

FARGO CITY COMMISSION AGENDA
TUESDAY, June 1, 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, May 17th, 2020).

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

- a. 2nd reading, waive reading and final adoption of the following Ordinances; 1st reading, 5/17/10:
 - (1) Relating to Fargo's Limited Home Rule Charter.
 - (2) Rezoning Certain Parcels of Land Lying in Buland's Subdivision Huntington Addition.
- b. 1st reading of an Ordinance Relating to Dogs and Cats.
- c. 1st reading of Ordinances Relating to Fire Protection and Prevention, the International Building Code, the International Residential Code, the International Existing Building Code, the International Mechanical Code, the International Fuel Gas Code and the International Property Maintenance Code.
- d. Neighborhood Stabilization Program Grant agreements for the redevelopment of 1670 East Gateway Circle South, 4955 28th Avenue South and 1209 4th Avenue North.
- e. Agreement with City Wide Express for mail delivery service at \$200 per month.
- f. Sole source contract with McArthur Tile Company to replace tile on the Metro Transit Garage.
- g. Site Authorizations for Games of Chance:
 - (1) The Arc Upper Valley, Inc. at JT Cigarros.
 - (2) Boys and Girls Club of the Red River Valley d/b/a Fargo Youth Commission at Mr. G's, Slammers Sports Bar/RR Lanes and Borrowed Bucks Roadhouse.
- h. Application filed by SW Optimist Club of Fargo for a raffle on 6/21/10.
- i. Joint Powers Agreement among the local public health units of the State of North Dakota for collective training, policy development, advocacy, planning and coordination of public health services for local public health.
- j. Memorandum of Understanding Agreement with Clay County Public Health to share resources in the event of a public health emergency.
- k. Contract with the North Dakota Department of Health for Epidemiology and Laboratory Capacity Program - West Nile Virus (CFDA #93.283).

- l. Plat of the Shoppes at Osgood Southwest First Addition.
- m. Change Order No. CO 05 for an increase of \$3,000.00 for the GTC deck repair work.
- n. Lease with Barrier Lake Investments for rental of the building at 909 25th Street North for sandbag storage at a rate of \$12,890.00 per month.
- o. Agreement for Special Improvements with Carefree Investments, LLC for municipal improvements in MGB 1st Addition (Improvement District No. 5945)
- p. Purchase Agreements – Temporary Construction Easements in connection with Improvement District No. 5700:
 - (1) First International Bank & Trust.
- q. Budget adjustment for the Traffic Engineering Department in the amount of \$65,000 for on-street bike lane striping.
- r. Purchase Agreement – Temporary/Permanent Sanitary Sewer Easements for CFJ Properties, LLC for Improvement District No. 5726.
- s. Amendment to the existing Cost Participation, Construction and Maintenance agreement for Project No. 5919-02.
- t. Engineering Services Agreement with Ulteig Engineers, Inc. in the amount of \$15,500 for Improvement District No. 5732.
- u. Engineering and survey service contract with Ulteig Engineers, Inc. in the amount of \$17,500 for Project No. 5957.
- v. Bid advertisement for Project No. 5229-6.
- w. Contracts and bonds for Project Nos. 5900 and 5917.
- x. Bills.
- y. Bid awards for Improvement District Nos. 5916 and 5931.
- z. Create Improvement District Nos. 5732, 5878 and 5941.
- aa. Contracts and bonds for Improvement District Nos. 5908-1 and 5914.

*** Regular Agenda ***

- 1. Request for an extension of the noise ordinance until 12:00 midnight on June 4th for a high school aged dance on top of the Island Park parking ramp.
- 2. Request from Hooters for an extension of the noise ordinance until 11:00 p.m. on June 10th for an outdoor concert in their parking lot.
- 3. Joint Powers Agreement between the City of Fargo, the Cass County Water Resource District and Cass County.

Public Hearings - 5:15 p.m.:

- a. Application filed by Li Li d/b/a 101 Sushi Bar for a Class "GH" Alcoholic Beverage License at 4480 23rd Avenue South.
- b. Renaissance Zone Project for Art Materials, Inc. at 300 Broadway.
- c. Plat of Woodhaven Sixth Addition (On 43rd and 44th Sts. between 49th and 52nd Aves. S.)
 - (1) Approval recommended by the Planning Commission on 5/12/10.
- d. MGB First Addition (1637 76th Ave. S.); approval recommended by the Planning Commission on 3/10/10:
 - (1) Growth Plan Amendment from low-medium residential density to Medium-high residential density on Lots 1 and 2, Block 4 and all of Block 5.
 - (2) Zoning change from AG, Agricultural to MR-1, Multi-Dwelling on Lot 2, Block 4; MR-3, Multi-Dwelling on Lot 1, Block 4 and all of Block 5; SR-2, Single-Dwelling on Lots 3 through 16, Block 1, Lots 4 through 15, Block 4 and all of Blocks 2, 3, 7, 8 and 9; SR-4, Single-Dwelling on Lots 1 and 2, Block 1, Lots 16 and 17, Block 4 and all of Block 6 and P/I, Public Institutional on Lot 17, Block 1 and Lot 3, Block 4.
 - (3) 1st Reading of rezoning Ordinance.
 - (4) Plat of MGB First Addition.

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

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

ORDINANCE ENACTING THOSE POWERS
CONTAINED IN THE CONSTITUTION AND LAWS
OF THE STATE OF NORTH DAKOTA AND ARTICLE 3
OF FARGO'S LIMITED HOME RULE CHARTER

WHEREAS, the electorate of the city of Fargo has adopted a limited 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 city desires to implement those powers contained in Article 3 of its limited home rule charter including those powers granted to municipal corporations by the constitution and laws of the state of North Dakota;

NOW, THEREFORE,

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

Section 1. Enactment.

Section 1-0108 of Article 1-01 of Chapter 1 of the Fargo Municipal Code is hereby enacted to read as follows:

1-0108. Implementation of Powers. The city of Fargo shall have all powers granted to municipal corporations by the constitution and laws of the state of North Dakota together with all the implied powers necessary to execute such powers. In addition, the city shall have those powers contained in Article 3 of the City's Limited Home Rule Charter. The powers described herein may be implemented by the city of Fargo through its board of city commissioners, or the city of Fargo's officers, employees or agents, by motion, resolution or ordinance of the board of city commissioners.

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 2. Effective Date.

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

CITY OF FARGO

Dennis R. Walaker, its Mayor

(SEAL)

First Reading:
Second Reading:
Final Passage:

ATTEST:

Steven Sprague, City Auditor

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN BULAND'S SUBDIVISION HUNTINGTON ADDITION, FARGO, CASS COUNTY,
NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on May 12, 2010; and,

WHEREAS, the rezoning changes were approved by the City Commission on May 17, 2010,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot Eight (8), Block One (1), Buland's Subdivision Huntington Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from "SR-3", Single-Dwelling, District to "SR-4", Single-Dwelling, District.

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

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

Dennis R. Walaker, Mayor

(SEAL)
Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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AN ORDINANCE AMENDING SECTION 12-0105 OF ARTICLE 12-01
AND SECTION 12-0201 OF ARTICLE 12-02 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 12-0105 of Article 12-01 of Chapter 12 of the Fargo Municipal Code is amended to read as follows:

12-0105. Running at large prohibited.--

- A. Every person having the custody or control of any dog or cat shall prevent said animal from leaving the property limits of its owner or keeper without being effectively restrained by a chain or leash not exceeding six feet in length, or, within a vehicle being driven or parked on the street. In the event any such dog or cat is found at large, the owner, custodian or keeper of such animal shall be guilty of a violation of this section.
- B. Every person having custody or control of a leashed animal on property other than his own shall be equipped to, and collect said animal's solid waste when eliminated.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

C. Intentionally left blank.

1 CD. Every female dog or cat in heat shall be kept confined in a building or secure
2 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.

