONTRACTOR (Authorized Signature)

Date: 1/13/10

APPROVED:
By: _____
NDDH (Authorized Signature)

Date: _____
EJCDC 1910-8-B (1996 Edition)



A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed changes. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

Kevin M. Johnson

From: Jae A Eismann [JEismann@CBI.com]
Sent: Monday, August 03, 2009 11:05 AM
To: Kevin M. Johnson
Subject: Fargo, ND Repair Valve Box 120453

Categories: Filed by Newforma

Kevin, Our price to fix the existing crooked valve box located near the water tower per your request is \$3,100. This is based on digging up the box, removing and resetting it straight up vertical. No material or any other work to the existing valve or waterline is included. Let me know if you would like us to proceed with this work by August 14, 2009.

James (Jae) Eismann, P.E.
Project Manager,
CB&I Inc.
1000 Remington Boulevard, Suite 105B
Bolingbrook, IL 60440-4706
Voice 630-378-7669
Mobile 815-546-4792

From: Jae A Eismann [JEismann@CBI.com]
Sent: Saturday, January 09, 2010 11:41 AM
To: Kevin M. Johnson
Subject: Re: Fargo Water Tower 10

Attachments: pic30581.gif; pic00593.gif; image002.wmz; oledata.mso



pic30581.gif (20
KB)



pic00593.gif (13
KB)



image002.wmz (39
KB)

JDP had costs to upgrade the radios for \$2,608 and \$558 to relocate the antenna and extend the cable. I think I sent these to you earlier. Add 5% for CBI and one hour CBI PM time comes to \$3,444. Let me know if you need anything else.

James (Jae) Eismann, P.E.
Project Manager,
CB&I Inc.
1000 Remington Boulevard, Suite 105B
Bolingbrook, IL 60440-4706
Voice 630-378-7669
Mobile 815-546-4792



RECEIVED
SEP 02 2009

803 28th St. SW
PO Box 7097
Fargo, ND 58106-7097
(701) 232-1991
Fax: (701) 364-5483

August 31, 2009

Mr. Jason Sanden
Advanced Engineering
3101 Frontage Road South
Moorhead, MN 56560

Jason: Attached please find the quotation submittal materials from MidStates Wireless for changing the radios for the 64th Avenue Water Tower as requested. It would amount to an increase in costs of \$2608 plus any markup by CB&I as I presume this would be processed through them also. John Wiser said the delivery on this radio equipment would be within two weeks. If you have any questions or want us to proceed, please let me know. Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Brian Beeson'.

Brian Beeson, PM

Page 196

JOB NAME <i>City of Iowa</i>	BASE/ALT. NO. <i>W-7-10</i>	ESTIMATE NO. <i>6073</i>
LOCATION <i>645 W. 1st St. Des Moines</i>	ARCHITECT	DATE <i>8-21-57</i>
ESTIMATOR	CHECKED BY	BID DATE

DESCRIPTION	MATERIAL			LABOR	
	QUANTITY	PRICE	EXTENSION	UNIT	EXTENSION
<i>Del. 1 Net 2 radio mast.</i>	<i>1</i>		<i>< 2400 -</i>		
<i>✓ ✓ radio RTU</i>	<i>1</i>		<i>< 1750 -</i>		
<i>Add Mid State Wireless 8-10-57</i>			<i>6478 -</i>		
			<i>2278 -</i>		
<i>S. Tax 6 1/2%</i>			<i>14931</i>		
			<i>244737</i>		
<i>OH 5%</i>			<i>12237</i>		
			<i>256974</i>		
<i>Bond 1 1/2%</i>			<i>3853</i>		
			<i>\$260829</i>		

TOTALS THIS PAGE →

From: Jon Wiser [mailto:jonw@midstateswireless.com]
Sent: Friday, August 28, 2009 10:37 AM
To: brian@midstatesengineering.com
Subject: 64th ave tank

Brian, I thought we had sent this already.....

Jon Wiser

Mid States Wireless, Inc.

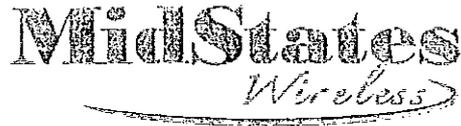
Operations Manager <*)>>>>><

Phone: (701)241-6777

Toll Free: (800)279-9561

Mobile: (701)219-0737

Fax: (701)241-6725



Prepared for:
 JDP Electric attn Brian Beeson
 New radio for waterplant
 and 64 the ave tank

8/10/2009

Quote valid for 30 days

ITEM	QTY	PRICE	EXT PRICE
MDS MERCURY HG-A9-0101FSOBMNNNN-B	1	\$3,375.00	\$3,375.00
MDS MERCURY HG-R9-1-0101FSOBMNNNN-S	1	\$2,671.00	\$2,671.00
GPS ANTENNAS	2	\$131.00	\$262.00
MER-NV MANAGEMENT SOFTWARE	1	\$140.00	\$140.00

TOTAL EQUIPMENT \$6,448.00

INSTALLATION

TAX 6.00% \$386.88

TOTAL COST \$6,834.88

Prepared by Jon Wisner
 800-279-9561

55 North 3rd Street, Fargo, ND, 58102
 (701)293-9561 (800)279-9561

"Quality Products and Service Excellence"



Prepared for:
 JDP Electric attn Brian Beeson
 New radio for waterplant
 and 64 the ave tank

*Ordered
 8-3-09*

2/17/2009

Quote valid for 30 days

ITEM	QTY	PRICE	EXT PRICE
Rohn tower 30' with wall brackets	1	\$750.00	\$750.00
DB810 10 db gain 902-928 mhz antenna with brackets	1	\$1,695.00	\$1,695.00
1/2" ldf feedline with connectors and lightning protection	1	\$395.00	\$395.00
<i>Del.</i> X iNet 2 dual gateway radio (MASTER)	1	\$2,400.00	\$2,400.00
Sixnet EtherTrac 5 port industrial switch	1	\$450.00	\$450.00
6' patch cables ethernet 64TH Ave tank below	2	\$14.00	\$28.00
<i>Del.</i> X iNet 2 dual gateway radio (RTU)	1	\$1,750.00	\$1,750.00
Sixnet Ethertrac 5 port industrial switch	1	\$450.00	\$450.00
100' fiber patch cables - sc connectors	1	\$75.00	\$75.00
TOTAL EQUIPMENT			<u>\$7,993.00</u>
INSTALLATION			\$2,500.00
TAX	6.00%		\$479.58
TOTAL COST			<u><u>\$10,972.58</u></u>

Prepared by Jon Wisner
 800-279-9561

55 North 3rd Street, Fargo, ND, 58102
 (701)293-9561 (800)279-9561

"Quality Products and Service Excellence"



REPORT OF ACTION

UTILITY COMMITTEE

Project No. 5726 Type: Change Order No.5
 Anderson Lift Station, Lift Station 25 and Forcemain
 Location: 43rd Street and 31st Avenue South
 Date of Hearing: 2/03/10

<u>Routing</u>	<u>Date</u>
City Commission	2/08/10
Project File	

Brenda Derrig, Senior Engineer, submitted the attached memo and Change Order No. 5 to Project 5726 (Anderson Lift Station, Lift Station 25 and Forcemain). The change order is in the amount of \$68,066 for the following additional work items:

- Forcemain Piping Modifications \$72,749
 - Lift Station No 25 Bypass Pumping Modifications \$ (4,683)
- Change Order No. 5 Total = \$68,066

A summary of the construction contract and change orders is shown below:

Original Contract Amount	\$10,025,000
Change Order No.1	\$ 19,069
Change Order No.2	\$ 5,591
Change Order No.3	\$ 7,760
Change Order No.4	\$ 25,436
Change Order No.5	\$ 68,066
Current Contract Amount	\$10,150,922 (1.3%)

On a motion by Mark Bittner, seconded by Jim Hausauer the Utility Committee voted to approve Change Order No. 5 in the amount of \$68,066 with John T. Jones Construction Co. for Project 5726.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				X
				Proxy
Dennis Walaker, Mayor	X			
Mike Williams, City Commissioner				
Pat Zavoral, City Administrator	X			
Mark Bittner, City Engineer	X			
Kent Costin, Director of Finance	X			
Ron Hendricksen, Water Plant Supt.	X			
Peter Bilstad, Wastewater Plant Supt.				
Bruce Grubb, Enterprise Director	X			
Scott Liudahl, City Forester	X			
Terry Ludlum, Solid Waste Utility Manager	X			
James Hausauer, Wastewater Util. Manager	X			
Al Weigel, Public Works Operations Manger	X			

ATTEST:

Bruce P. Grubb
 Enterprise Director

C: Commissioner Mahoney
 Commissioner Wimmer
 Commissioner Piepkorn

Change Order No. 5

Date of Issuance: December 1, 2009 Effective Date: December 1, 2009

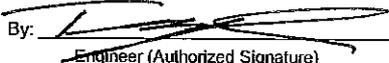
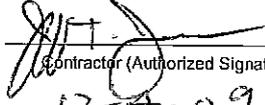
Project: Sanitary Collection System Imp.	Owner: City of Fargo, ND	Owner's Contract No.: 5726
Contract: Sanitary Collection System Improvements - #5726		Date of Contract: January 26 th , 2009
Contractor: John T. Jones Construction Company		Engineer's Project No.: 107.0947

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

- *Site piping modifications at Lift Station #60 as per attached drawings and PCO #xx.*
- *Modifications to Temporary Bypass at Lift Station #25 as per attached details, diagrams, and costs*

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$10,025,000.00	Original Contract Times: <input type="checkbox"/> Working days <input type="checkbox"/> Calendar days Substantial completion (date): <u>April 15, 2010</u> Ready for final payment (date): <u>July 15, 2010</u>
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 4 \$ 57,856.00	[Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0 Substantial completion (days): <u>NA</u> Ready for final payment (days): <u>NA</u>
Contract Price prior to this Change Order: \$10,082,856.00	Contract Times prior to this Change Order: Substantial completion (date): <u>April 15, 2010</u> Ready for final payment (date): <u>July 15, 2010</u>
<u>Increase</u> of this Change Order: \$ 68,066.00	[Increase] [Decrease] of this Change Order: Substantial completion (days or date): <u>NA</u> Ready for final payment (days or date): <u>NA</u>
Contract Price incorporating this Change Order: \$10,150,922.00	Contract Times with all approved Change Orders: Substantial completion (date): <u>April 15, 2010</u> Ready for final payment (date): <u>July 15, 2010</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:  Engineer (Authorized Signature)	By: _____ Owner (Authorized Signature)	By:  Contractor (Authorized Signature)
Date: <u>12/1/09</u>	Date: _____	Date: <u>12-7-09</u>
Approved by Funding Agency (if applicable): _____		Date: _____

Sanitary Collection System

Fargo, ND

PROPOSED CHANGE ORDER

REQUEST # PCO # 11-R

JTJ PROJECT # 0808

DATE 10/20/09

PROPOSED CHANGE: LS 60 Piping Modifications

SUMMARY SHEET

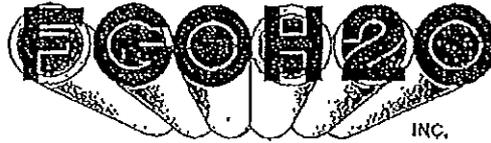
1 MATERIAL				
2 Material Cost			5,544	
3 Sales Tax	@	6.50%	360	
4 Material Handling Cost	@	5%	277	
5 Expendable Material Cost	@	5%	277	
6 TOTAL MATERIAL COST				\$6,459
7 LABOR				
Manhours	52.0 @	\$35.00	\$1,820	
Supervision	7.8 @	\$45.00	\$351	
8 Fringe Benefits	52.0 @	\$0.00	\$0	
9 Hourly Labor Cost			\$2,171	
10 Labor Overhead	@	45%	\$977	
11 Tool Replacement Cost	@	5%	\$109	
12 TOTAL LABOR COST				\$3,257
13 EQUIPMENT COSTS				\$0
14 OTHER DIRECT COSTS				\$145
15				\$9,861
16 MARKUP	@	15%	\$1,479.12	
17				\$11,340
18 SUBCONTRACT COST			\$56,874	
19 MARKUP	@	5%	\$2,844	
20 TOTAL SUB CONTRACT COST				\$59,718
21				\$71,058
22 BOND COST	@	1%	\$711	
23 BUILDERS RISK	@	1%	\$711	
24				\$72,479

-After 30 days we reserve our right to renegotiate this proposal if it is not turned into a fully executed change order.
 -This proposal may be withdrawn by John T. Jones Const. Co. if not accepted within 10 days.
 -Payment to be made within 30 days of date of invoice.

25	CHANGE REQUEST TOTAL	\$72,479
----	----------------------	----------

Oct. 20. 2009 10:50AM

No. 9386 P. 1/2



FARGO WATER EQUIPMENT

4557 15th Ave. N. - P.O. Box 128
Fargo, North Dakota 58107

Phone (701) 237-0222
Fax (701) 237-9609

MN-SD-MT WATTS 1-800-437-4034
ND WATTS 1-800-342-4676

October 20, 2009

To: Tim Boland

John T Jones

Tim:

On our original take off for the pipe changes at Anderson Lift 60 I forgot the 42" x 36" casing and seal. Would you try to add this to this change order? The price was \$116.58 plus tax.

Thanks

Kurt Losee

18011 mod
LS 40



FARGO WATER EQUIPMENT

4557 15th Ave North
Fargo ND 58102

PO Box 128
Fargo ND 58107

Phone (701) 237-0222
Fax (701) 237-9609

Date:

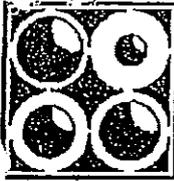
To: *Kevin Boland J. T. J.*

From: *Kurt Losee*

The following transmission includes *1* pages. If you do not receive all pages, please call.

Message:

<i>1 ea - 47.25" Wall Sleeve 18"</i>	<i>340.00</i>
<i>36 ea - LS 500 SS Lense Seals</i>	<i>21.94</i>
<i>1 - 20" MS. 900 Bond 401 lined rot glands & SS FBolts</i>	<i>1935.41</i>



BARNES

PIPE & STEEL SUPPLY

TB
SD
F

Quote / Confirmation

Date	Quote #
08/24/09	BPSQ7379

Sold To: JOHN T. JONES CONSTRUCTION
 TIM BOLLEN
 2213 7TH AVE. N.
 FARGO, ND 58102

Phone: 701-232-3358
 Fax: 701-232-7040

Ship To:

DELIVERED TO FARGO, ND.

Phone:
 Fax:

Sales Person
 Bill French

Terms	P.O. Number	Ship Via
Net 30		

Qty	Description	Unit Price	Ext. Price
30 FT	42.00" O.D. X .531" WALL(NOM.) X 30' LENGTH NEW ROLLED & WELDED STEEL PIPE, B/S ENDS, BARE	\$168.92	\$5,067.60
Total			\$5,067.60

THANK YOU FOR THE INQUIRY.

MATERIAL IS SUBJECT TO PRIOR SALES AND PRICE IN EFFECT AT TIME OF ORDER.

MATERIAL WILL MEET OR EXCEED ASTM A139 -GR B SPECS.
 UPON RECEIPT OF ORDER, COMPANY LETTER OF COMPLIANCE WILL BE FORWARDED.

Terms and Conditions

All quotations are subject to prior sale and subject to price in effect at time of shipment.
 Mill increases and / or fuel surcharges may apply.

Accepted by: _____ Date: _____
 JOHN T. JONES CONSTRUCTION Representative

Purchase Order Number: _____

Our Terms are Net 30. We appreciate your prompt payment. Thank you for your business.

DIRECT COSTS

DESCRIPTION	TIME USED	COST RATE	LUMP SUM	TOTAL COST
-----	-----	-----	-----	-----
ENGINEERING OR DESIGN				
OFFICER	0.00	\$150.00	0.00	\$0.00
PROJECT MANAGER	1.00	\$110.00	0.00	\$110.00
ADMIN. ASSISTANT	1.00	\$35.00	0.00	\$35.00
PROJECT ENGINEER	0.00	\$85.00	0.00	\$0.00
FIELD ENGINEER	0.00	\$65.00	0.00	\$0.00
OFFICE OVERHEAD EXPENSE				
ESTIMATING	0.00	\$35.00	0.00	\$0.00
DRAFTING	0.00	\$35.00	0.00	\$0.00
SCHEDULER	0.00	\$55.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
TELEPHONE OR MAIL				
TELEPHONE	0.00	\$25.00	0.00	\$0.00
FAX TIME	0.00	\$30.00	0.00	\$0.00
COPIER TIME	0.00	\$15.00	0.00	\$0.00
REPRODUCIBLES	0.00	\$30.00	0.00	\$0.00
MAIL/OVERNIGHT	0.00	\$10.00	0.00	\$0.00
COMPUTER TIME				
COMPUTER	0.00	\$10.00	0.00	\$0.00
COMPUTER SCHEDULE	0.00	\$25.00	0.00	\$0.00
CAD	0.00	\$30.00	0.00	\$0.00
PLOTING	0.00	\$40.00	0.00	\$0.00
TRAVEL EXPENSE				
SITE VISIT (CAR)	0.00	\$55.00	0.00	\$0.00
SITE VISIT (PLANE)	0.00	\$220.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
OTHER EXPENSE				
0	0.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
	0.00	\$0.00	0.00	\$0.00
PLAN/TAP FEES				
	0.00	\$0.00	\$0.00	\$0.00
	0.00	\$0.00	\$0.00	\$0.00
	-----	-----	-----	-----
TOTAL DIRECT COST		\$145.00		

SUBCONTRACTS

SUBCONTRACTOR #1
Master Cons' \$58,904.79
 \$0.00
 \$0.00
 \$0.00
 \$0.00

TOTAL \$58,904.79

SUBCONTRACTOR #2
 \$0.00
Fargo Water (\$2,030.61)
 \$0.00
 \$0.00
 \$0.00

TOTAL (\$2,030.61)

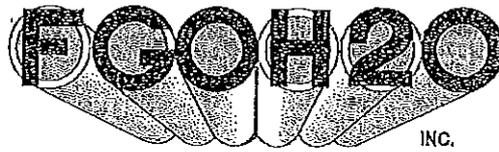
SUBCONTRACTOR #3
 \$0.00
 \$0.00
 \$0.00
 \$0.00
 \$0.00

TOTAL \$0.00

SUBCONTRACTOR #4
 \$0.00
 \$0.00
 \$0.00
 \$0.00
 \$0.00

TOTAL \$0.00

SUBCONTRACTOR TOTAL \$56,874.18



INC.

FARGO WATER EQUIPMENT

4657 16th Ave. N. - P.O. Box 128
Fargo, North Dakota 58107

Phone (701) 237-0222
Fax (701) 237-9609

MN-SD-MT WATTS 1-800-437-4034
ND WATTS 1-800-342-4676

September 18, 2009

Tim Boland
John T. Jones Construction
Box 2424
Fargo ND 5817-2424

Tim:

Based on the revised layout for the Anderson Lift Station the non-stock items will be leftover and will be subject to 35% restocking and return freight. This is assuming the 36" Flex Ring 90 Bend and the 36" x 30" MJ x MJ Reducer along with 40 lf of 30" DIP will be reused in this scenario.

1 ea. - 30" MJ 11 1/4 Bend @ \$2511.14	\$2511.14
20 lf. - 30" Class 150 Flex Ring Bell x MJ PE DIP @ \$108.14/ft	<u>2162.80</u>
Total	\$4673.94
Less 35% Restocking	<u>1635.88</u>
	\$3030.61
Approximate Freight	<u>1100.00</u>
Total Credit Available	\$2030.61

I believe you already have prices for the additional material for this change order.

I have attached revised copies of CAD drawings for the revised piping for Lift 25 for your use and approval.

FGOH2O/Inc

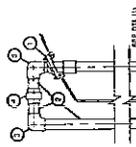
Kurt Losee
Kurt Losee

Attached: Lift 25 Drawing

Item	Desc	By
1	ADDENDUM T-1P	

STRUCTURAL NOTES

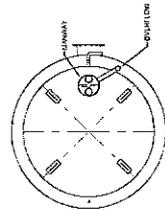
- 1. REDUCE BAR SPACING BETWEEN POINT OF REINFORCING BARS TO 12" FROM TOP AND BOTTOM OF CONCRETE POUR TO BELOW THE OPENING.
- 2. PROVIDE 2 #4'S @ 4" SPACING ON 4 SIDES OF OPENINGS PER GENERAL STRUCTURAL NOTE.
- 3. PROVIDE ADDITIONAL REINFORCING AS REQUIRED TO MAINTAIN MINIMUM 4" CLEARANCE FROM ALL SIDES OF OPENING. HORIZONTAL BAR NOT ALLOWED TO BE REBAR.
- 4. PLACE ALL ADDITIONAL REINFORCING ABOVE EXISTING REINFORCING.
- 5. PROVIDE 2 #4'S @ 4" SPACING ON 4 SIDES OF OPENING TO MAINTAIN MINIMUM 4" CLEARANCE FROM ALL SIDES OF OPENING. HORIZONTAL BAR NOT ALLOWED TO BE REBAR.
- 6. PROVIDE 2 #4'S @ 4" SPACING ON 4 SIDES OF OPENING TO MAINTAIN MINIMUM 4" CLEARANCE FROM ALL SIDES OF OPENING. HORIZONTAL BAR NOT ALLOWED TO BE REBAR.



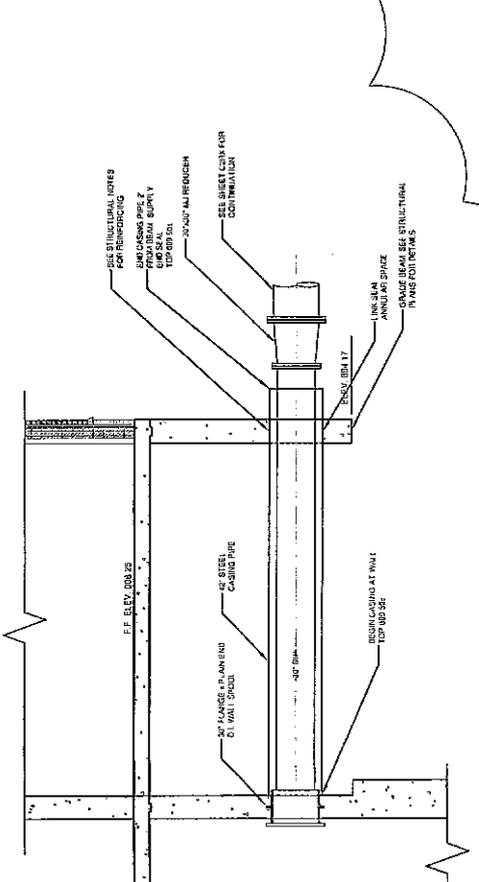
- LEGEND**
- 1 UNIVERSAL BALL JOINTS FIG 100118
 - 2 SOCKET
 - 3 NUT
 - 4 WASHER
 - 5 BOLT
 - 6 RIVET
 - 7 WELD
 - 8 WELD
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DTL (1) COMBINATION FILL LINE SUPPORT

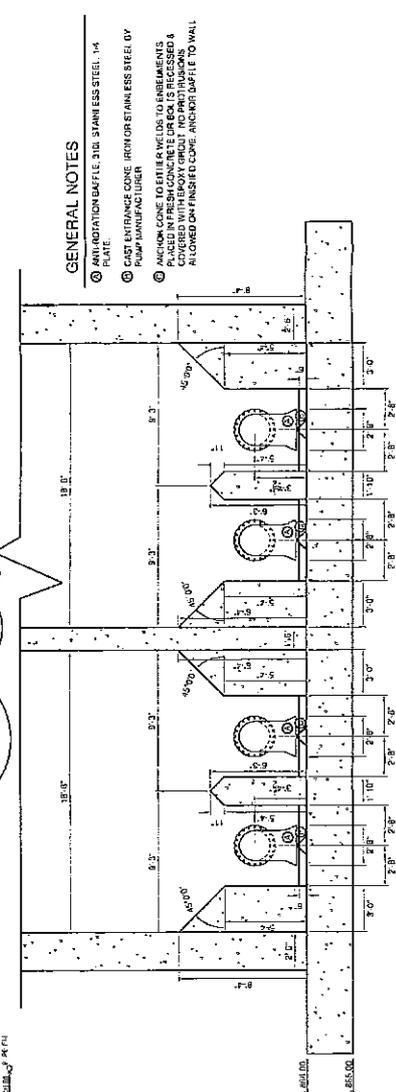
FILL LINE ASSEMBLY DETAILS



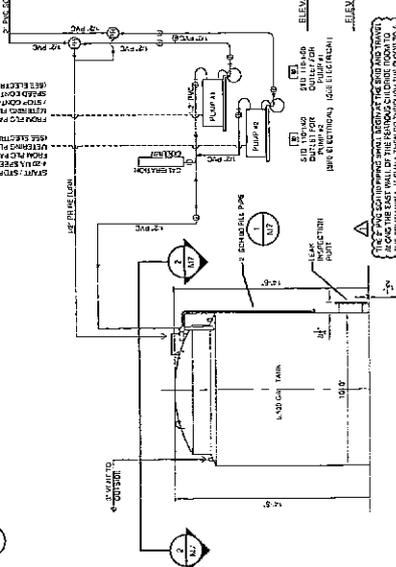
PLAN VIEW



FORCE MAIN PIPE - SECTION VIEW



WET WELL - SECTION VIEW



FERROUS CHLORIDE FEED SYSTEM

- GENERAL NOTES**
- 1. INVESTIGATION GAFFLE, 316 STAINLESS STEEL, 1/4" PLATE.
 - 2. CAST IRON MANHOLE COUPLER, 12" DIA. MANHOLE COUPLER.
 - 3. MANHOLE COUPLER TO BE SET IN PLACE AND CONCRETE COVERED WITH EPOXY GROUT. NO PART OF MANHOLE COUPLER IS TO BE ALLOWED ON FINISHED CURB. ANCHOR BOLT TO WALL.

Ulteig

Ulteig Inc. 1400 14th Ave SW, Fargo ND 58103
 2350 38th Avenue South, Fargo ND 58103
 Phone: 701.281.8100 Fax: 701.281.8101
 Web: www.ulteig.com
 Drawn By: Scott W. Christensen
 Checked By: Tom W. Christensen

ANDERSON LIFT STATION
SECTION C & SECTION D &
CHEMICAL FEED DETAILS
CITY OF FARGO #5728
FARGO, NORTH DAKOTA

Project Number: 1102.0027
 Date: 08/27/14
 Scale: M7X

LIFT STATION #25 BYPASS AND REMODEL PROPOSAL

Several pre-job planning sessions have been held regarding the temporary bypass with our subcontractors, temporary dewatering contractors and city personnel. The issue came up that there could possibly be a rag plugging problem. We have discussed several ideas as how to prevent a rag plugging problem. It was looked into to see if a grinder could be installed and be used to grind up solids before it goes through the temporary bypass pump. We believe we can accomplish this by putting in a temporary building along side of the structure. This will house the controls for the grinder and also the temporary location of the RTU which will call the City the same as it has in the past. You then will be able to tell if the generators are running or if there is a high level alarm. We would also have the stand-by generator tied into the system.

We also looked into the concrete structure that is to be placed outside the existing pump station to see if there was a way to accomplish the bypass without it. The structure is real deep and will require us to approach the road or we will possibly need to shut down a lane of traffic. There is also a drop leg off the power pole that is not on the prints that we would need to do something with. We would suggest placing one electric hydraulic pump in the existing structure after the grinder. We would also place a diesel hydraulic pump at the 72" manhole that is located 30' to the south of the existing pump station. This diesel pump would be used as backup to the electric pump that is in the existing Lift Station influent box. These pumps are capable of pumping 4,200 GPM at 40' of head. One pump will handle the flow and with the other pump in the 72" manhole serving as the backup pump just in case we had a large rain we would be able to pump 8,000 GPM's if needed. We would have 100% backup. Our existing sluice gate would be our means of closing off the Lift Station. Our plan is to have Jet-Way come out during the install of the grinder and at the removal of the drop tee and clean the gate and stem. We will make sure it is in an operable condition.

By-pass Connections:

We have been looking at ways to tie the bypass into the existing line with minimal disruption and risk. We will also need to go into the old line with new pumps until Anderson Lift Station is complete of taking flow as to not leave the Lift Station on temporary pumps any longer then is necessary. We looked at placing the new force main out the north side of the Lift Station and then would tie the south end of the header to the existing line to allow the new pumps to pump into the old line. With the new header going out the north side that would allow us to tie the new Anderson Lift Station line in and be ready for whenever it will be needed. It would also give us the versatility to go to the old line or to Anderson in case there are issues with Anderson or County 20 or the pipeline during startup. It would also allow the City to go to old line in the future if something would come up.

We will tie the bypass pumps into the existing bypass manhole. By doing this we would be able to shut the temporary bypass off and go on line with the existing pumps should any problems come up during our prove out time. Also if the City would need to bypass the Lift Station in the future they would still have the capability to do so.

We also have looked at doing the structure faster then originally planned. We have looked at having two shifts during most of the demo, remodeling and the install of the new piping and new pumps. This will shorten the time we will need to run the temporary bypass pumps.