3 DE. Any dog or cat that is determined by the Fargo police department to be
4 habitually at large is declared to be a public nuisance. The owner, custodian
5 or keeper of any such animal shall be notified of said determination in
6 writing and, upon request of the humane officer, shall surrender such animal
7 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:

- 8 1. Order the confinement of such animal within a building or
9 secure enclosure, said animal not to be removed from such
10 building or enclosure without being effectively restrained by
11 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.

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

- 16 1. At the request of such official, confine any said animal for 10
17 days in a suitable secure enclosure or, if deemed necessary by
18 said official, in the animal pound.
19 2. Immediately notify the Fargo police department if any said
20 animal escapes during the above-mentioned 10-day period.
21 3. Make any and all reports requested in reference to the general
22 health and medical history of said animal.
23 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.

FG. 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.

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FARGO, NORTH DAKOTA

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Section 2. 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~~No 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, 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 3. Penalty.

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

Section 4. 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



OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 9-0701 AND 9-0704 OF
ARTICLE 9-07 OF CHAPTER 9
OF THE FARGO MUNICIPAL CODE RELATING TO
FIRE PROTECTION AND PREVENTION

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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.

Sections 9-0701 and 9-0704 of Article 9-07 of Chapter 9 of the Fargo Municipal Code are hereby amended to read as follows:

9-0701. International Fire Code--Adoption.--There is hereby adopted by reference by the board of city commissioners, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the International Fire Code being particularly the 20062009 edition thereof and all subsequent revisions and additions thereto; save and except such portions as are hereinafter deleted, modified, or amended by ordinance or in accordance with the provisions of section 9-0704, a copy of said code is on file in the office of the chief of the Fargo Fire Department and the same is hereby adopted and incorporated as fully as if set out in length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city, and within the extra-territorial jurisdiction of the city.

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9-0704. Modification of International Fire Code.--The International Fire Code as adopted in Section 9-0701 is hereby changed and amended as follows:

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2 A. Section 101.1 is amended to read as follows:

3 **101.1 Title.** These regulations shall be known as the *Fire Code* of ~~NAME OF~~
4 ~~JURISDICTION~~ the city of Fargo, hereinafter referred to as "this code."

5 B. Section 102.1 Subsection 3 is hereby deleted in its entirety.

6 C. Section 105.6.16 Subsection 2 is hereby amended in part to read as follows:

7 To store, handle or use Class 1A liquids in excess of ~~5~~ 30 gallons, Class 1B liquids in
8 excess of 60 gallons, Class 1C liquids in excess of 90 gallons (19 L) in a building or
9 in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not
10 required for the following:

11 D. Section 105.6.16 Subsection 3 is hereby amended to read as follows:

12 To store, handle or use Class II or Class IIIA liquids in excess of ~~25~~ 120 gallons (~~95~~
13 ~~L~~) in a building or in excess of ~~60~~ 120 gallons (~~227 L~~) outside a building, except for
14 fuel oil used in connection with oil-burning equipment.

15 E. Subsections 1, 5, and 6 of Section 105.6.23 are hereby deleted in their entirety.

16 F. Section 105.6.29 is hereby deleted in its entirety.

17 G. Section 105.6.32 is amended to read as follows:

18 **105.6.32 Open flames and candles.** An operational permit is required to use open
19 flames or candles in connection with assembly areas, dining areas of restaurants or
20 drinking establishments. For purposes of this provision, churches shall not be deemed
21 to be assembly areas and no permit is required for the use candles during religious
22 ceremonies.

23 H. Section 105.6.39 is amended to read as follows:

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105.6.39 Repair garages and motor fuel dispensing facilities. An operational permit is required for operation of repair garages and ~~automotive, marine and fleet motor fuel dispensing facilities.~~

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I. Section 105.7.1 is hereby deleted in its entirety.

J. Section 105.7.3 is hereby deleted in its entirety.

K. Section 105.7.5 is hereby deleted in its entirety.

L. Section 105.7.6 is hereby deleted in its entirety.

M. Section 105.7.10 is hereby amended to read as follows:

105.7.10 LP-gas. A construction permit is required for installation of or modification to an LP-gas system with a single container in excess of 2000 gallons water capacity or the aggregate capacity of containers is more than 4000 gallons in water capacity.

N. Section 105.7.11 is hereby deleted in its entirety.

O. Section 105.7.13 is hereby deleted in its entirety.

P. Section 105.7.14 is hereby deleted in its entirety.

Q. Section 109.3 is amended in part to read as follows:

109.3 Violation penalties.

...shall be guilty of an [SPECIFY OFFENSE] ~~infraction,~~ punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [number of days], or both such fine and imprisonment. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$500.00; the court to have power to suspend said sentence and to revoke the suspension thereof.

R. Section 111.4 is amended to read as follows:

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1 **111.4 Failure to comply.** Any *person* who shall continue any work after having been
2 served with a stop work order, except such work as that *person* is directed to perform
3 to remove a violation or unsafe condition, shall be ~~liable to a fine of not less than~~
4 [AMOUNT] or more than [AMOUNT] dollars guilty of an infraction.

5 S. Section 308.1.4 is amended to read as follows:

6 **308.1.4 Open-flame cooking devices.** Charcoal burners and other open-flame
7 cooking devices shall not be operated on combustible balconies or decks or within 10
8 feet (3048 mm) of combustible construction.

9 **Exceptions:**

- 10 1. One- and two-family *dwelling*s.
- 11 2. Where buildings, balconies and decks are protected by an *automatic*
- 12 *sprinkler system*.
- 13 3. LP-gas cooking devices having LP-gas container with a water capacity
- 14 not greater than ~~2 ½ pounds [nominal 1 pound (0.454 kg)]~~ 47.8 pounds
- 15 [nominal 20 pounds (9 kg) LP-gas capacity].

16 T. Section 315.2.1 is hereby amended to read as follows:

17 **315.2.1 Ceiling clearance.** Storage shall be maintained 2 feet (610 mm) or more
18 below the ceiling in nonsprinklered areas of buildings or a minimum of 18 inches
19 (457 mm) below sprinkler head deflectors in sprinklered areas of buildings.

20 **Exception:** This requirement does not apply to storage adjacent to and within
21 30 inches of the wall area.

22 U. Section 404.1 is hereby amended to read as follows:

23 **404.1 General.** Fire safety, evacuation and lockdown plans and associated drills shall
comply with the requirements of Sections 404.2 through 404.5.1 when required by the
fire code official.

V. Section 405.1 is hereby amended to read as follows:

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405.1 General. Emergency evacuation drills ~~complying~~ shall comply with the provisions of this section ~~shall be conducted at least annually in the occupancies listed in Section 404.2 or~~ when required by the *fire code official*. Drills shall be designed in cooperation with the local authorities.

W. Section 408.8.3 is hereby amended to read as follows:

408.8.3 Fire Safety and evacuation instructions. Information shall be provided in the fire safety and evacuation plan when required by Section 404 to allow guests to decide whether to evacuate to the outside, evacuate to an *area of refuge*, remain in place, or any combination of the three.

X. Section 408.9 and its subsections are hereby deleted in its entirety.

Y. Section 503.4 is amended to read as follows:

503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times. Enforcement of such prohibited parking may be accomplished in the same manner as provided in Article 8-10 and in Section 9-0705 of the Fargo Municipal Code.

Z. Section 510 is hereby deleted in its entirety.

AA. Section 806.1.1 is amended by adding the following exception:

3. For purposes of this provision, churches shall not be deemed public buildings and may utilize natural or resin bearing cut trees in the altar area of the church. No electric lighting is allowed on the tree.

BB. Section 903.2.7 **Group M.** Subsection 4 is hereby deleted in its entirety.

CC. Section 903.3.1 is amended to read as follows:

903.3.1 Standards. Sprinkler systems shall be designed with a 5 psi safety margin and installed in accordance with Sections 903.3.1.1, 903.3.1.2 or 903.3.1.3.

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FARGO, NORTH DAKOTA

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DD. Section 903.3.1.1 is amended to read as follows:

1 **903.3.1.1 NFPA 13 sprinkler systems.** Where the provisions of this code require
2 that a building or portion thereof be equipped throughout with an *automatic sprinkler*
3 *system* in accordance with this section, sprinklers shall be installed throughout in
4 accordance with NFPA 13 except as provided in Section 903.3.1.1.1.

5 Sprinkler heads in unoccupied mall tenant spaces may be installed at ceiling height if
6 allowed by the code official. Permission will be granted on an individual basis.
7 Combustible storage shall not be allowed in these unoccupied tenant spaces if
8 sprinkler heads are installed at ceiling height. Signage shall be provided outlining the
9 storage restrictions.

10 EE. Section 907.9.3 is hereby deleted in its entirety.

11 FF. Exception 5 of Section 1009.4.2 is amended in part to read as follows:

12 5. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in
13 Group U occupancies that are accessory to a Group R-3 occupancy or accessory to
14 individual dwelling units in Group R-2 occupancies; the maximum riser height shall
15 be ~~7 3/4 inches (197 mm)~~ 8 inches; the minimum tread depth shall be ~~10 inches (254~~
16 ~~mm)~~ 9 inches;

17 GG. Chapter 22 is amended by adding the following Subsection 6 to Section 2203.1:

18 6. On new installations, dispensing devices used to fill portable containers with home
19 heating fuels shall not be located on the same island where Class I liquids are
20 dispensed.

21 HH. Section 2206.1 is amended to read as follows:

22 **2206.1 General.** Storage of flammable and combustible liquids shall be in accordance
23 with Chapter 34 and Sections 2206.2 through 2206.6.3. See also Fargo Municipal
Code, Section 9-0604.

II. Chapter 34 is amended by adding the following Subsection 7 to Section
3404.2.13.1.4:

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7. Site assessment is required to determine if there are any spills, leaks, or discharge from the tank system. Records of site assessment shall be kept on the site of tank location.

JJ. Section 3405.3.7.5.1 is amended to read as follows:

* * *

Exception: 1. Where natural ventilation can be shown to be effective for the materials used, dispensed or mixed.
2. When approved by the chief, continuous ventilation may be provided for one complete air change per hour, if supplemented with mechanical ventilation designed to provide for a complete air change six times per hour. The non-continuous ventilation equipment and any lighting fixtures shall be operated by the same switch located outside of the door.

KK. Section 3803.2.1.6 is amended to read as follows:

3803.2.1.6 Use with self-contained torch assemblies. Portable LP-gas containers are allowed to be used to supply *approved* self-contained torch assemblies or similar appliances. Such containers shall not exceed a water capacity of 2 1/2 pounds ~~(1 kg)~~ 12 pounds.

LL. Chapter 46 is hereby deleted in its entirety.

MM. Appendix B "**Fire-Flow Requirements for Buildings**" is adopted and enacted in its entirety.

NN. Appendix C "**Fire Hydrant Locations and Distribution**" is adopted and enacted in its entirety.

Section 2. Penalty.

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

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 3. Effective Date.

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

Dennis R. Walaker, Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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02

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 21-01 OF CHAPTER 21
OF THE FARGO MUNICIPAL CODE RELATING TO
THE INTERNATIONAL BUILDING CODE

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

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

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such 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 21-01 of Chapter 21 of the Fargo Municipal Code is hereby amended to read as follows:

ARTICLE 21-01

INTERNATIONAL BUILDING CODE -- ADOPTION -- MODIFICATIONS

| | |
|---------|--|
| Section | |
| 21-0101 | International Building Code adopted. |
| 21-0102 | Modification of International Building Code. |

21-0101. International Building Code adopted.--The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the city of Fargo, North Dakota, shall meet with the provisions of the rules and regulations of the

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1 ~~2006~~2009 edition of the International Building Code of the ~~International Conference of~~
2 ~~Building Officials~~International Code Council as the same are now established in said
3 code, a copy of which is on file in the office of the building inspector for the city of
4 Fargo, with the exception of the sections hereinafter set forth affecting local conditions in
5 the city of Fargo, which sections shall be substituted for and in lieu of like sections or
6 paragraphs in said International Building Code; and the board of city commissioners of
7 said city of Fargo, by this section hereby approves and adopts such rules and regulations,
8 as so modified, for use and application in the city of Fargo, North Dakota, and within the
9 extra-territorial jurisdiction of the city.

21-0102. Modification of International Building Code.--The International
Building Code as adopted in §1-0101 is hereby changed and amended as follows:

Section 101.1 is hereby amended to read as follows:

Section 101.1 – Title. These regulations shall be known as the Building
Code of ~~(NAME OF JURISDICTION)~~ the city of Fargo hereinafter
referred to as “this code.”

Section 101.4.3 is hereby amended to read as follows:

Section 101.4.3 Plumbing. The provisions of the ~~International Plumbing~~
~~Code~~ North Dakota State Plumbing Code shall apply to the installation,
alteration, repair and replacement of plumbing systems, including
equipment, appliances, fixtures, fittings and appurtenances, and where
connected to a water or sewage system and all aspects of a medical gas
system. The provisions of the ~~International Private Sewage Disposal Code~~
North Dakota State Plumbing Code shall apply to private sewage disposal
systems.

Section 104.8 is hereby amended to read as follows:

Section 104.8 Liability. The building official, member of the board of
appeals or employee charged with the enforcement of this code. While
acting for the jurisdiction in good faith and without malice in the discharge
of the duties required by this code or other pertinent law or ordinance,
shall not thereby be rendered liable personally and is hereby relieved from
personal liability for any damage accruing to persons or property as a
result of any act or by reason of an act or omission in the discharge of

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1 official duties. Any suit instituted against an officer or employee because
 2 of an act or omission performed by that officer or employee in the lawful
 3 discharge of duties and under the provisions of this code shall be afforded
 4 all the immunities and defenses provided by applicable local, state or
 5 federal laws and shall be defended by legal representative of the
 6 jurisdiction until the final termination of the proceedings. The building
 7 official or any subordinate shall not be liable for cost in any action, suit or
 8 proceeding that is instituted in pursuance of the provisions of this code.
 9 This code shall not be construed to relieve from or lessen the
 10 responsibility of any person owning, operating, or controlling any building
 11 or structure for any damages to persons or property caused by defects, nor
 12 shall the code enforcement agency or the city be held as assuming any
 13 such liability by reason of the inspection authorized by this code or any
 14 permits or certificates issued under this code.

15 **Section 105.2**--Work exempt from permit. Exemptions from *permit* requirements of this
 16 code shall not be deemed to grant authorization for any work to be done in any manner in
 17 violation of the provisions of this code or any other laws or ordinances of this
 18 jurisdiction. *Permits* shall not be required for the following:

19 Building:

20 ***

21 2. Fences not over 6 8.5 feet high.

22 ***

23 6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent
grade, and not over any basement or story below and are not part of an accessible
route.

11. Swings and other playground equipment accessory to detached one- and two-
family dwellings.

12. Window awnings supported by an exterior wall that do not project more than
54 inches (1372 mm) from the exterior wall and do not require additional support
of group R-3 and U occupancies.

14. Reroofing.

Section 107.2.5.1 is hereby deleted.