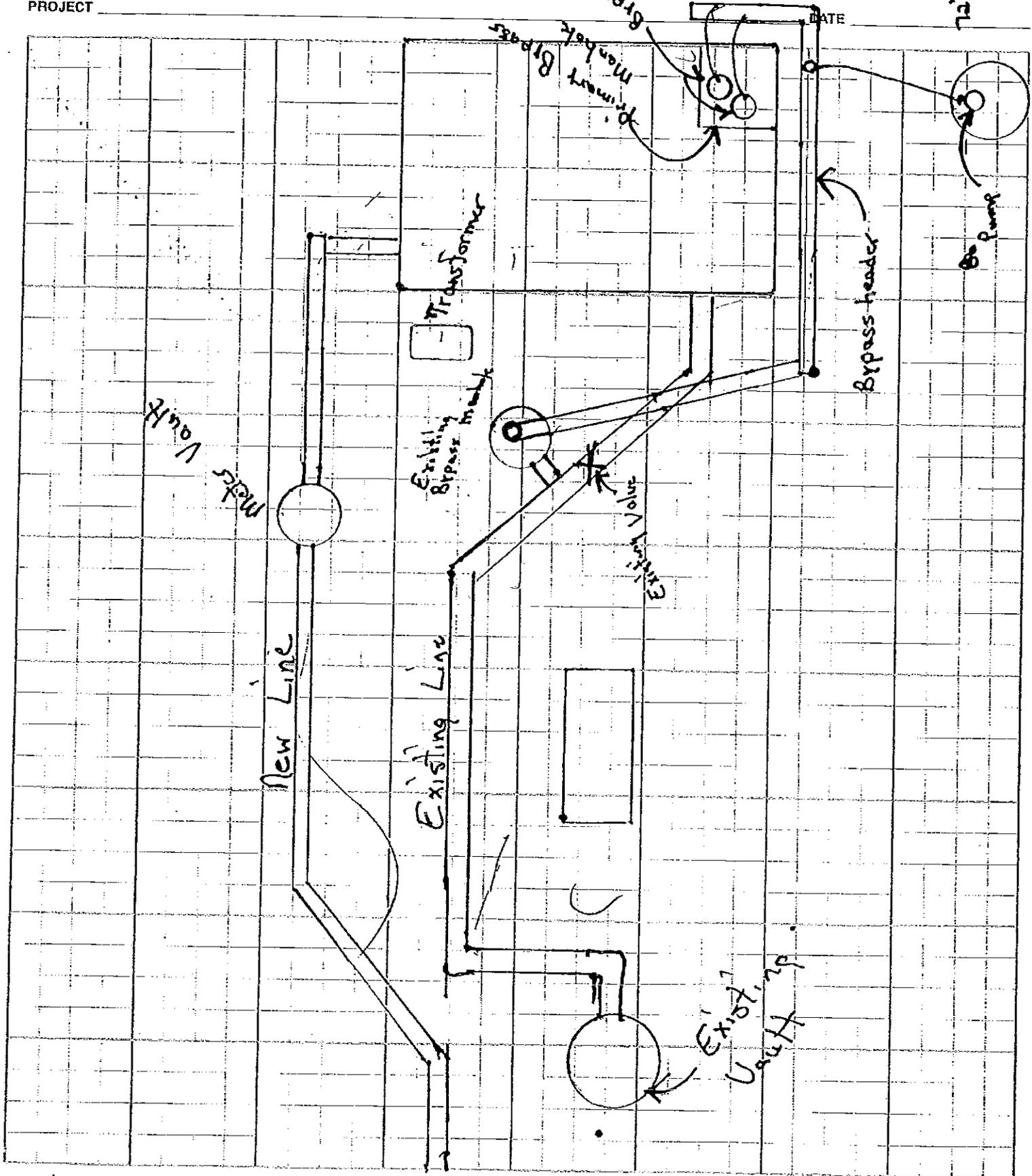
During the last meeting held at Ulteig on the bypass meeting it was noted that the City had been looking at what options they could come up with to connect both lines. It was also mentioned that they would like to have valves placed on the 30" line and the 20" line so as to shut either line off at any time. It was asked if they could be an alternate valve then specified. Tim stated they would want what was specified. These valves have a long lead-time and are going to be costly.

We believe we have come up with a workable plan and would like to proceed with the changes. We would like to get together to finalize this plan.



PROJECT _____

DATE _____



Fargo Sanitary Lift

9/23/2009

Pure Deducts

Concrete	\$ (18,598.00)
Electrical Transformer	\$ (3,709.00)
Excavation & Backfill	\$ (4,000.00)
Access Hatches	\$ (861.00)
Chop in Gate	\$ 500.00
Vault Coatings	\$ (5,600.00) ^{\$ 5,800}
Ductwork Gooseneck	\$ (500.00)
	<u>\$ (32,768.00) 33,408</u>

Grinder & Vault Adds

Valves	\$ 16,151.00
Temporary Grinder (Elec Labor & Starter)	\$ 1,402.00
Enclosure for Controls	\$ 2,000.00
	<u>\$ 19,553.00</u>
	500.00
	<u>20,053.00</u>

With Labor, Markups & Tax

	* \$ 23,000.00
	\$ 1,500.00
	<u>\$ 2,400.00</u>
	<u>\$ 26,900.00</u>
	*Tax - \$1,050
	*Labor - \$2,000

Adders

RTU move to outside	\$ 2,002.00	\$ 2,150.00
Generator tie-in	\$ 7,000.00	\$ 7,600.00
	<u>\$ 9,002.00</u>	<u>\$ 9,750.00</u>

Net: - \$4,413.00



REPORT OF ACTION
UTILITY COMMITTEE

Project No. 5729 Type: Change Order #3 – Part A
45th Street Interceptor Forcemain
Change Order #2 – Part B
Drain 40 Improvements

Location: 45th Street from 9th Avenue South to 19th Avenue North

Date of Hearing: 2/03/10

<u>Routing</u>	<u>Date</u>
City Commission	2/08/10
Project File	

Brenda Derrig, Senior Engineer, submitted the attached memo and Change Order #3 – Part A and Change Order #2 – Part B to Project 5729 (45th Street Sewer Interceptor and Drain 40 Improvements). The change orders are for additional miscellaneous work items as detailed below:

<u>Change Order #3 – Part A</u>		<u>Change Order #2 – Part B</u>	
Fiberoptic Cable	\$ 2,812.70	Main Avenue Electrical	\$2,755.50
WM Relocation	\$17,644.95	Tie Back Road Electrical	\$ 486.20
Concrete Reinforcement	\$15,545.20	Asphalt Milling	\$ 390.69
Total =	\$36,002.85	Total =	\$3,632.39

A summary of the construction contract and change orders is as follows:

Original Contract Amount	\$8,418,563.82	
Change Order #1 – Part A	\$ 14,821.25	
Change Order #2 – Part A	\$ 11,624.99	
Change Order #3 – Part A	\$ 36,002.85	
Change Order #1 – Part B	\$ 6,724.82	
Change Order #2 – Part B	\$ 3,632.39	
Current Contract Amount	\$8,491,370.12	(0.8%)

On a motion by Mark Bittner, seconded by Terry Ludlum, the Utility Committee voted to approve Change Order #3, Part A, in the amount of \$36,002.85 and Change Order #2, Part B, in the amount of \$3,632.39 with Riley Brothers Construction, Inc, for Project 5729.

COMMITTEE:	Present	Yes	No	Unanimous
				X
				Proxy
Dennis Walaker, Mayor	X			
Mike Williams, City Commissioner				
Pat Zavoral, City Administrator	X			
Mark Bittner, City Engineer	X			
Kent Costin, Director of Finance	X			
Ron Hendricksen, Water Plant Supt.	X			
Peter Bilstad, Wastewater Plant Supt.				
Bruce Grubb, Enterprise Director	X			
Scott Liudahl, City Forester	X			
Terry Ludlum, Solid Waste Utility Manager	X			
James Hausauer, Wastewater Util. Manager	X			
Al Weigel, Public Works Operations Manger	X			

ATTEST:

Bruce P. Grubb

Bruce P. Grubb
Enterprise Director

C: Commissioner Mahoney
Commissioner Wimmer
Commissioner Piepkorn

CONTRACT CHANGE ORDER, PART A, NO. 3
Improvement District #5729
Sanitary Forcemain, Drain 40 Improvements and Incidentals
45th Street (9th Avenue South to 19th Avenue North)

14145
 Proj. No.
 11/30/2009
 Date
 ND
 State
 Cass
 County

City of Fargo
 Owner
 To Riley Bros. Construction, Inc.
 (Contractor)

You are hereby requested to comply with the following changes from the contract plans and specifications:

DESCRIPTION OF CHANGES (Supplemental Plans & Spec. attached)	DECREASE in Contract Price	INCREASE in Contract Price		
<u>Items</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	
1. 9th Ave S/45th St-Fiberoptic	LS	1	\$2,812.70	\$2,812.70
2. 16" Water Main Offset/7th Ave N	LS	1	\$17,644.95	\$17,644.95
3. 24"x24" Concrete Reinforcement	SY	862.4	\$8.00	\$6,899.20
4. 18"x18" Concrete Reinforcement	SY	720.5	\$12.00	\$8,646.00

TOTALS \$ 36,002.85
 NET CHANGE IN CONTRACT PRICE \$ 36,002.85

JUSTIFICATION

See attached justification sheet.

The Amount of the Contract will be (Decreased) (Increased) by The Sum of: Dollars \$ 36,002.85

The Contract Total including this and previous Change Orders Will Be: Dollars \$

TIME FOR COMPLETION

The Contract Period Provided for Completion Will Be (Changed) (Unchanged) (Decreased)
 The Completion Date shall be (Changed) (Unchanged)

This document will become a supplement to the contract and all provisions will apply hereto.

Requested City of Fargo (Owner) _____ (Date)
 Recommended *Brett O. Bailey* Moore Engineering Inc. (Engineer) 12-2-2009 (Date)
 Accepted *[Signature]* Riley Bros. Construction, Inc. (Contractor) 12-2-09 (Date)

CONTRACT CHANGE ORDER, PART A, NO. 3
Improvement District #5729
Sanitary Forcemain, Drain 40 Improvements and Incidentals
45th Street (9th Avenue South to 19th Avenue North)

Justification for Change Order Items

Item 1 – 9th Ave S/45th St - Fiberoptic:

At Station 0+00 of the sanitary forcemain, existing gravel sloughed during excavation to connect to the forcemain stub, partially undermining 45th Street. Existing controlled density fill collapsed into the trench, damaging the city's fiberoptic conduit. This item removed the fiberoptic and pipe, relocated and reinstalled 2-inch PVC and fiberoptic. The fiberoptic was respliced in the pull box.

Item 2 – 16-inch watermain offset/7th Ave N:

At Station 72+44 of the sanitary forcemain, an existing 16-inch PVC watermain was discovered to be deeper than expected, resulting in a utility conflict with the steel casing pipe under 45th Street. The 16-inch watermain was relocated to eliminate the utility conflict.

Item 3 – 24"x24" Concrete Reinforcement:

On Fargo Parts and Equipment property, the existing concrete was believed to be nonreinforced. When the concrete was removed, it was found to be reinforced. Concrete was paid as 8-inch plain PC concrete. This item pays for the concrete reinforcement with 24"x24" spacing.

Item 4 – 18"x18" Concrete Reinforcement:

The Tie Back road was thought to have ten inch thick, nonreinforced concrete. When the concrete was removed, it was discovered to be eight inches of reinforced concrete. The concrete was paid as eight inches of plain PC concrete. This item pays for the concrete reinforcement with 18"x18" spacing.

CONTRACT CHANGE ORDER, PART A, NO. 3
Improvement District #5729
Sanitary Forcemain, Drain 40 Improvements and Incidentals
45th Street (9th Avenue South to 19th Avenue North)

Change Order A-3 Special Instructions

Item 1 – 9th Ave S/45th St - Fiberoptic:

The pay item shall include all labor, equipment and material needed to remove a fiberoptic cable and conduit pipe; a 2-inch PVC conduit with fiberoptic cable shall be relocated and reinstalled; the fiberoptic cable shall be respliced in a pull box.

Item 2 – 16-inch Watermain Offset/45th Street:

The pay item shall include all labor, equipment and material needed to install an offset of a 16-inch PVC watermain at the location of the 45th Street forcemain steel casing pipe. Included in this item are, but not limited to, are:

16-inch PVC pipe

45 degree ductile iron bends with mechanical joints

16-inch ductile iron sleeve with mechanical joints

Geotextile fabric

Class 5 gravel compacted to 95% standard Proctor density to the bottom elevation of the concrete pavement.

Item 3 – 24"x24" Concrete reinforcement:

The pay item shall include all labor, equipment and material needed to install concrete reinforcement. Rebar shall be #4 deformed bars tied 24" on center, each way. Rebar mat shall be supported by chairs at the midpoint depth of the slab.

Item 4 – 18"x18" Concrete Reinforcement:

The pay item shall include all labor, equipment and material needed to install concrete reinforcement. Rebar shall be #4 deformed bars tied 18" on center, each way. Rebar mat shall be supported by chairs at the midpoint depth of the slab.

CONTRACT CHANGE ORDER, PART B, NO. 2
Improvement District #5729
Sanitary Forcemain, Drain 40 Improvements and Incidentals
45th Street (9th Avenue South to 19th Avenue North)

14145
 Proj. No.
 11/30/2009
 Date
 ND
 State
 Cass
 County

City of Fargo
 Owner

 To Riley Bros. Construction, Inc.
 (Contractor)

You are hereby requested to comply with the following changes from the contract plans and specifications:

DESCRIPTION OF CHANGES (Supplemental Plans & Spec. attached)	DECREASE in Contract Price	INCREASE in Contract Price		
<u>Items</u>	<u>Unit</u>	<u>Quantity</u>	<u>Unit Price</u>	
1. Main Ave Electrical Work	LS	1	\$2,755.50	\$2,755.50
2. Tie Back Road Electrical Work	LS	1	\$486.20	\$486.20
3. Milling 8"-10"	SY	144.7	\$2.70	\$390.69

TOTALS \$ _____ \$ 3,632.39
 NET CHANGE IN CONTRACT PRICE \$ _____ \$ 3,632.39

JUSTIFICATION
 See attached justification sheet.

The Amount of the Contract will be (Decreased) (Increased) by The Sum of: _____ Dollars \$ 3,632.39

The Contract Total including this and previous Change Orders Will Be: _____ Dollars \$

TIME FOR COMPLETION
 The Contract Period Provided for Completion Will Be (Changed) (Unchanged) (Decreased) _____
 The Completion Date shall be (Changed) (Unchanged) 12/31/2009

This document will become a supplement to the contract and all provisions will apply hereto.

Requested _____ (Owner) _____ (Date)
 Recommended Burt O. Brully Moore Engineering Inc. (Engineer) 12-2-2009 (Date)
 Accepted C. Riley Riley Bros. Construction, Inc. (Contractor) 12-2-09 (Date)

CONTRACT CHANGE ORDER, PART B, NO. 2
Improvement District #5729
Sanitary Forcemain, Drain 40 Improvements and Incidentals
45th Street (9th Avenue South to 19th Avenue North)

Justification for Change Order Items

Item 1 – Main Ave Electrical Work:

The concrete foundation for a pedestrian traffic signal and the concrete foundation for a parking light were removed for safety reasons as the foundations were shallow and in danger of being undermined. The foundations were next to the trench for installing a 10'x5' RCB on the north side of Main Ave. This item had the pedestrian traffic signal pole removed and its foundation removed and replaced. O'Reilly Auto Parts had a parking light base, including electrical wires that was removed and replaced. Additional miscellaneous work is included in this item, such as the relocation of a pull box and the support of a traffic light pole with a line truck.

Item 2 – Tie Back Road Electrical Work

A conduit had to be removed and reinstalled, with new wire, to allow the installation of a 10'x5' RCB across the Tie Back Road.

Item 3 – Milling 8"-10"

15th Ave N was thought to have 10.5" thick concrete at the location of the proposed reinforced concrete box culvert installation. During removals, it was found that the pavement was actually asphalt. There was no pay item for removing 8" to 10" asphalt in Part B of the bid sheet. The unit price used was copied from an identical pay item listed under Part C.

CONTRACT CHANGE ORDER, PART B, NO. 2
Improvement District #5729
Sanitary Forcemain, Drain 40 Improvements and Incidentals
45th Street (9th Avenue South to 19th Avenue North)

Change Order B-2 Special Instructions

Item 1 – Main Ave Electrical Work:

The pay item shall include all labor, equipment and material needed to modify a type V base, take down light pole and redrill (4) new anchors, pour one type V base, relocate a pull box, hold a pole with a line truck, remove and replace a pedestal button, remove and replace street light wires, remove and replace a street light for O'Reilly's Auto Parts parking lot.

Item 2 – Tie Back Road Electrical Work:

The pay item shall include all labor, equipment and material needed to cut, remove and reinstall conduit and a new electrical wire.

Item 3 – Milling 8"-10":

The pay item shall include all labor, equipment and material needed to remove asphalt 8"-10" thick. Sawcutting is incidental. Unit price is the same as listed for this pay item in Part C of the bid sheet.



ENGINEERING DEPARTMENT

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

January 26, 2010

2

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

**Re: Lampert Yards, Inc.
Purchase Agreement – ROW/Easements
Improvement District #5803**

Dear Commissioners:

Enclosed and delivered to the Commission office are (3) original Purchase Agreement documents for the acquisition of permanent right-of-way, utility easement and Moorhead public service easement from Lampert Yards, Inc. in association with Improvement District #5803. Final purchase price for the aforesaid row/easements has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of permanent right-of-way, utility easement and Moorhead public service easement from Lampert Yards, Inc. in association with Improvement District #5803 and to execute a Purchase Agreement relating to the same and that the Mayor and City Auditor be instructed to execute the same on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,

Shawn G. Bullinger
Engineering Specialist

Enclosures
C: Gary Stewart
Brenda Derrig

Street Lighting
Sidewalks

Design & Construction
Traffic Engineering

Truck Regulatory
Flood Plain Mgmt.

Mapping & GIS
Utility Locations

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 21st day of January, 2010, by and between, **LAMPERT YARDS, INC.**, hereinafter "Lampert" and **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter "City".

WITNESSETH:

WHEREAS, Lampert is the owner of real estate situated in the County of Cass and State of North Dakota, hereinafter "Property," described as indicated on the attached Exhibit "A"; and

WHEREAS, City desires to move existing access on 42nd Street South, Thirty-seven Feet (37') North to provide access for landowner; and

WHEREAS, City desires to provide an additional Twenty Foot (20') cross-access easement; and

WHEREAS, City desires to acquire a permanent easement on the Property and pay Lampert under the terms and conditions hereinafter stated.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

1. Subject Matter. The subject matter of this agreement is the property described in Exhibit "A" attached hereto and incorporated herein by reference.
2. Purchase Price. The purchase price for the easements and access agreement will be Three Thousand and no/100 Dollars (\$3,000.00).
3. Payment and Purchase Price. The entire purchase price shall be payable in cash at closing.
4. Closing Date and Transfer of Possession. Closing of this transaction shall take place as soon as possible. Possession of the property shall be on or about the date of closing.

5. Title. City wishes to take title in the easement as follows:

The City of Fargo, North Dakota
a municipal corporation

The City has prepared the permanent easements and access agreement, a copy of which is attached hereto, and will pay the cost of recording the same.

6. Closing Costs. It is understood and agreed that as part of this transaction, each of the parties shall pay its own attorneys fees and all other closing costs (except those listed in this agreement).

DATED the day and year as set forth above.

LAMPERT:

CITY:

LAMPERT YARDS, INC.

THE CITY OF FARGO, NORTH DAKOTA,
a municipal corporation

By: Robert K Egan
Robert K. Egan, President

By: _____
Dennis R. Walaker, Mayor

ATTEST:

Steven Sprague, City Auditor

EXHIBIT "A"

LEGAL DESCRIPTIONS

5803-6-R/W

A tract of land located in Lot One (1), Block One (1), Heidrich Addition, Section Twenty-two (22), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, more particularly described as follows: The South Fifteen Feet (15.00') of said Lot One (1), as measured perpendicular to the South line of said Lot One (1). Said tract contains 0.094 acres, more or less.

5803-6-Util

A tract of land located in Lot One (1), Block One (1), Heidrich Addition, Section Twenty-two (22), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The North Ten Feet (10.00') of the South Twenty-five Feet (25.00') of said Lot One (1), as measured perpendicular to the South line of said Lot One (1). Said tract contains 0.063 acres, more or less.

5803-6-Access

A tract of land located in Lot Two (2), Block One (1), West 29 First Addition to the City of Fargo, Section Twenty-two (22), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows: The South Twenty Feet (20.00') of said Lot Two (2), as measured perpendicular to the South line of said Lot Two (2). Said tract contains 0.07 acres, more or less.

5803-6-MHPS

A tract of land located in Lot One (1), Block One (1), Heidrich Addition, Section Twenty-two (22), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: Commencing at the Southwest corner of said Lot One (1); thence N 02°23'48" W along the West line of said Lot One (1) a distance of Sixty-two and Seventy Hundredths Feet (62.70') to a point on the Northerly line of an existing power line easement as recorded in Document No. 782795 in the Cass County Recorder's Office, said point being the point of beginning; thence continuing N 02°23'48" W along the West line of said Lot One (1) a distance of Twenty-seven and Thirty Hundredths Feet (27.30'); thence N 87°38'18" E, parallel with and offset One Hundred Fifty Feet (150.00') Northerly of the South line of said Section Twenty-two (22), for a distance of One Hundred Seventy-nine and Eight Hundredths Feet (179.08') to a point on the Westerly line of said existing power line easement; thence S 02°20'42" E along the Westerly line of said power line easement a distance of Five and Sixty-eight Hundredths Feet (5.68'); thence S 80°45'18" W along the Northerly line of said power line easement a distance of One Hundred Eighty and Thirty-six Hundredths Feet (180.36') to the point of beginning. Said tract contains 0.068 acres, more or less.



ENGINEERING DEPARTMENT

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

February 1, 2010

aa1

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

**Re: Christianson Holdings, LLLP
Purchase Agreement – Temporary Construction Easements
Improvement District #5700**

Dear Commissioners:

Enclosed and delivered to the Commission Office is an original Purchase Agreement document for the acquisition of (2) temporary construction easements from Christianson Holdings, LLLP in association with Improvement District #5700. Final purchase price for the aforesaid easements has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of (2) temporary construction easements from Christianson Holdings, LLLP in association with Improvement District #5700 and to execute a Purchase Agreement relating to the same and that the Mayor and City Auditor be instructed to execute the same on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,

Shawn G. Bullinger
Engineering Specialist

Enclosures
C: Gary Stewart
Mark Bittner

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 1 day of FEBRUARY, 2010, by and between **CHRISTIANSON HOLDINGS, LLLP**, hereinafter called "Seller", and whether one or more, **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter called "Buyer".

WITNESSETH:

WHEREAS, Seller is the owner of certain property hereinafter described; and,

WHEREAS, City is desirous of acquiring an interest in such property consisting of a temporary construction easement; and,

WHEREAS, City has obtained an appraisal, made an offer for such property interest, and Owner has accepted the same; and

WHEREAS, the parties which to commit their agreement to writing under the terms and conditions hereinafter stated:

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

1. Subject Matter. The subject matter of this agreement is the property described in the temporary construction easements, Exhibit "A" attached hereto and incorporated herein by reference.
2. Purchase Price. The purchase price will be One Thousand Four Hundred Seventy-nine and 05/100 Dollars (\$1,479.05).
3. Payment of Purchase Price. The entire purchase price shall be payable in cash at closing.

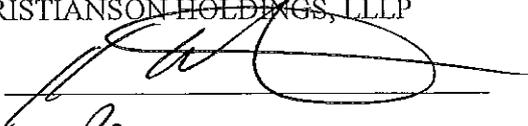
4. Closing Date and Transfer of Possession. Closing of this transaction shall take place at a mutually agreed time and location. Possession of the property shall be on or about the date of closing.

5. Closing Costs. It is understood and agreed that as part of this purchase, each of the parties shall pay its own attorneys fees, except the City shall pay for the preparation of the transfer documents.

DATED the day and year as set forth above.

SELLERS:

CHRISTIANSON HOLDINGS, LLLP

By:  _____

Its: PLCS. _____

BUYER:

CITY OF FARGO, NORTH DAKOTA

By _____
Dennis R. Walaker, Mayor

ATTEST:

Steve Sprague, Auditor

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that CHRISTIANSON HOLDINGS, LLP, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot Two (2), Block One (1), Osgood Townsite Marketplace Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The East Twenty Feet (20.00') of said Lot Two (2) as measured perpendicularly from the East line of said Lot Two (2). Said tract contains 0.06 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to

Exhibit "A"
6 pages

be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

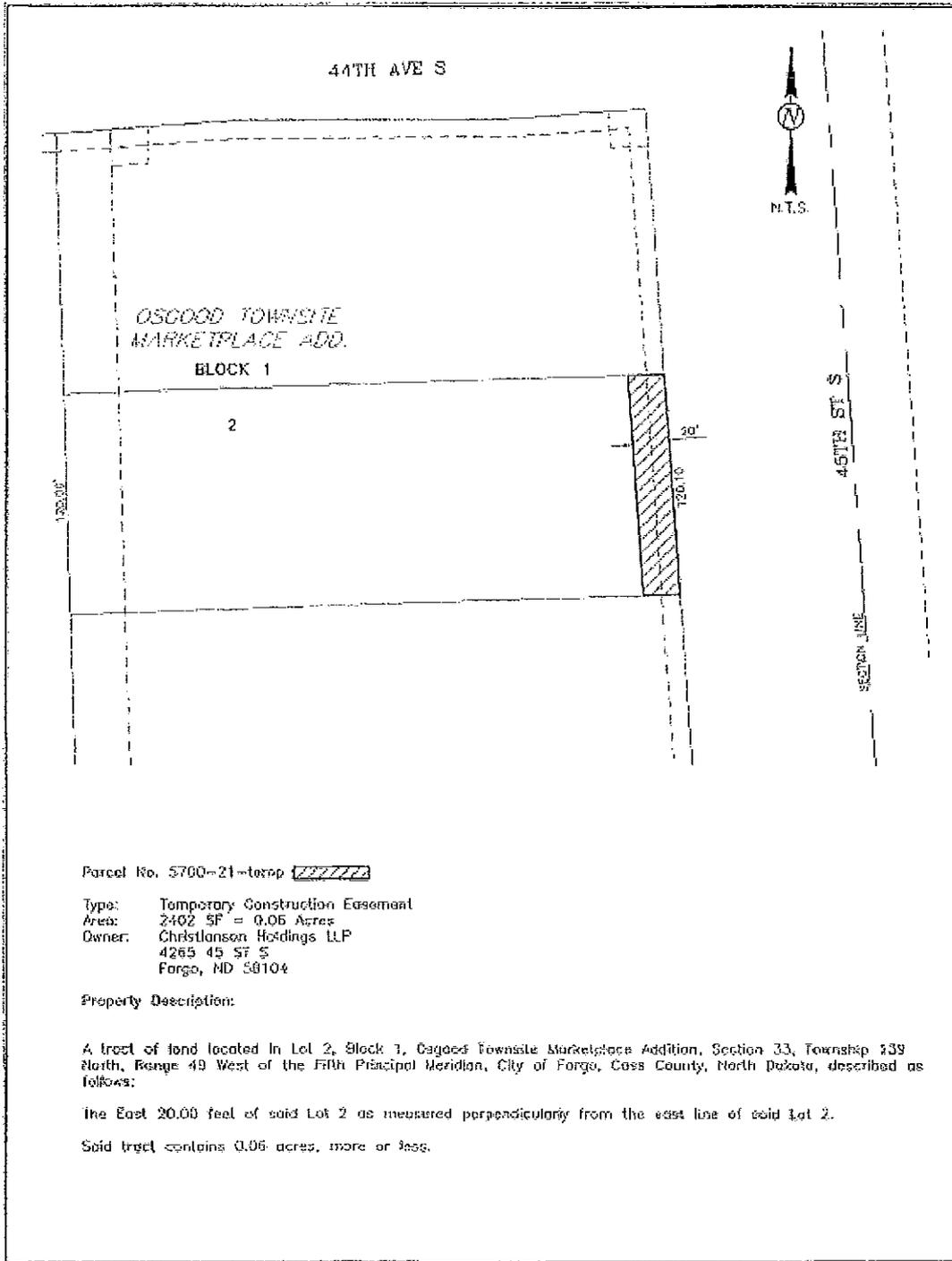
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this ____ day of _____, 2009.

CHRISTIANSOHN HOLDINGS, LLP

By _____

Its _____

Exhibit "A"



TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that CHRISTIANSON HOLDINGS, LLP, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot One (1), Block One (1), Osgood Townsite Marketplace Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The East Twenty Feet (20.00') of said Lot One (1) as measured perpendicularly from the East line on said Lot One (1). Said tract contains 0.07 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to

Exhibit "A"
6 pages

be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

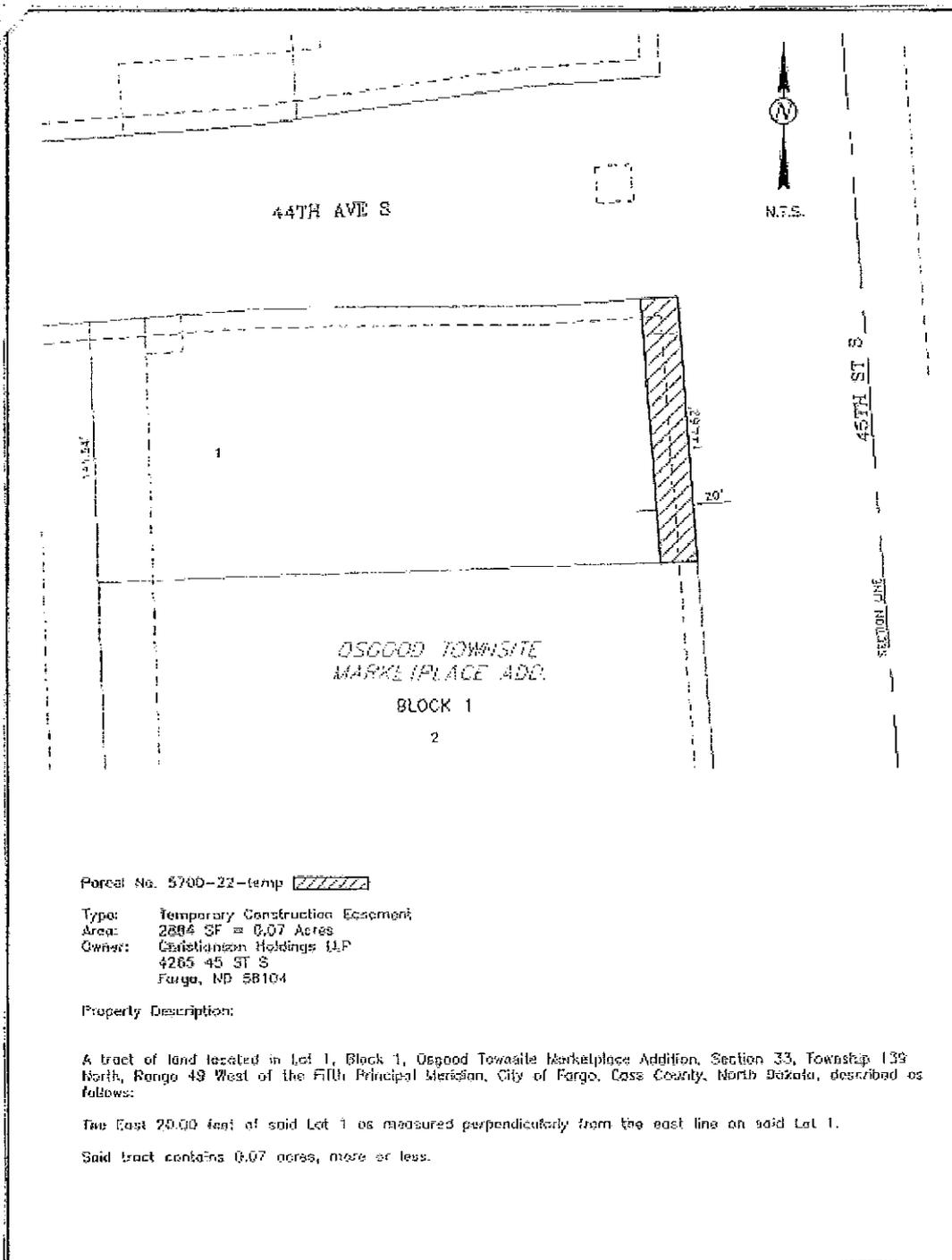
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this ____ day of _____, 2009.