Section 107.3.1 is hereby amended to read as follows:

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1 Section 107.3.1. Approval of construction documents. When the building
2 official issues a permit, the construction documents shall be approved, in
3 writing or by stamp, as "Reviewed for Code Compliance." One set of
4 construction documents so reviewed shall be retained by the Building
5 Official. ~~The other set shall be returned to the applicant, shall be kept at
6 the site of work and shall be open to inspection by the building official or
7 a duly authorized representative.~~

8 **Section 109.2** is hereby amended to read as follows:

9 Section 109.2 -- Schedule of permit fees. On buildings, structures,
10 electrical, gas, mechanical, and plumbing systems or alterations requiring
11 a permit, a fee for each permit and plan review shall be paid as required, in
12 accordance with the schedule as established by the ~~applicable governing
13 authority~~ Fargo board of city commissioners. The plan review fees
14 specified in this subsection are separate from, and in addition to, permit
15 fees. When submittal documents are incomplete or changed so as to
16 require additional plan review or when the project involves deferred
17 submittal items as defined in Section 106.3.4.2, an additional plan review
18 fee shall be charged in an amount not to exceed 50% of the building
19 permit fee established in Section 108.2.

20 **Section 110.3.3** is hereby deleted in its entirety.

21 **Section 305.2** is hereby amended to read as follows:

22 305.2. Day care. The use of a building or structure, or portion thereof, for
23 educational, supervision or personal care services for more than ~~five~~
twelve children older than 2 ½ years of age shall be classified as a Group
E occupancy.

SECTION 308.3.1 is hereby amended to read as follows:

Section 308.3.1. Child care facilities. Facilities that provide care on a 24-
hour basis to more than ~~five~~ twelve children 2 ½ years of age or less.

Section 308.5 is hereby amended to read as follows:

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1 **308.5 Group I-4, day care facilities.** This group shall include buildings
2 and structures occupied by persons of any age who receive custodial care
3 for less than 24 hours by individuals other than parents or guardians,
4 relatives by blood, marriage or adoption, and in a place other than the
5 home of the person cared for. A facility such as the above with ~~five~~
6 twelve or fewer persons shall be classified as a Group R-3 or shall comply
7 with the *International Residential Code* in accordance with Section 101.2.
8 Places of worship during religious functions are not included.

9 **308.5.1 Adult care facility.** A facility that provides accommodations
10 for less than 24 hours for more than five unrelated adults and provides
11 supervision and *personal care services* shall be classified as Group I-4.

12 **Exception:** A facility where occupants are capable of
13 responding to an emergency situation without physical
14 assistance from the staff shall be classified as Group R-3.

15 **308.5.2 Child care facility.** A facility that provides supervision
16 and personal care on less than a 24-hour basis for more
17 than ~~five~~ twelve children 2 1/2 years of age or less shall be classified
18 as Group I-4.

19 **Exception:** A child day care facility that provides care
20 for more than ~~five~~ twelve but no more than 100 children 2 1/2
21 years or less of age, where the rooms in which the children
22 are cared for are located on a *level of exit discharge*
23 serving such rooms and each of these child care rooms
 has an *exit* door directly to the exterior, shall be classified
 as Group E.

Section 310.1 is hereby amended to read in part as follows:

R-3 Residential occupancies where the occupants are primarily permanent
in nature and not classified as Group R-1, R-2, R-4 or I, including:

Buildings that do not contain more than two dwelling units.

Adult facilities that provide accommodations for five or fewer persons of
any age for less than 24 hours.

Child care facilities that provide accommodations for ~~five~~ twelve or fewer
persons of any age for less than 24 hours.

Congregate living facilities with 16 or fewer persons.

Adult and child care facilities that are within a single-family home are
permitted to comply with the *International Residential Code* as adopted by
the city of Fargo.

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Section 406.1.4 is amended to read as follows:

406.1.4 Separation. Separations shall comply with the following:

1. The private garage shall be separated from the *dwelling unit* and its *attic* area by means of a minimum 1/2-inch (12.7 mm) gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8-inch (15.9 mm) Type X gypsum board or equivalent. Door openings between a private garage and the *dwelling unit* shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 13/8 inches (34.9 mm) thick, or doors in compliance with Section 715.4.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. ~~Doors shall be self-closing and self-latching.~~

Section 706.6 is hereby amended to add #6 to read:

6. Fire walls installed within detached structures of Group U occupancy may terminate at the underside of the roof sheathing provided such walls are not required to be fire-resistive construction due to proximity to property lines.

Section 801.5 is hereby amended to read as follows:

Section 801.5. Applicability. For buildings in flood hazard areas as established in Section 1612.3, interior finishes, trim and decorative materials below the design flood elevation shall be flood-damage-resistant materials in accordance with the requirements of the Fargo Flood Proofing Code (Fargo Municipal Code, Article 21-06).

Section 903.2.7 Item # 4 is hereby deleted in its entirety.

Section 903.3.1.1 is hereby amended by adding a second paragraph to read as follows:

Sprinkler heads in unoccupied mall tenant spaces may be installed at ceiling height if allowed by the code official. Permission will be granted

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on an individual basis. Combustible storage shall not be allowed in these unoccupied tenant spaces if sprinkler heads are installed at ceiling height. Signage shall be provided outlining the storage restrictions.

Section 907.2.11.1 is hereby amended to add item #4 to read as follows:

4. In dwelling units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches (610 mm) or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section 907.2.11.2 is hereby amended to add item #4 to read as follows:

4. In dwelling units where the ceiling height of a room open to the hallway serving the sleeping rooms exceeds that of the hallway by 24 inches (610 mm) or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section 1009.1 is hereby amended to add exception 5 to read as follows:

5. Stairways used only to attend equipment or private stairways serving an occupant load of 10 or fewer persons and which are not accessible to the public.

Section 1009.4.2, Exception 5, is hereby amended to read as follows and Exception 8 is added:

5. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies in Group R-2, as applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser height shall be ~~7.75 inches (197 mm)~~ 8 inches and the minimum tread depth shall be ~~10 inches (254 mm)~~ 9 inches, the minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279 mm).

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1 8. Stairways used to attend equipment or private stairways serving an
2 occupant load of 10 or fewer persons and which are not accessible to
3 the public are permitted to have a maximum 8 inch rise and a
4 minimum 9 inch run.

5 **1009.12 Handrails.** *Stairways shall have handrails on each side and shall comply with*
6 *Section 1012. Where glass is used to provide the handrail, the handrail shall also comply*
7 *with Section 2407.*

8 **Exceptions:**

- 9 1. *Handrails for aisle stairs are not required where permitted*
10 *by Section 1028.13.*
11 2. *Stairways within dwelling units, spiral stairways and*
12 *aisle stairs serving seating only on one side are permitted*
13 *to have a handrail on one side only.*
14 3. *Decks, patios and walkways that have a single change in*
15 *elevation where the landing depth on each side of the*
16 *change of elevation is greater than what is required for a*
17 *landing do not require handrails.*
18 4. *In Group R-3 occupancies, a change in elevation consisting*
19 *of a single riser at an entrance or egress door does not*
20 *require handrails.*
21 5. *Changes in room elevations of three or fewer risers within dwelling units and*
22 *sleeping units in Group R-2 and R-3 do not require handrails.*
23 6. Vehicle service pit stairways are exempt from the rules for stairway railing
 and guards, if they would prevent a vehicle from moving into a position over the
 pit.
 7. Stairways used only to attend equipment or private stairways serving an
 occupant load of 10 or fewer persons and which are not accessible to the public
 are permitted to have a handrail on one side only.

Section 1104.4 exception 1 is hereby amended to read as follows:

1104.4 Multilevel buildings and facilities. At least one accessible route
shall connect each accessible level, including mezzanines, in multilevel
buildings and facilities.

Exceptions:

1. An accessible route is not required to stories, basements and
mezzanines that have an aggregate area of not more than 3,000 square feet

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(278.7 m2), are located above ~~and~~ or below accessible levels and are below the third story. This exception shall not apply to:

1.1. Multiple tenant facilities of Group M occupancies containing five or more tenant spaces;

3 **Section 1207** is hereby deleted in its entirety.

4 **Sections 1403.5 and 1403.6** are hereby deleted in their entirety.

5 **Section 1406.3** is hereby amended to add exception 5 to read as follows:

6 5. Private balconies and similar appendages serving individual dwelling units on buildings of Type V construction.

8 **Section 1507.2.6** is hereby amended to read as follows:

9 Fasteners. Fasteners for asphalt shingles shall be galvanized, stainless steel, aluminum, or copper roofing nails, minimum 12 gage 0.105 inch (2.67 mm) shank with a minimum 0.375 inch-diameter (9.5 mm) head, of a length to penetrate through the roofing materials and a minimum of 0.75 (19.1 mm) into the roof sheathing or other fasteners as approved by the building official and shingle manufacturer. Where the roof sheathing is less than 0.75 inch (19.1 mm) thick, the nails shall penetrate through the sheathing. Fasteners shall comply with ASTM F 1667.

15 **Section 1510** is hereby deleted and relocated as Appendix L.

16 **Section 1601.1** is hereby amended to read as follows:

17 **1601.1 Scope.** The provisions of this chapter shall govern the structural design of buildings, structures and portions thereof regulated by this code.

18 It shall not be the responsibility of the building official to determine engineering requirements of this code. Exclusive of the conventional light-frame wood construction provisions referenced in Section 2308, the method to resist loads as referenced in this chapter is the responsibility of a structural engineer or other qualified design professional.

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Section 1610.1 exception is hereby amended to read as follows:

1 Exception: Foundation walls extending not more than 8 2 feet (2438 mm)
2 below grade and laterally supported by at the top by flexible diaphragms
3 shall be permitted to be designed for active pressure.

4 Section 1612 is hereby deleted in its entirety.

5 Section 1704.1 is hereby amended to add an exception 4 to read as follows:

6 4. The frequency and amount of special inspections shall be
7 as determined by the design professional of record. The
8 continuous and periodic inspections referenced in Tables
9 1704.3, 1704.4, 1704.5.1, and 1704.5.3 shall be considered
10 as guidelines for that determination.

11 Section 1804.3 is hereby amended to read as follows:

12 ~~1804.3 Site Grading. The procedure used to establish the final ground~~
13 ~~level adjacent to the foundation shall account for additional settlement of~~
14 ~~the backfill. The ground immediately adjacent to the foundation shall be~~
15 ~~sloped away from the building at a slope of not less than one unit vertical~~
16 ~~in 20 units horizontal (5 percent slope) for a minimum distance of 10 feet~~
17 ~~(3048 mm) measured perpendicular to the face of the wall. If physical~~
18 ~~obstructions or lot lines prohibit 10 feet (3048 mm) of horizontal distance,~~
19 ~~a 5 percent slope shall be provided to an approved alternative method of~~
20 ~~diverting water away from the foundation. Swales used for this purpose~~
21 ~~shall be sloped a minimum of 2 percent where located within 10 feet~~
22 ~~(3048 mm) of the building foundation. Impervious surfaces within 10 feet~~
23 ~~(3048 mm) of the building foundation shall be sloped a minimum of 2~~
 ~~percent away from the building.~~

Exception: Where climatic or soil conditions warrant, the slope of
 the ground away from the building foundation shall be permitted to
 be reduced to not less than one unit vertical in 48 units horizontal
 (2 percent slope).

 The procedure used to establish the final ground level adjacent to the foundation
 shall account for additional settlement of the backfill.

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1 Section 1804.3 Surface drainage. Surface drainage shall be diverted to a
2 storm sewer conveyance or other approved point of collection. Lots shall
3 be graded to drain surface water away from foundation walls.

4 The procedure used to establish the final ground level adjacent to the
5 foundation shall account for additional settlement of the backfill.

6 **Section 1804.4** is hereby deleted in its entirety.

7 **Section 1805.1.2.1** is hereby deleted in its entirety.

8 **Section 1809.5** is hereby amended to read as follows:

9 **1809.5 Frost protection.** Except where otherwise protected from frost,
10 foundations and other permanent supports of buildings and structures shall
11 be protected from frost by one or more of the following methods:

- 12 1. Extending below the frost line of the locality;
13 2. Constructing in accordance with ASCE 32; or
14 3. Erecting on solid rock.

15 **Exception:** Free-standing buildings meeting all of the following
16 conditions shall not be required to be protected:

- 17 1. Assigned to *Occupancy Category I*, in accordance with Section
18 1604.5;
19 2. Area of 600 square feet (56m²) or less for light-frame
20 construction or 400 square feet (37 m²) or less for other than light-
21 frame construction; and
22 3. Eave height of 10 feet (3048 mm) or less.
23 4. Free-standing buildings used as Group U occupancies for the
 storage of private or pleasure-type motor vehicles constructed in
 accordance with Sections 406.1.1 and 406.1.2.

Shallow foundations shall not bear on frozen soil unless such frozen condition is of a permanent character.

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1 **Section 2901.1** is hereby amended to read as follows:

2 The provisions of this chapter and the ~~International Plumbing Code~~ North
3 Dakota State Plumbing Code shall govern the erection, installation,
4 alteration, repairs, relocations, replacement, addition to, use or
5 maintenance of plumbing equipment and systems. Plumbing systems and
6 equipment shall be constructed, installed and maintained in accordance
7 with the ~~International Plumbing Code~~ North Dakota State Plumbing Code.
8 Private sewage disposal systems shall conform to the ~~International Private~~
9 ~~Sewage Disposal Code~~ North Dakota State Plumbing Code.

10 **Section 3109** is hereby deleted and moved Appendix M.

11 Section 2. Penalty.

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

16 Section 3. Effective Date.

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

19 _____
20 Dennis R. Walaker, Mayor

21 (SEAL)

22 Attest:

23 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

e 3

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AN ORDINANCE AMENDING ARTICLE 21.1-01 OF CHAPTER 21.1
OF THE FARGO MUNICIPAL CODE RELATING TO
THE INTERNATIONAL RESIDENTIAL CODE

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

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

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such 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 21.1-01 of Chapter 21.1 of the Fargo Municipal Code is hereby amended to read as follows:

CHAPTER 21.1

INTERNATIONAL RESIDENTIAL CODE

Article

21.1-01

International Residential Code--Adoption—Amendments, §§ 21.1-0101 to 21.1-0102

ARTICLE 21.1-01

Section

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- 21.1-0101 Adoption of International Residential Code by Reference
- 21.1-0102 Amendment to International Residential Code

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21.1-0101. Adoption of International Residential Code by Reference.--
 There is hereby adopted by reference by the Board of City Commissioners, for the
 purpose of prescribing regulations governing standards, relative to housing in the
 city of Fargo, that certain code known as the International Residential Code
 recommended and compiled by the ~~International Conference of Building
 Officials~~ International Code Council, being particularly the ~~2006~~ 2009 Edition
 thereof, a copy of which is on file in the office of the City Auditor, and the same
 is hereby adopted and incorporated as fully as if set out in length herein, and from
 the date on which this ordinance shall take effect, the provisions thereof shall be
 controlling within the limits of the city, and within the extra-territorial jurisdiction
 of the city.