CHRISTIANSON HOLDINGS, LLP

By _____

Its _____

Exhibit "A"



February 1, 2010

ag 2

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

**Re: WBCM of North Dakota, LLC
Purchase Agreement – Temporary Construction Easement
Improvement District #5700**

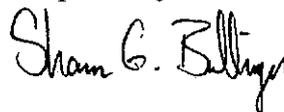
Dear Commissioners:

Enclosed and delivered to the Commission Office is an original Purchase Agreement document for the acquisition of a temporary construction easement from WBCM of North Dakota, LLC in association with Improvement District #5700. Final purchase price for the aforesaid easement has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a temporary construction easement from WBCM of North Dakota, LLC in association with Improvement District #5700 and to execute a Purchase Agreement relating to the same and that the Mayor and City Auditor be instructed to execute the same on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Engineering Specialist

Enclosures

C: Gary Stewart
Mark Bittner

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 1 day of FEBRUARY, 2010, by and between **WBCM OF NORTH DAKOTA, LLC**, hereinafter called "Seller", and whether one or more, **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter called "Buyer".

WITNESSETH:

WHEREAS, Seller is the owner of certain property hereinafter described; and,

WHEREAS, City is desirous of acquiring an interest in such property consisting of a temporary construction easement; and,

WHEREAS, City has obtained an appraisal, made an offer for such property interest, and Owner has accepted the same; and

WHEREAS, the parties wish to commit their agreement to writing under the terms and conditions hereinafter stated:

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

1. Subject Matter. The subject matter of this agreement is the property described in the temporary construction easement, Exhibit "A" attached hereto and incorporated herein by reference.
2. Purchase Price. The purchase price will be Sixty-two Thousand Eight Hundred Sixty-seven and 70/100 Dollars (\$62,867.70).
3. Payment of Purchase Price. The entire purchase price shall be payable in cash at closing.

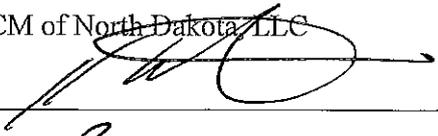
4. Closing Date and Transfer of Possession. Closing of this transaction shall take place at a mutually agreed time and location. Possession of the property shall be on or about the date of closing.

5. Closing Costs. It is understood and agreed that as part of this purchase, each of the parties shall pay its own attorneys fees, except the City shall pay for the preparation of the transfer documents.

DATED the day and year as set forth above.

SELLERS:

WBCM of North Dakota LLC

By:  _____

Its:  _____

BUYER:

CITY OF FARGO, NORTH DAKOTA

By _____
Dennis R. Walaker, Mayor

ATTEST:

Steve Sprague, Auditor

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that WBCM OF NORTH DAKOTA, LLC, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot Two (2), Block Five (5), Osgood Townsite Seventh Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The East Two Hundred Feet (200.00') of said Lot Two (2) as measured perpendicularly from the East line of said Lot Two (2). Said tract contains 4.12 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other

obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

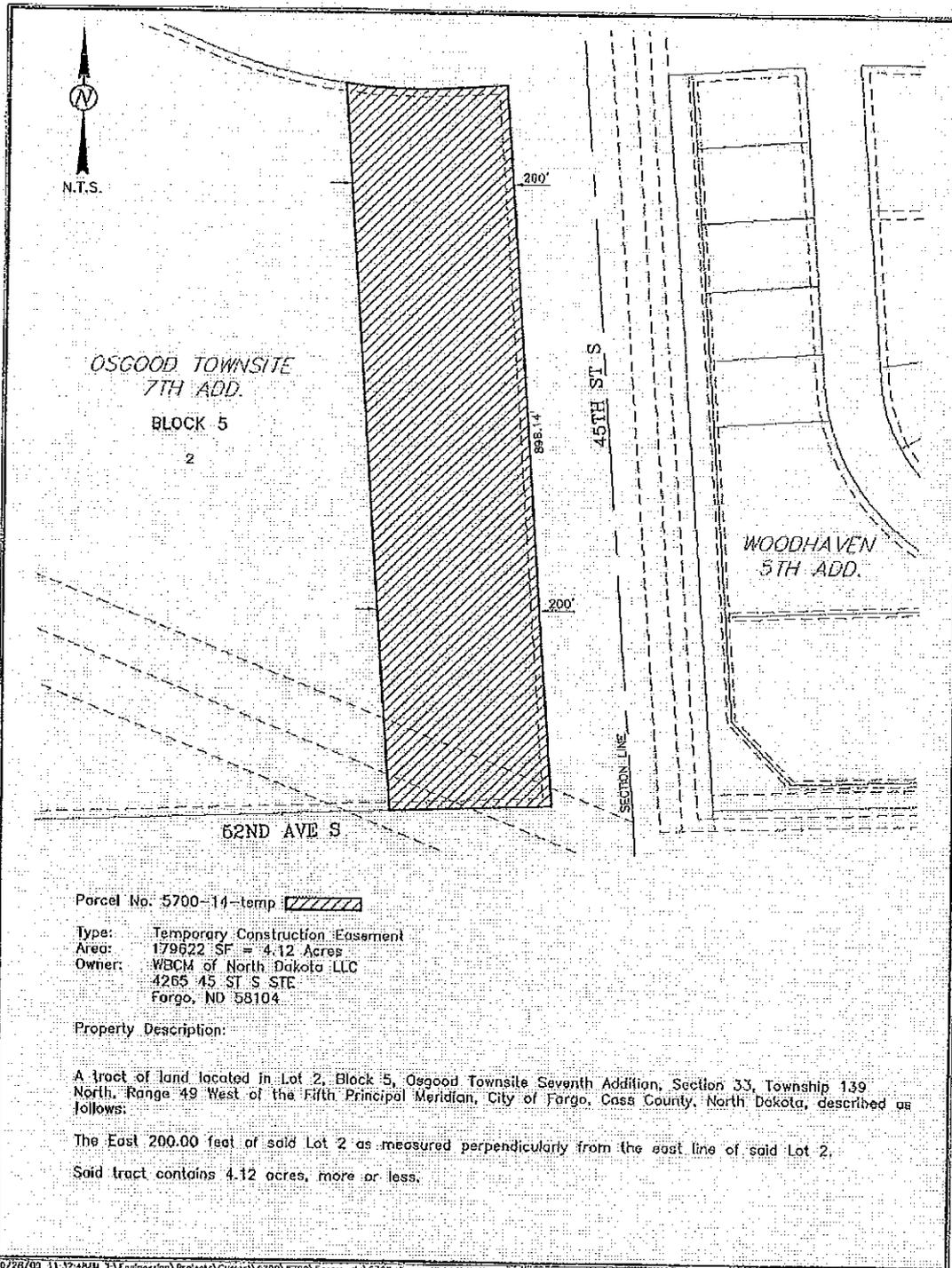
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this _____ day of _____, 2010.

WBCM OF NORTH DAKOTA, LLC

By _____

Its _____

Exhibit "A"





ENGINEERING DEPARTMENT

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

February 1, 2010

aq 3

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

**Re: The Shoppes at Osgood, LLC
Purchase Agreement – Temporary Construction Easements
Improvement District #5700**

Dear Commissioners:

Enclosed and delivered to the Commission Office is an original Purchase Agreement document for the acquisition of (2) temporary construction easements from The Shoppes at Osgood, LLC in association with Improvement District #5700. Final purchase price for the aforesaid easements has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of (2) temporary construction easements from The Shoppes at Osgood, LLC in association with Improvement District #5700 and to execute a Purchase Agreement relating to the same and that the Mayor and City Auditor be instructed to execute the same on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,

Shawn G. Bullinger
Engineering Specialist

Enclosures
C: Gary Stewart
Mark Bittner

Street Lighting
Sidewalks

Design & Construction
Traffic Engineering

Truck Regulatory
Flood Plain Mgmt.

Mapping & GIS
Utility Locations

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 1 day of FEBRUARY, 2010, by and between **THE SHOPPES AT OSGOOD, LLC**, hereinafter called "Seller", and whether one or more, **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter called "Buyer".

WITNESSETH:

WHEREAS, Seller is the owner of certain property hereinafter described; and,

WHEREAS, City is desirous of acquiring an interest in such property consisting of a temporary construction easement; and,

WHEREAS, City has obtained an appraisal, made an offer for such property interest, and Owner has accepted the same; and

WHEREAS, the parties wish to commit their agreement to writing under the terms and conditions hereinafter stated:

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

1. Subject Matter. The subject matter of this agreement is the property described in the temporary construction easements, Exhibit "A" attached hereto and incorporated herein by reference.
2. Purchase Price. The purchase price will be Four Thousand Eight Hundred Sixty-nine and 40/100 Dollars (\$4,869.40).
3. Payment of Purchase Price. The entire purchase price shall be payable in cash at closing.

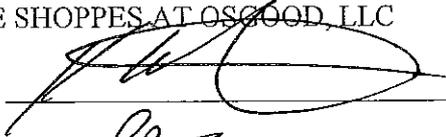
4. Closing Date and Transfer of Possession. Closing of this transaction shall take place at a mutually agreed time and location. Possession of the property shall be on or about the date of closing.

5. Closing Costs. It is understood and agreed that as part of this purchase, each of the parties shall pay its own attorneys fees, except the City shall pay for the preparation of the transfer documents.

DATED the day and year as set forth above.

SELLERS:

THE SHOPPES AT OSCOOD, LLC

By:  _____

Its:  _____

BUYER:

CITY OF FARGO, NORTH DAKOTA

By _____
Dennis R. Walaker, Mayor

ATTEST:

Steve Sprague, Auditor

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that THE SHOPPES AT OSGOOD, LLC, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot Four (4), Block One (1), The Shoppes at Osgood First Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The most Easterly Fifty Feet (50.00') of said Lot Four (4) as measured perpendicular to the most Easterly line of said Lot Four (4). Said tract contains 0.08 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project,

provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

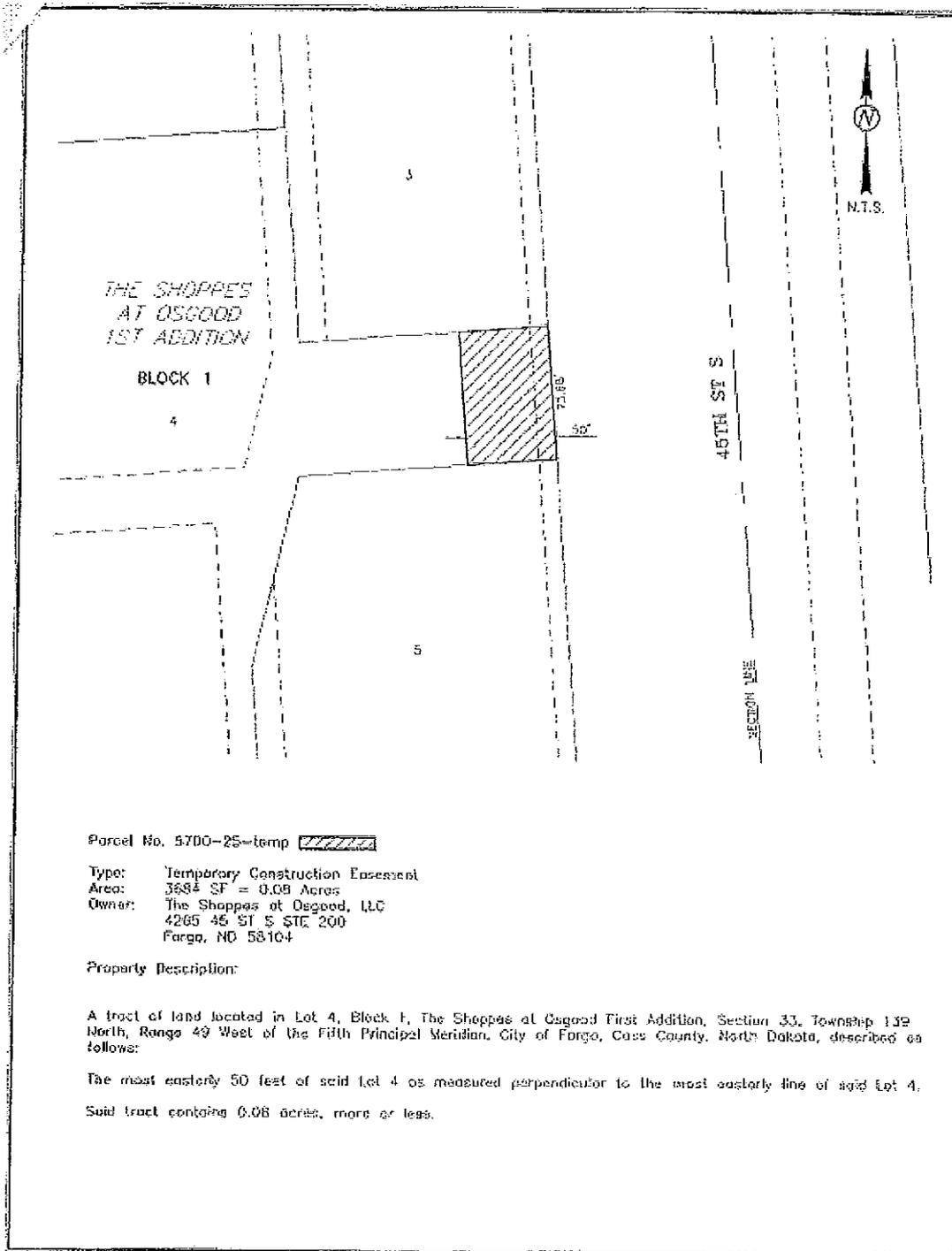
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this ____ day of _____, 2009.

THE SHOPPES AT OSGOOD, LLC

By _____

Its _____

Exhibit "A"



TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that THE SHOPPES AT OSGOOD, LLC, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot Three (3), Block One (1), The Shoppes at Osgood First Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The East Twenty Feet (20.00') of said Lot Three (3) as measured perpendicularly from the East line of said Lot Three (3). Said tract contains 0.14 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project,

provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this _____ day of _____, 2009.

THE SHOPPES AT OSGOOD, LLC

By _____

Its _____



ENGINEERING DEPARTMENT

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

February 1, 2010

ag 4

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

**Re: The Shoppes at Osgood II, LLC
Purchase Agreement – Temporary Construction Easements
Improvement District #5700**

Dear Commissioners:

Enclosed and delivered to the Commission Office is an original Purchase Agreement document for the acquisition of (3) temporary construction easements from The Shoppes at Osgood II, LLC in association with Improvement District #5700. Final purchase price for the aforesaid easements has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of (3) temporary construction easements from The Shoppes at Osgood II, LLC in association with Improvement District #5700 and to execute a Purchase Agreement relating to the same and that the Mayor and City Auditor be instructed to execute the same on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,

Shawn G. Bullinger
Engineering Specialist

Enclosures
C: Gary Stewart
Mark Bittner

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 1 day of FEBRUARY, 2010, by and between **THE SHOPPES AT OSGOOD II, LLC**, hereinafter called "Seller", and whether one or more, **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter called "Buyer".

WITNESSETH:

WHEREAS, Seller is the owner of certain property hereinafter described; and,

WHEREAS, City is desirous of acquiring an interest in such property consisting of a temporary construction easement; and,

WHEREAS, City has obtained an appraisal, made an offer for such property interest, and Owner has accepted the same; and

WHEREAS, the parties wish to commit their agreement to writing under the terms and conditions hereinafter stated:

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

1. Subject Matter. The subject matter of this agreement is the property described in the temporary construction easements, Exhibit "A" attached hereto and incorporated herein by reference.
2. Purchase Price. The purchase price will be Sixty Thousand Seven Hundred Nineteen and 34/100 Dollars (\$6,719.34).
3. Payment of Purchase Price. The entire purchase price shall be payable in cash at closing.

4. Closing Date and Transfer of Possession. Closing of this transaction shall take place at a mutually agreed time and location. Possession of the property shall be on or about the date of closing.

5. Closing Costs. It is understood and agreed that as part of this purchase, each of the parties shall pay its own attorneys fees, except the City shall pay for the preparation of the transfer documents.

DATED the day and year as set forth above.

SELLERS:

THE SHOPPES AT OSGOOD II, LLC

By:  _____

Its: PRES. _____

BUYER:

CITY OF FARGO, NORTH DAKOTA

By _____
Dennis R. Walaker, Mayor

ATTEST:

Steve Sprague, Auditor

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that THE SHOPPES AT OSGOOD II, LLC, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot Seven (7), Block One (1), The Shoppes at Osgood First Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The East Twenty Feet (20.00') of said Lot Seven (7) as measured perpendicularly to the East line of said Lot Seven (7). Said tract contains 0.12 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to

be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

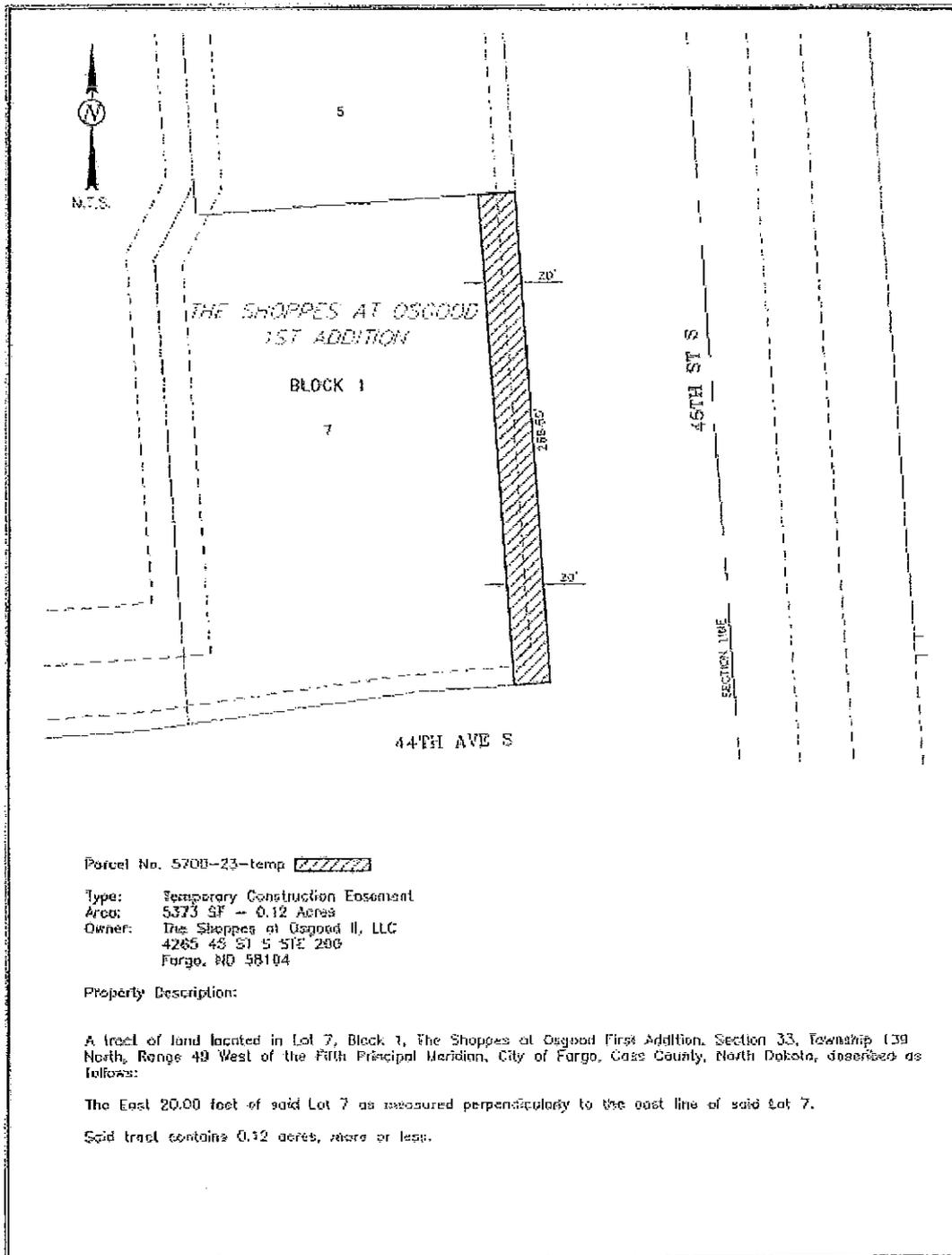
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this ____ day of _____, 2009.

THE SHOPPES AT OSGOOD II, LLC

By _____

Its _____

Exhibit "A"



TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that THE SHOPPES AT OSGOOD II, LLC, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot Five (5), Block One (1), The Shoppes at Osgood First Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The East Twenty Feet (20.00') of said Lot Five (5) as measured perpendicularly to the East line of said Lot Five (5). Said tract contains 0.14 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to

be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

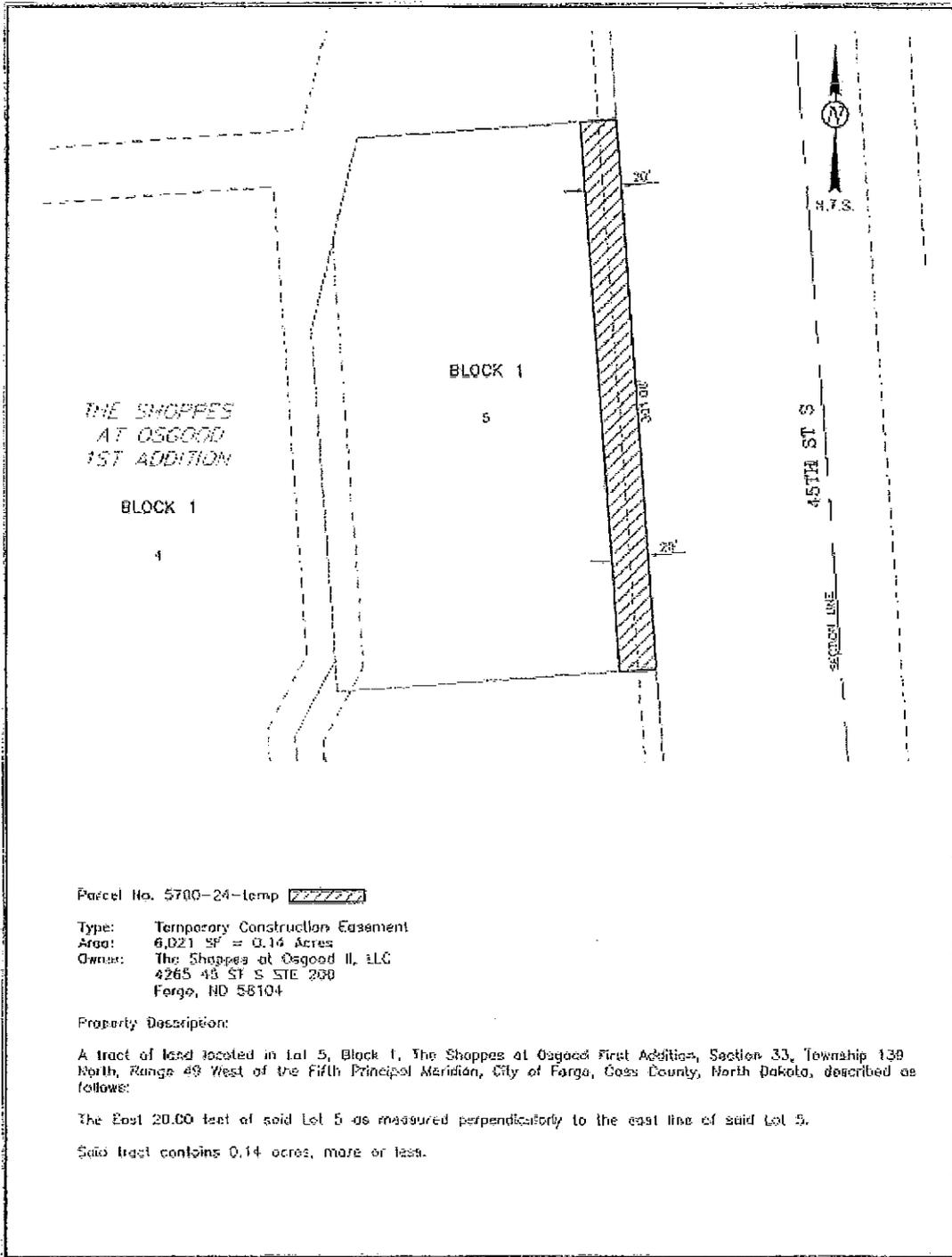
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this _____ day of _____, 2009.

THE SHOPPES AT OSGOOD II, LLC

By _____

Its _____

Exhibit "A"



Parcel No. 5700-24-temp 

Type: Temporary Construction Easement
Area: 6,021 SF = 0.14 Acres
Owner: The Shoppes at Osgood II, LLC
4265 45 ST S STE 200
Fargo, ND 58104

Property Description:

A tract of land located in Lot 5, Block 1, The Shoppes at Osgood First Addition, Section 33, Township 139 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows:

The East 20.00 feet of said Lot 5 as measured perpendicular to the east line of said Lot 5.

Said tract contains 0.14 acres, more or less.

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that THE SHOPPES AT OSGOOD II, LLC, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in Lot Two (2), Block One (1), The Shoppes at Osgood First Addition, Section Thirty-three (33), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The East Twenty Feet (20.00') of said Lot Two (2) as measured perpendicularly from the East line of said Lot Two (2). Said tract contains 0.13 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to

be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

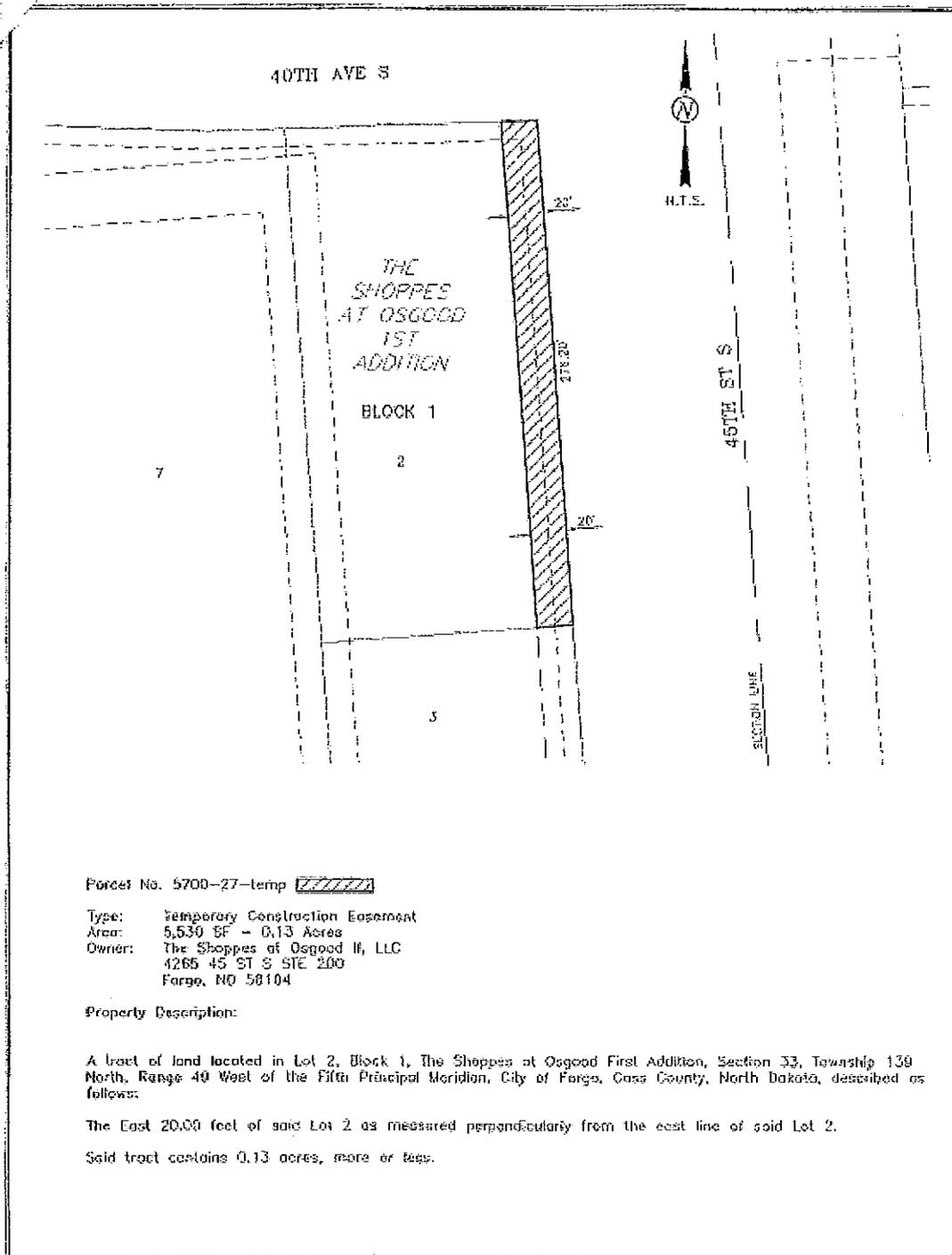
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this ____ day of _____, 2009.