21.1-0102. Amendment to International Residential Code.--The
 International Residential Code as adopted in Section 21.1-0101 is hereby changed
 and amended as follows:

Section R101.1 --Titles. These provisions shall be known as the
 Residential Code for One- and Two-Family Dwellings of ~~[NAME
 OF JURISDICTION]~~ the city of Fargo, and shall be cited as such
 and will be referred to herein as "this code."

Section R104.8 is hereby amended to read as follows:

The building official, member of the board of appeals or employee
 charged with the enforcement of this code. While acting for the
 jurisdiction in good faith and without malice in the discharge of the
 duties required by this code or other pertinent law or ordinance,
 shall not thereby be rendered liable personally and is hereby
 relieved from personal liability for any damage accruing to persons
 or property as a result of any act or by reason of an act or omission
 in the discharge of official duties. Any suit instituted against an
 officer or employee because of an act or omission performed by
 that officer or employee in the lawful discharge of duties and under
 the provisions of this code shall be afforded all the immunities and
 defenses provided by other applicable local, state or federal laws
~~and shall be defended by legal representative of the jurisdiction~~

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~~until the final termination of the proceedings.~~ The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Section R104.10.1 is hereby deleted in its entirety.

Section R105.2 is hereby amended to read as follows:

R105.2 Work exempt from permit. Permits shall not be required for the following. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed ~~200~~ 120 square feet (185.8 m).
2. Fences not over 6 8.5 feet (1829 mm) high.
* * *
7. ~~Prefabricated~~ Sswimming pools that are less than 24 inches (610 mm) deep.
8. Swings and other playground equipment accessory to a one or two family dwelling.
9. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

Section R106.1.3 is hereby deleted in its entirety.

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Section R108.3 is hereby amended to read as follows:

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R108.3 Building permit violations. Building *permit* valuation shall include total value of the work for which a *permit* is being issued, such as electrical, gas, mechanical, plumbing equipment and other permanent systems, including materials and labor. If, in the opinion of the *building official*, the valuation is underestimated on the application, the *permit* shall be denied, unless the applicant can show detailed estimates to meet the approval of the *building official*. Final building *permit* valuation shall be set by the *building official*.

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Section R112.2.1 is hereby deleted in its entirety.

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Section R112.2.2 is hereby deleted in its entirety.

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Section R201.3 is hereby amended to read as follows:

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Section R201.3 – Terms defined in other codes. Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council. Wherever the term ‘International Plumbing Code’ and/or ‘International Private Sewage Disposal Code’ is used in the International Residential Code, it shall mean the North Dakota State Plumbing Code. Wherever the term ‘ICC Electrical Code’ is used in the International Residential Code, it shall mean the National Electrical Code together with the North Dakota State Wiring Standards. Wherever reference is made to flood plain requirements, it shall mean the Fargo Flood Plain Management Ordinance together with the Fargo Flood Proofing Code (Fargo Municipal Code Article 21-06).

19
Section R301.2.4 is hereby deleted in its entirety.

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Table 302.1 third and fourth columns are hereby amended as follows:

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Reference to section R317.3 is changed to Section R302.4 and entries in column four are changed as follows:

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** Add footnote behind (walls 1) – A common 2-hour fire-resistance-rated wall is permitted for two or more family dwellings where the common wall is on a property line provided such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with chapters 33 through 42. Penetrations of electrical outlet boxes shall be in accordance with section 302.4

Section 302.2 is hereby amended to read as follows:

R302.2 Townhouses. Each *townhouse* shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls.

Exception: A common ~~4~~ 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

Section 307.1 is hereby amended to read as follows:

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1 **Section 307.1** Space required. Fixtures shall be spaced in
2 accordance with ~~Figure R307.1~~, and in accordance with the
3 requirements of Section P2705.1 as per Figure R307.1, with the
4 exception of the clearance in front of water closets and bidets
5 which shall be at least 24 inches.

6 **Section R310.1** is hereby amended to read as follows:

7 Section R310.1 – Emergency escape and rescue required.
8 Basements and every sleeping room shall have at least one
9 operable emergency and rescue opening. Such opening shall open
10 directly into a public street, public alley, yard or court. Where
11 basements contain one or more sleeping rooms, emergency egress
12 and rescue openings shall be required in each sleeping room, but
13 shall not be required in adjoining areas of the basement. Where
14 emergency escape and rescue openings are provided they shall
15 have a sill height of not more than 44 inches (1118 mm) above the
16 floor. Where a door opening having a threshold below the adjacent
17 ground elevation serves as an emergency escape and rescue
18 opening and is provided with a bulkhead enclosure, the bulkhead
19 enclosure shall comply with Section 310.3. The net clear opening
20 dimensions required by this section shall be obtained by the normal
21 operation of the emergency escape and rescue opening from the
22 inside. Emergency escape and rescue openings with a finished sill
23 height below the adjacent ground elevation shall be provided with
a window well in accordance with Section R310.2.

Exceptions:

1. Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m²)
2. Below grade emergency escape and rescue windows may have a maximum sill height of 48 inches.

Section R310.2.1 is hereby amended to read as follows:

Section R310.2.1 -- Ladder and steps. Window wells with a vertical depth greater than 44 inches (1118 mm) shall be equipped with a permanently affixed ladder or steps usable with the window

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1 in the fully open position or shall be equipped with a permanently-
2 attached platform, of a minimum area of 30"x16", in the window
3 well that will reduce the vertical depth of the window well to no
4 more than 42" below the top of the window well and that will not
5 impede the operation of the window. Ladders or steps required by
6 this section shall not be required to comply with Sections R311.5
7 and R311.6. Ladders or rungs shall have a inside width of at least
8 12 inches (305 mm), shall project at least 3 inches (76 mm) from
9 the wall and shall be spaced not more than 18 inches (457 mm) on
10 center vertically for the full height of the window well.

11 Exception: Terraced window wells with a maximum of 24" per
12 vertical rise and minimum of 12" horizontal projections on each
13 level shall also be allowed in accordance with Figures 310.2.1(1)
14 and 310.2.1(2).

15 **Section R311.3.2** is hereby amended to read as follows:

16 **Section R311.3.2 Floor elevations for other exterior doors.**
17 Doors other than the required egress door shall be provided with
18 landings or floors not more than $7\frac{3}{4}$ 8 inches (~~196 mm~~) (203 mm)
19 below the top of the threshold.

20 **Exception:** A landing is not required where a stairway of
21 ~~two or fewer risers~~ with a total rise of less than 30 inches
22 (~~762 mm~~) is located on the exterior side of the door,
23 provided the door does not swing over the stairway.

Section R311.7.4.1 is hereby amended to read as follows:

Section R311.7.4.1 -- Riser height. The maximum riser height
shall be $7\frac{3}{4}$ 8 inches (~~196 mm~~). The riser shall be measured
vertically between leading edges of the adjacent treads. The
greatest riser height within any flight of stairs shall not exceed the
smallest by more than 3/8 inch (9.5 mm).

Section R311.7.4.2 is hereby amended to read as follows:

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1 **R311.7.4.2 Tread depth.** The minimum tread depth shall be 10 9
2 inches (~~254 mm~~). The tread depth shall be measured horizontally
3 between the vertical planes of the foremost projection of adjacent
4 treads and at a right angle to the tread's leading edge. The greatest
5 tread depth within any flight of stairs shall not exceed the smallest
6 by more than 3/8 inch (9.5 mm). Consistently shaped winders at
7 the walkline shall be allowed within the same flight of stairs as
8 rectangular treads and do not have to be within 3/8 inch (9.5 mm)
9 of the rectangular tread depth.