THE SHOPPES AT OSGOOD II, LLC

By _____

Its _____

Exhibit "A"



February 1, 2010

aa 5

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

**Re: Brandt Crossing, LLC
Purchase Agreement – Temporary Construction Easement
Improvement District #5700**

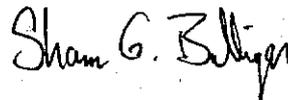
Dear Commissioners:

Enclosed and delivered to the Commission Office is an original Purchase Agreement document for the acquisition of a temporary construction easement from Brandt Crossing, LLC in association with Improvement District #5700. Final purchase price for the aforesaid easement has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a temporary construction easement from Brandt Crossing, LLC in association with Improvement District #5700 and to execute a Purchase Agreement relating to the same and that the Mayor and City Auditor be instructed to execute the same on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Engineering Specialist

Enclosures
C: Gary Stewart
Mark Bittner

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 1 day of FEBRUARY, 2010, by and between **BRANDT CROSSING, LLC**, hereinafter called "Seller", and whether one or more, **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter called "Buyer".

WITNESSETH:

WHEREAS, Seller is the owner of certain property hereinafter described; and,

WHEREAS, City is desirous of acquiring an interest in such property consisting of a temporary construction easement; and,

WHEREAS, City has obtained an appraisal, made an offer for such property interest, and Owner has accepted the same; and

WHEREAS, the parties which to commit their agreement to writing under the terms and conditions hereinafter stated:

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

1. Subject Matter. The subject matter of this agreement is the property described in the temporary construction easement, Exhibit "A" attached hereto and incorporated herein by reference.
2. Purchase Price. The purchase price will be Sixty-six Thousand Eight Hundred Fifty-seven and 50/100 Dollars (\$66,857.50).
3. Payment of Purchase Price. The entire purchase price shall be payable in cash at closing.

4. Closing Date and Transfer of Possession. Closing of this transaction shall take place at a mutually agreed time and location. Possession of the property shall be on or about the date of closing.

5. Closing Costs. It is understood and agreed that as part of this purchase, each of the parties shall pay its own attorneys fees, except the City shall pay for the preparation of the transfer documents.

DATED the day and year as set forth above.

SELLERS:

BRANDT CROSSING, LLC

By: _____

Its: _____

BUYER:

CITY OF FARGO, NORTH DAKOTA

By _____

Dennis R. Walaker, Mayor

ATTEST:

Steve Sprague, Auditor

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS that BRANDT CROSSING, LLC, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00 ovc), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT/S UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of constructing or installing or working upon a storm sewer and/or sanitary sewer, said land being more fully described, to-wit:

A tract of land located in the Northeast Quarter (NE¼), Section Twenty-eight (28), Township One Hundred Thirty-nine (139) North, Range Forty-nine (49) West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota, described as follows: The West Two Hundred Feet (200.00') of the East Three Hundred Feet (300.00') of the Northeast Quarter (NE¼) of said Section Twenty-eight (28), excepting the North One Hundred Ten Feet (110.00') thereof. Said tract contains 11.54 acres, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

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

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said tract to be used for the storage of dirt and all other construction activities during the construction phase of said project and Grantor expressly warrants and states that no buildings, trees or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the said tract to

be used for the storage of dirt and all other construction activities during the construction phase of said project, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of storage of dirt and all other construction activities was begun.

This easement shall not extend beyond December 31, 2010.

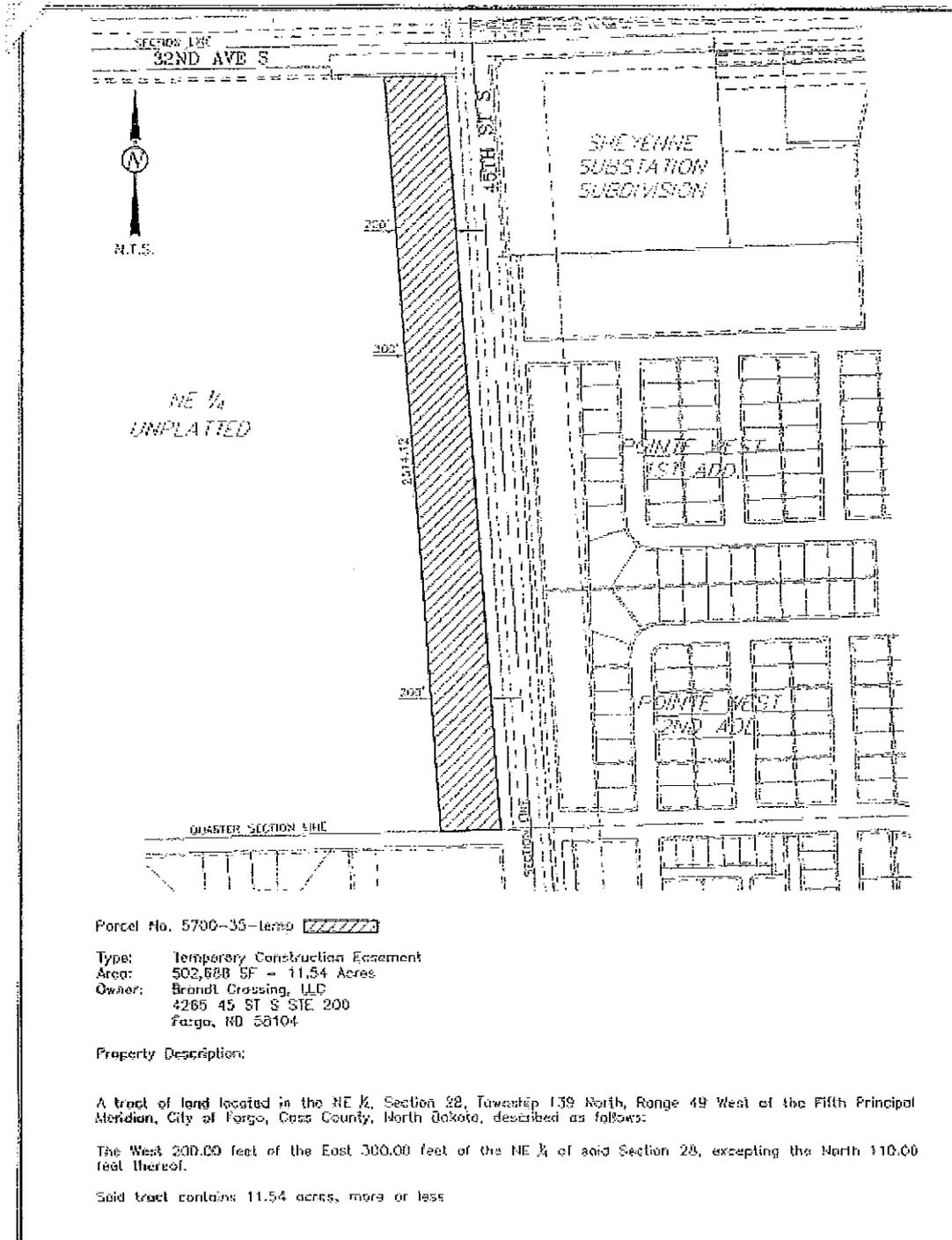
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this ____ day of _____, 2009.

BRANDT CROSSING, LLC

By: _____

Its: _____

Exhibit "A"



11/16/09 09:04:53 AM T:\Data\GIS\MapServer\workspace\5700-35-temp\5700-35-temp.dwg

bb

MEMORANDUM

TO: Board of City Commissioners
FROM: Steven Sprague, City Auditor
SUBJECT: Resolution Regarding Improvement District 5547
DATE: January 12, 2010

The City of Fargo has entered into an agreement with the North Dakota Department of Transportation (NDDOT) for the construction of 12th Avenue North from 9th Street to the I-29 Interchange, Improvement District 5547. Construction of this roadway is substantially complete with some sidewalk installation, landscaping and seeding remaining to be completed. Attached is a resolution recognizing the incomplete work as a separate section or work unit.

Recommended Motion:

Please approve the attached resolution.



Commissioner _____ moved for the adoption of the following:

RESOLUTION

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City has established a Special Improvement District No. 5547 which includes improvements to 12th Avenue North and related items; and

WHEREAS, Special Improvement District No. 5547 includes work performed by and at the direction of the North Dakota Department of Transportation the cost of which was to be funded, in part, by the City, which funding is to be obtained and financed by the City through special assessments and Special Improvement District No. 5547 includes work performed by and at the direction of the City, which work is also to be funded and financed through said special assessments; and

WHEREAS, although portions of the above-described project is complete, nevertheless, to the extent any additional work remaining undone is the responsibility of the City and of the North Dakota Department of Transportation, it is desirable that said incomplete work be recognized as a separate section or work unit;

NOW, THEREFORE, BE IT RESOLVED by the Board of City Commissioners of the city of Fargo, North Dakota:

1. The separate sections or work units that remain incomplete are described as follows:
 - 1.1. Sidewalk installation, including ADA handicapped access ramps.
 - 1.2. Landscaping.
 - 1.3. Seeding.
2. This Resolution is established for the purpose of meeting any requirements set forth in N.D.C.C. § 40-23-06.

To: City Commission

From: DWJ

CC: MHB, DBE

RE: ID 5547- Interim Status Report and Special Assessment potential

ID 5547 provided for the installation of new concrete paving on 12th Ave N from 9th St to the I-29 interchange at 36th St and for the replacement of the bridge deck on the viaduct across the Burlington Northern Track located between 19th and 29th St. This project also provided for the replacement of the old deteriorated cast iron watermain piping from 9th St to 19th St and from 29th St to 33rd St and the replacement of old vitrified clay sewer mains between 9th and 15th St.

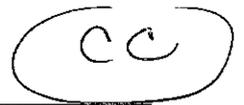
Master Construction was the successful bidder on the street and utility replacement portions of this contract while Industrial Builders was the successful bidder on the bridge deck replacement portion of the project. Industrial Builders has completed the bridge work portion while Master Construction completed all of the water, sewer and mainline paving on this project. Master does have some of the sidewalk installations remaining and most of the landscaping and seeding remain to be done. This remaining work will be resumed in the spring and should be completed by early summer of 2010.

The City share of the project cost accounts for about 25 percent or about \$7.04 million of the estimated \$27.6 million of project cost. The project is funded by special assessments to benefitting properties as per our standard city assessment policies along with Watermain Replacement funds, Sewer Utility funds and Sales Tax funds. Since the assessments are capped at City standards, any excess costs are paid by these other designated funding sources.

A rough estimated breakdown between the portions of the project is as follows:

Project Work Item	Estimated assessment	Estimated other funds
Watermain replacement portion	\$310,000	\$545,000
Total \$855,000 (all City/NDSU share)		
Sanitary Sewer replacement portion	\$60,000	\$76,000
Total \$136,000 (all City/NDSUshare)		
St Sewer, Paving and misc portion	\$3,685,000	\$800,000
Total \$4,055,000 (City Share) w/\$8.72 million State and Federal funds		
Bridge deck replacement	\$0	\$2,192,000
City share paid with sales tax w/ \$11.65 million State and Federal funds		

Based on this, Project 5547 could be assessed as per the City standard assessment caps; any of the remaining costs, even though the exact final cost may not been determined, would be funded by a combination of these other designated funding sources and not through direct special assessments.



PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

District No. 5700 – Phase 4 Type: NDDOT Agreement
NDDOT STM-IM-SU-8-094(055)348

Location: I-94 at 45th Street Interchange Date of Hearing: 02/02/10

Routing Date
City Commission 02/08/10
PWPEC File X
Project File Jeremy Gorden
Petitioners
David W. Johnson

The Committee reviewed the accompanying NDDOT Cost Participation Agreement for improvements at the I-94 Interchange at 45th Street and traffic signals at 23rd Avenue South.

On a motion by Bruce Hoover, seconded by Steve Sprague, the Committee voted to recommend approval of the agreement.

RECOMMENDED MOTION

Approve NDDOT Cost Participation and Maintenance Agreement for Project STM-IM-SU-8-094(055)348.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: 80% Federal
20% Street Sales Tax

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

COMMITTEE

Present Yes No Unanimous
Pat Zavoral, City Administrator X X X
Jim Gilmour, Planning Director
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:

Handwritten signature of Mark H. Bittner
Mark H. Bittner
City Engineer



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

January 25, 2010

Mark Bittner, P.E.
City Engineer
200 N 3rd Street
Fargo ND 58102

COST PARTICIPATION AND MAINTENANCE AGREEMENT

Enclosed you will find a revised amendment to the Cost Participation and Maintenance Agreement for the 45th Street and I-94 Project, STM-IM-SU-8-094(055)348. I forgot to attach the appendix A to the agreement and the City's federal match is 19.07% not 10% as noted in the last agreement. I attached the old agreement for your information.

Please have this agreement signed and return to my office by February 15, 2010 for final signature. Once I receive final signature in my office, I will send you a signed original for your files. If you have any questions concerning these agreements please give me a call at (701) 328-2559.

A handwritten signature in black ink, appearing to read "Ardin Striefel".

ARDIN STRIEFEL - LOCAL GOVERNMENT DIVISION

38:als
Enclosure:

North Dakota Department of Transportation
AMENDMENT TO COST PARTICIPATION AND MAINTENANCE AGREEMENT
Project No. STM-IM-SU-8-094(055)348

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and City of Fargo, North Dakota; hereinafter known as the City, whose address is 200 North Third Street, Fargo, North Dakota 58102.

WHEREAS, the parties entered into a contract on October 22, 2009; and

WHEREAS, the replacement of the traffic signals at 45th Street and 23rd Avenue Southwest intersection were not included in the contract; and

WHEREAS, this amendment will incorporate these traffic signals, which need to be part of the original agreement; and

NOW THEREFORE, the City and NDDOT agree to the following:

1. The City will pay for the federal match of 19.07 percent funds for the traffic signals at 45th Street and 23rd Avenue Southwest; and
2. The revised cost estimate attached (Appendix A) is hereby incorporated into and made part of the above-referenced agreement; and
3. The City will maintain, or cause to be maintained, the traffic signals at the intersection of 45th Street and 23rd Avenue Southwest.

All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

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

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

*Mayor or President City Commission

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

DOT 52494 (Div. 06)
L.D. Approved 5-19-00; 5-03
DK 12-21-09

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.

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.

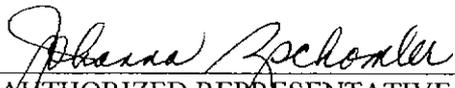
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

North Dakota Department of Transportation.

THIS CERTIFICATE IS ISSUED TO: To Whom it May Concern

ON THIS DATE OF: April 16, 1998

BY:



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

STATE ND	PROJECT NO. STM-IM-SU-8-094(055)348	PCN 16216	SECTION NO. 1	SHEET NO. 1
--------------------	---	---------------------	-------------------------	-----------------------

JOB# 14

NORTH DAKOTA

DEPARTMENT OF TRANSPORTATION

STM-IM-SU-8-094(055)348

Cass County
45th Street Interchange and Interstate 94
Fargo

Grading, Surfacing, Storm Drain, Structural, Signals,
Lighting, Marking 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
STM-IM-SU-8-094(055)348
45th Street
Interstate 94
0.364 0.424
1.046 1.046

DESIGN DATA - 45th Street

Average Daily	Max.Hr.
Pass: 30,000	Total: 31,000
Trucks: 1,000	Total: 3,100
Forecast 2029	Pass: 49,200
Trucks: 1,840	Total: 50,840
Design Speed: 40 mph	
Clear Zone Dist: 14 ft	
Minimum Sight Dist for Stopping: 305 ft	
Bridges: HS 25 Design Loading	
Limited Access Control	
Pavement Design Life 30 (years)	

DESIGN DATA - Interstate 94

Average Daily	Max.Hr.
Pass: 39,535	Total: 41,695
Trucks: 2,160	Total: 4,170
Forecast 2028	Pass: 64,840
Trucks: 2,780	Total: 67,630
Design Speed: 55 mph	
Clear Zone Dist: 22 ft	
Minimum Sight Dist for Stopping: 495 ft	
Bridges: ---	
Full Control of Access	
No Point of Access Other Than at Interchange Ramps	
Pavement Design Life 30 (years)	

DESIGNERS

Garnett Hardt

Douglas A. Schumaker

Michael Johnson

Designer Line 4

Designer Line 5

DISTRICT REVIEW

Robert Walton

FARGO DISTRICT

APPROVED DATE 12/18/09

Ronald Jason Henke

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 12/15/09

James Douglas Rath

NDDOT DESIGN DIVISION

This document was originally issued and sealed by James Douglas Rath Registration Number PE-4288 on 12/15/09 and the original document is stored at the North Dakota Department of Transportation

APPENDIX A
Funding Splits for the Fargo 45th Street and 23rd Avenue Intersection Project
Project: STM-IM-SU-8-094(055)348

Location	Engineering Estimate	Engineering Cost (10%)	Total Estimate	Federal Funds 90%	State Funds 10%	City Funds	Total
45th Street Interchange and I-94	\$7,565,790	\$756,579	\$8,322,369	\$6,590,132	\$732,237	\$1,000,000	\$8,322,369
45th St and 23rd Ave Inters.	\$201,800	\$20,180	\$221,980	Federal Funds 80.93% \$179,648	State Funds 0% \$0	City Funds 19.07% \$42,332	\$221,980
R/W, Prelim. Eng. & Haul Road Repair *	\$830,000		\$830,000	Federal Funds 90% \$747,000	State Funds 10% \$83,000	City Funds 0%	\$830,000
Totals	\$8,597,590	\$776,759	\$9,374,349	\$7,516,781	\$815,237	\$1,042,332	\$9,374,349

* Note: Right-of-way, Preliminary Engineering and Haul Road Repair Cost is estimated to be \$25,000 + \$800,000 + \$5,000 = \$830,000

e e 1

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:

P.C. Concrete Pavement & Incidentals

Improvement District No. 5908

Create Assessment District February 8, 2010

Advertise February 15 & 22, 2010

Completion Date December 1, 2011

X PWPEC Report (Attach Copy) **Part of 2010 CIP**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

 Bid Quantities (Attach Copy for Auditor's Office Only)

X Notice to Property Owners (Dan Eberhardt)

Project Engineer Mark Miller

Phone No. 476-6628

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
PC CONCRETE PAVEMENT & INCIDENTALS
IMPROVEMENT DISTRICT NO. 5908

Nature & Scope

This project provides for the paving of 7th Avenue North from I-29 to 45th Street, the paving of 40th and 42nd Streets from 3rd to 7th Avenue North and for the paving of 3rd Avenue North from 39th Street to the existing paving approximately 150 feet west of 42nd Street.

The project will be phased over two years. The first phase (2010) will provide for the paving installation on the local streets south of 7th Avenue North and the second phase (2011) will provide for the paving on 7th Avenue North from I-29 to 45th Street.

Purpose

The local streets south of 7th Avenue North are currently gravel roads that are very rough and difficult to maintain because of the large volume of truck traffic in this area, the poor subgrade conditions, and the poor drainage of the ditches. The condition of these streets generates numerous calls and complaints to the Health Department and the Street Department about the drainage and the poor condition of the roads. In the spring thaw, many of these streets are almost impassable. The Street Department spends an inordinate amount of time and resources to keep these streets in a drivable condition. The paving of the local streets has been requested by a major property owner numerous times, however the paving projects have twice been protested out. These local streets are proposed to be 40 feet wide and will be constructed with concrete paving with curb and gutter.

7th Avenue North is an arterial road that is currently a temporary asphalt paving section. It is one of the primary routes for access to the landfill. It is narrow with poor drainage and is in poor condition. 7th Avenue North is proposed to be constructed with a 3 lane concrete section with curb and gutter; one lane each direction with a common left turn lane in the center of the street section.

Feasibility

The estimated construction cost of the two phases is \$2,962,000. These costs are further broken out as follows:

7 th Avenue North estimated construction cost	\$1,519,000
40 th & 42 nd Street, 3 rd Avenue North estimated construction cost	\$1,443,000
Total estimated construction cost	\$2,962,000
Plus Engineering & Administration (41.32% includes 10% contingency)	\$1,224,000
Total Estimated Cost:	\$4,186,000

Funding

Seventh (7th) Avenue North will be funded as a federal aid project with an 80% federal and 20% local share, and may become an American Recovery Act project as funds become available. The local share of the paving of 7th Avenue North and all of the paving in EG Clapp Addition will be assessed to the benefitting properties. Side benefits will be assessed to benefitting properties as per City policy and the remaining local share will be assessed as direct benefits to properties fronting on these paved roadways.

Engineer's Report
Improvement District No. 5908
Page 2

Estimated assessed costs with federal aid:

<u>7th Avenue North</u>	
Estimated construction costs	\$1,519,000
Engineering & administration costs	x 1.413
Total estimated costs:	<u>\$2,146,650</u>

80% federal	\$1,717,300
20% local	429,300

<u>EG Clapp Addition</u>	
Estimated construction costs	\$1,443,000
Engineering & administration costs	x 1.413
Total estimated costs:	<u>\$2,039,250</u>

<u>Assessed amount: entire assessment district</u>	
7 th Avenue	\$ 429,300
EG Clapp Addition	<u>2,039,250</u>
Total estimated assessments:	<u>\$2,468,550</u>

The special assessments for the local streets are anticipated to be reduced between 40% and 50% using this method. If the Federal Stimulus funds become available in 2010, the 7th Avenue North project has been selected as a project we believe meets the criteria and that funding would be pursued. In the event that funding source is available and utilized, the special assessments could potentially be reduced beyond the above stated 40% - 50% reduction.

We believe this project to be cost effective.



Mark Bittner
Mark Bittner
City Engineer

February 2010

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

PC CONCRETE PAVEMENT
& INCIDENTALS

IMPROVEMENT DISTRICT NO. 5908

LOCATION:

On 7th Avenue North from I-29 to 45th Street
On 3rd Avenue North from 39th Street to 300 feet east of 43rd Street
On 40th and 42nd Street from 3rd to 7th Avenue North

COMPRISING:

Lots 1 through 5 and 10 through 14, inclusive, Block 1
Lots 1 through 24, inclusive, Block 2
Lots 1 through 11 and 14 through 22, inclusive, Block 3
Lots 1 and 2, inclusive, Block 3A
Lots 1 through 17 and 21 through 29, inclusive, Block 4
Lots 1 through 7, inclusive, Block 4A
Lots 1 through 15, inclusive, Block 5A
Lots 1 through 18, inclusive, Block 6A
Lots 1 through 9, inclusive, Block 7A
Lots 1 through 23, inclusive, Block 8A
All platted in E.G. Clapp 1st Addition

Lots 1 through 3, inclusive, Block 1
All platted in L & L Addition

Lot 1, Block 1
All platted in Lucken Addition

South 320 feet of Lot 3 and all of Lot 4, Block 1
All platted in A.I. Subdivision

Lots 3 through 6 and 11 through 14 and S ½ of vacated 10th Avenue North adjacent to Lots 11 and 14
All platted in Arndt's-Devener Subdivision

All unplatted land in the S ½ of the NW ¼, Section 3, Township 139, Range 49.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

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:

Seal Coat & Incidentals

Improvement District No. 5912

Call For Bids February 8, 2010

Bid Opening Date March 17, 2010

Completion Date July 16, 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)

X Notice to Property Owners (Dan Eberhardt)

Project Engineer Cody Eilertson

Phone No. 241-1545

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

X Create District (Attach Copy of Legal Description)

X Order Plans & Specifications

X Approve Plans & Specifications

X Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

X Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT
SEAL COAT AND INCIDENTALS
IMPROVEMENT DISTRICT NO. 5912

Nature & Scope

This project involves installing a seal coat on the asphalt surfaced streets in several sections of the City as follows:

Section 1:

- On 33rd Avenue South from 42nd Street South to 45th Street South.
- On 34th Avenue South from Washington Street South to Van Buren Street South.
- On 43rd Street South from 32nd Avenue South to 33rd Avenue South.
- On 43rd Street South from 34th Avenue South to a point approximately 160 feet south of 34th Avenue South.
- On Washington Street South from 33rd Avenue South to 34th Avenue South.
- On Adams Street South from 33rd Avenue South to 34th Avenue South.
- On Jefferson Street South from 33rd Avenue South to 34th Avenue South.
- On Monroe Street South from 33rd Avenue South to 34th Avenue South.
- On Jackson Street South from 33rd Avenue South to 34th Avenue South.
- On Van Buren Street South from 33rd Avenue South to 34th Avenue South.

Section 2:

- On 39th Avenue South from 42nd Street South to 44th Street South.
- On 39-1/2 Avenue South from 42nd Street South to 44th Street South.
- On 42-1/2 Street South from 40th Avenue South to 39-1/2 Avenue South.
- On 43rd Street South from 40th Avenue South to 39-1/2 Avenue South.

Section 3:

- On the private street located on Lot 11, Block 1, 44th Street Villa Addition from 44th Street South to 47th Avenue South.

Section 4:

- On 14th Avenue South from 32nd Street South to 35th Street South.
- On 15th Avenue South from 32nd Street South to 35th Street South.
- On 16th Avenue South from 32nd Street South to 34th Street South.
- On Prairiewood Circle South.
- On 33rd Street South from 13th Avenue South to 15th Avenue South.
- On 34th Street South from 14th Avenue South to 35th Street South.
- On 35th Street South from 14th Avenue South to Prairiewood Circle South.

Section 5:

- Streets and avenues between University Drive South and 25th Street South, between Interstate 94 and 32nd Avenue South, not including 25th Street South.

Section 6:

- Various street and avenue segments throughout the City that were damaged fighting the flood of 2009.

Purpose

Installation of a seal coat at this time will extend the life of these roadways considerably. Seal coating of Section 6 is to replace the existing seal coats that were damaged fighting the flood of 2009.

Feasibility

The total construction cost of this project is estimated to be \$608,900. It will be paid for by Street Rehabilitation funds, Special Assessments, North Dakota Department of Emergency Services (NDDDES) funds, and Federal Emergency Management Agency (FEMA) funds. The cost breakdown is as follows:

<u>Section 1:</u>	Estimated Construction Cost:	\$	45,200
	Plus 32% Engineering & Administration Fees:	\$	<u>14,464</u>
	Assessed Cost:	\$	59,664
<u>Section 2:</u>	Estimated Construction Cost:	\$	16,900
	Plus 32% Engineering & Administration Fees:	\$	<u>5,408</u>
	Assessed Cost:	\$	22,308
<u>Section 3:</u>	Estimated Construction Cost:	\$	1,100
	Plus 32% Engineering & Administration Fees:	\$	<u>352</u>
	Assessed Cost:	\$	1,452
<u>Section 4:</u>	Estimated Construction Cost:	\$	109,300
	Plus 25% Engineering & Administration Fees:	\$	<u>27,325</u>
	City Cost (Street Rehabilitation)	\$	136,625
<u>Section 5:</u>	Estimated Construction Cost:	\$	342,100
	Plus 25% Engineering & Administration Fees:	\$	<u>85,525</u>
	City Cost (Street Rehabilitation)	\$	427,625
<u>Section 6:</u>	Estimated Construction Cost:	\$	94,300
	Plus 25% Engineering & Administration Fees:	\$	<u>23,575</u>
		\$	117,875
	Federal Funds (FEMA): 90% of Construction	\$	84,870
	State Funds (NDDDES): 7% of Construction	\$	6,601
	City Funds (Street Sales Tax)	\$	26,404
<u>Total:</u>	Estimated Construction Cost:	\$	608,900
	Plus Engineering & Administration Fees:	\$	<u>156,649</u>
	Total Cost:	\$	765,549
	Assessed Cost:	\$	83,424
	City Cost (Street Sales Tax)	\$	26,404
	City Cost (Street Rehabilitation)	\$	564,250
	State Cost (NDDDES)	\$	6,601
	Federal Cost (FEMA)	\$	84,870

We believe this project to be cost effective.



Mark H. Bittner
Mark H. Bittner
City Engineer

February 2010

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

SEAL COAT & INCIDENTALS

IMPROVEMENT DISTRICT NO. 5912

LOCATION: (Section 1)

On 33rd Avenue South from 42nd Street South to 45th Street South.
On 34th Avenue South from Washington Street South to Van Buren Street South.
On 43rd Street South from 32nd Avenue South to 33rd Avenue South.
On 43rd Street South from 34th Avenue South to a point approximately 160 feet south of 34th Avenue South.
On Washington Street South from 33rd Avenue South to 34th Avenue South.
On Adams Street South from 33rd Avenue South to 34th Avenue South.
On Jefferson Street South from 33rd Avenue South to 34th Avenue South.
On Monroe Street South from 33rd Avenue South to 34th Avenue South.
On Jackson Street South from 33rd Avenue South to 34th Avenue South.
On Van Buren Street South from 33rd Avenue South to 34th Avenue South.

LOCATION: (Section 2)

On 39th Avenue South from 42nd Street South to 44th Street South.
On 39-1/2 Avenue South from 42nd Street South to 44th Street South.
On 42-1/2 Street South from 40th Avenue South to 39-1/2 Avenue South.
On 43rd Street South from 40th Avenue South to 39-1/2 Avenue South.

LOCATION: (Section 3)

On the private street located on Lot 11, Block 1, 44th Street Villa Addition from 44th Street South to 47th Avenue South.

COMPRISING: (Section 1)

Lots 1 and 8, Block 1.
All in Asleson Commercial 2nd Addition.

Lots 1 and 3, Block 2.
All in Asleson Commercial Addition.

Lot 2, Block 1.
Lots 1 and 2, Block 2.
Lots 1 through 19, Block 3.
Lots 1 through 14, Block 4.
Lots 1 through 14, Block 5.
Lots 1 through 14, Block 6.
Lots 1 through 14, Block 7.
Lots 1 through 14, Block 8.
Lots 1 through 19, Block 9.
All in Pointe West 1st Addition.

COMPRISING: (Section 2)

Lots 1 through 28, Block 1.
Lots 30 through 33, Block 1.
Lots 1 through 38, Block 2.
Lots 1 through 7, Block 3.
All in Creekside Addition.

Lots 1 through 10, Block 1.
All in Creekside 2nd Addition.

COMPRISING: (Section 3)

Lots 1 through 11, Block 1.
All in 44th Street Villa Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.