6 Exception:

- 7 1. Where a landing is not provided or required by
8 section 311.3.2 or 311.7.5, the top tread of a stair
9 servicing exterior doors other than the required exit
10 door, and in-swinging doors opening into an
11 attached garage, shall be permitted to exceed the
12 smallest tread by more than 3/8 inch (9.5mm). Such
13 a tread shall be at least 18 inches (457mm)
14 measured in the direction of travel.

11 Winder treads shall have a minimum tread depth of 10 9 inches
12 (~~254 mm~~) measured between the vertical planes of the foremost
13 projection of adjacent treads at the intersections with the walkline.
14 Winder treads shall have a minimum tread depth of 6 inches (152
15 mm) at any point within the clear width of the stair. Within any
16 flight of stairs, the largest winder tread depth at the walkline shall
17 not exceed the smallest winder tread by more than 3/8 inch (9.5
18 mm).

17 Section 311.7.5 is hereby amended to read as follows:

18 **Section R311.7.5 Landings for stairways.** There shall be a floor
19 or landing at the top and bottom of each stairway.

20 **Exceptions:**

- 21 1. A floor or landing is not required at the top of an interior
22 flight of stairs, including stairs in an enclosed garage,
23 provided a door does not swing over the stairs. ~~A flight of~~
~~stairs shall not have a vertical rise larger than 12 feet (3658~~

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mm) ~~between floor levels or landings. The width of each landing shall not be less than the width of the stairway served. Every landing shall have a minimum dimension of 36 inches (914 mm) measured in the direction of travel.~~

2. A landing is not required where a stairway with a total rise of less than 30 inches (762 mm) is located on the exterior side of the door, provided the door does not swing over the stairway.

A flight of stairs shall not have a vertical rise larger than 12 feet (3658 mm) between floor levels or landings. The width of each landing shall not be less than the width of the stairway served. Every landing shall have a minimum dimension of 36 inches (914 mm) measured in the direction of travel.

Section 312.1 is hereby amended to read as follows:

Section R312.1 Where Required. Guards shall be located along open-sided walking surfaces, ~~including stairs, ramps and landings that are located more than 30 inches (762mm) measured vertically to the floor or grade below, at any point within 36 inches (914mm) horizontally to the edge of the open side.~~ Insect screening shall not be considered as a guard.

Section R313 is hereby deleted in its entirety.

Section R314.3 is hereby amended to read as follows:

Section R314.3 -- Location. Smoke alarms shall be installed in the following locations:

* * *

3. On each additional story of the dwelling, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. In dwelling units

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where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches (610 mm) or more, smoke detectors shall be installed in the hallway and in the adjacent room.

Section R401.1 is hereby amended to read as follows:

Section R401.1 Application

The provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings. In addition to the provisions of this chapter, the design and construction of foundations in areas prone to flooding as established by ~~Table R301.2(1)~~ shall meet the provisions of Section R324 the Fargo Flood Proofing Code (Article 21-06) and any other applicable requirements of the city of Fargo. Wood foundations shall be designed and installed in accordance with AF&PA PWF.

Section R401.3 is hereby amended to read as follows:

R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection ~~so as to not create a hazard.~~ Lots shall be graded to drain surface water away from foundation walls. ~~The grade shall fall a minimum of 6 inches (152mm) within the first 10 feet (3048mm).~~

~~Exception: Where lot lines, walls, slopes or other physical barriers prohibit 6 inches (152mm) of fall within 10 feet (3048mm), the final grade shall slope away from the foundation at a minimum slope of 5 percent and the water shall be directed to drains or swales to ensure drainage away from the structure. Swales shall be sloped a minimum of 2 percent when located within 10 feet (3048mm) of the building foundation. Impervious surfaces within 10 feet (3048mm) of the building foundation shall be sloped a minimum of 2 percent away from the building.~~

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Section R403.1.4.1, Exceptions 1, 2 and 3, are hereby amended to read as follows:

Section R403.1.4.1 -- Frost protection

Exceptions: 1. Protection of freestanding accessory structures with an area of 600 square feet (37 m²) or less of light framed construction and an eave height of 10 feet (3048 mm) or less shall not be required.

2. Protection of freestanding, accessory structures with an area of 400 square feet (37 m²) or less, of other than light-framed construction, with an eave height of 10 feet (3048 mm) or less shall not be required.

3. Decks not supported by a dwelling need not be provided with footings that extend below the frost line.

Table R404.1.2(10), referred to in Section 404.1.2, is added as follows:

Table R404.1.2(10)
 Foundation Wall Reinforcing

Active Pressure = 45pcf

| Minimum Reinforcement for Concrete Foundation Walls | | |
|---|---------------------------|--------------------------------|
| Wall Height (h) feet | Wall Thickness (t) inches | Vertical Reinforcing |
| 8 | 8 | #4 @ 24" o.c. #5 @ 40" o.c. |
| | 10 | #4 @ 30" o.c. #5 @ 50" o.c. |
| 9 | 8 | #4 @ 18" o.c. #5 @ 28" o.c. |
| | 10 | #4 @ 24" o.c. #5 @ 36" o.c. |
| 10 | 10 | #4 @ 16" o.c. |

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| | | |
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| | | #5 @ 26" o.c. |
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Notes:

1. Chart is based on an active soil pressure of 45 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength $F_c^1 = 3,000$ pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

Table R404.1.2(11), referred to in Section 404.1.2, is added as follows:

Table R404.1.2(11)
 Foundation Wall Reinforcing

Active Pressure = 65 pcf

| Minimum Reinforcement for Concrete Foundation Walls | | |
|--|------------------------------|---|
| Wall Height (h) Feet | Wall Thickness (t) Inches | Vertical Reinforcing |
| 8 | 8 | #4 @ 18" o.c. #5 @ 26" o.c. #6 @ 40" o.c. |
| | 10 | #4 @ 24" o.c. #5 @ 36" o.c. #6 @ 52" o.c. |
| 9 | 8 | #4 @ 12" o.c. #5 @ 18" o.c. #6 @ 26" o.c. |
| | 10 | #4 @ 16" o.c. #5 @ 24" o.c. #6 @ 36" o.c. |
| 10 | 10 | #4 @ 12" o.c. #5 @ 18" o.c. |

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| | | |
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| | | #6 @ 24" o.c. |
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Notes:

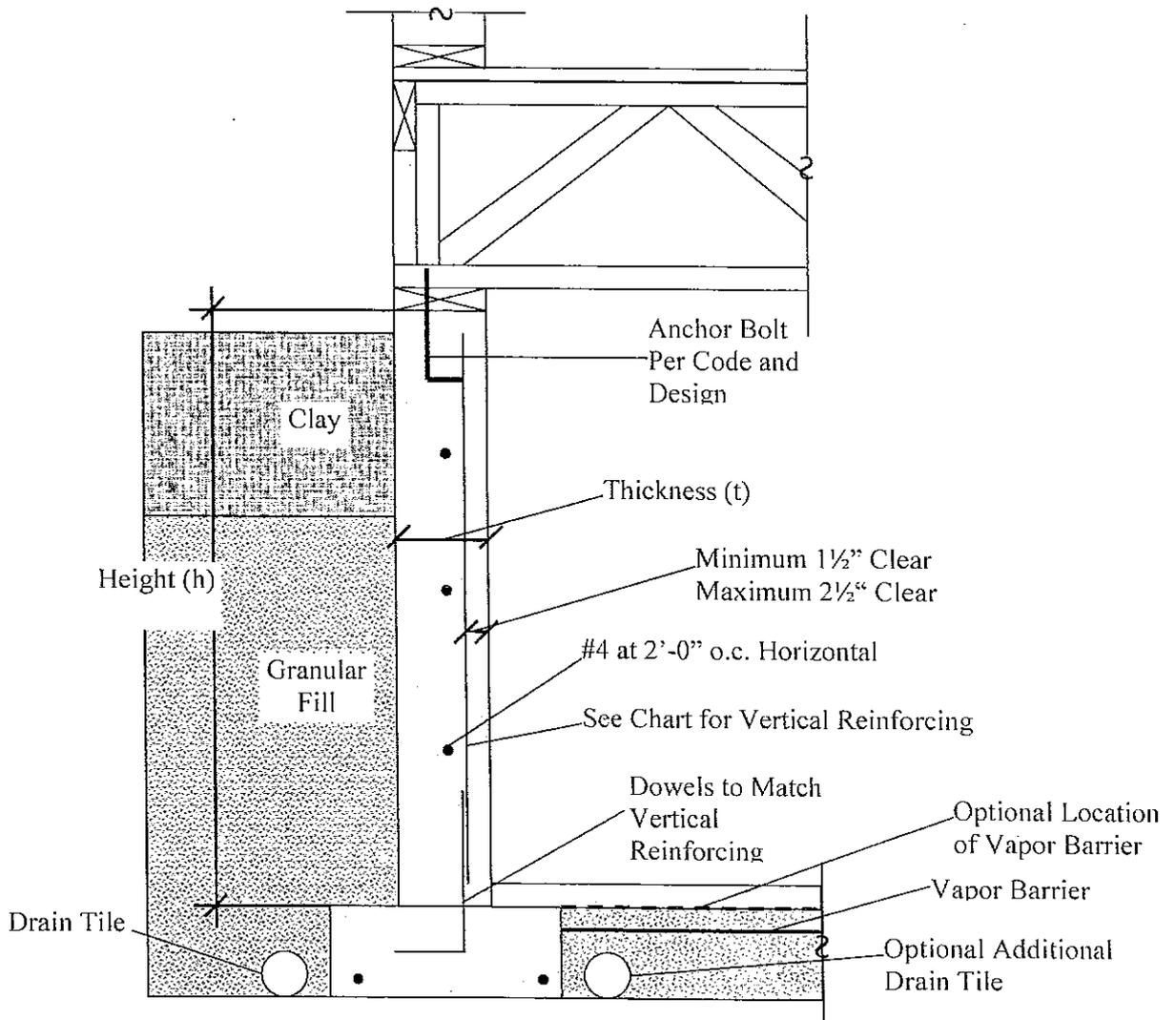
1. Chart is based on an active soil pressure of 65 pounds per cubic foot (pcf).
2. Reinforcing steel shall be ASTM A615 Fy – 60,000 pounds per square inch (psi).
3. The vertical reinforcing bars are to be located on the inside face.
4. Minimum concrete strength $F_c^1 = 3,000$ pounds per square inch (psi).
5. Backfill shall not be placed until first floor framing and sheathing is installed and fastened or adequately braced and the concrete floor slab is in place or the wall is adequately braced.

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FIGURE R404.1.2(1), referred to in Section 404.1.2

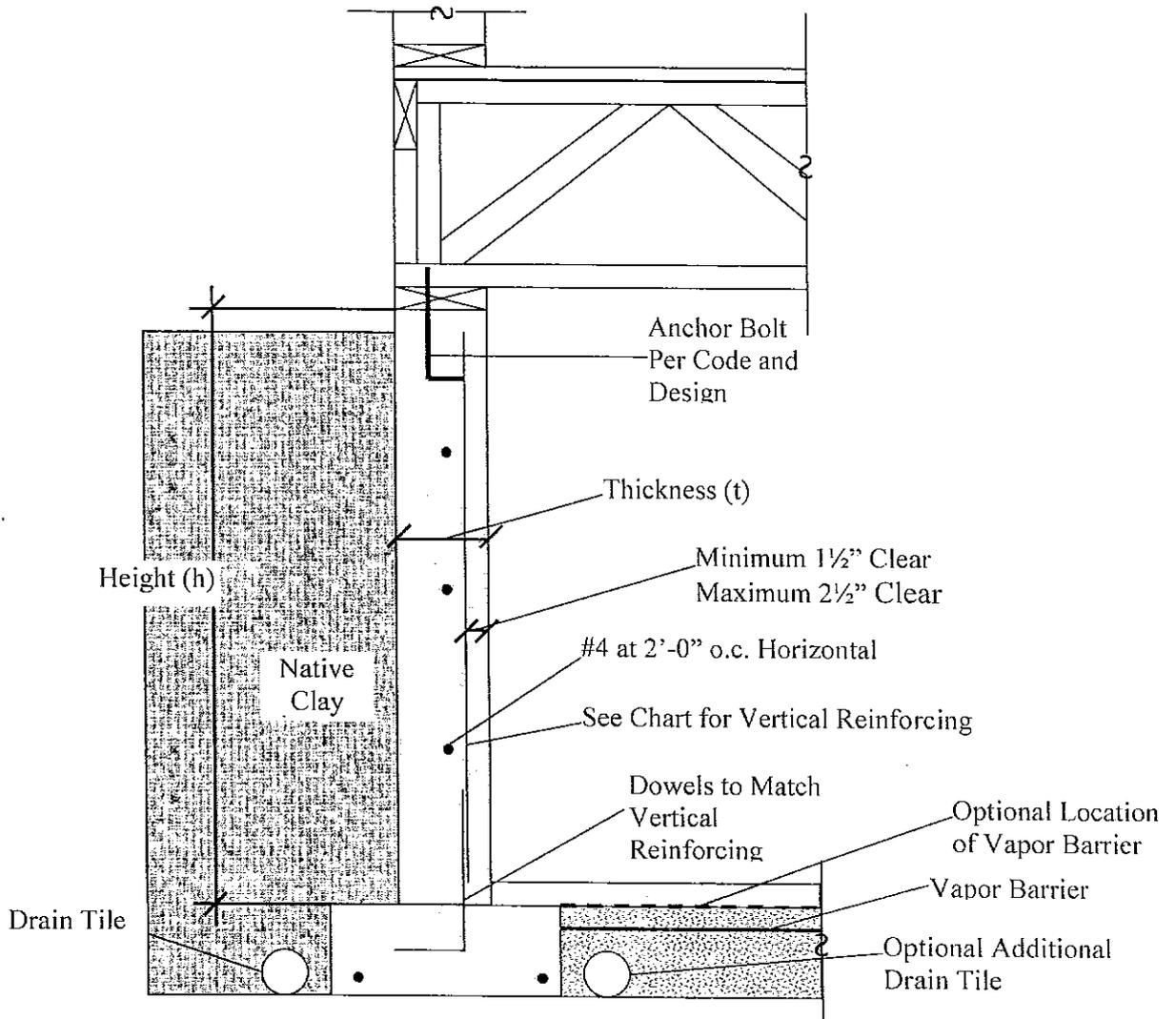
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FIGURE R404.1.2(2) referred to in Section 404.1.2



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Section R404.1.2.2 is hereby amended to read as follows:

R404.1.2.2 Reinforcement for foundation walls. Concrete foundation walls shall be laterally supported at the top and bottom. Horizontal reinforcement shall be provided in accordance with Table R404.1.2(1). Vertical reinforcement shall be provided in accordance with Table R404.1.2(2), R404.1.2(3), R404.1.2(4), R404.1.2(5), R404.1.2(6), R404.1.2(7), ~~or R404.1.2(8)~~, R404.1.2(10) or R404.1.2(11). Vertical reinforcement for flat *basement* walls retaining 4 feet (1219 mm) or more of unbalanced backfill is permitted to be determined in accordance with Table R404.1.2(9) and Figures 404.1.2(1) and 404.1.2(2). For *basement* walls supporting above-grade concrete walls, vertical reinforcement shall be by Tables R404.1.2(2) through R404.1.2(8) or by Section R611.6 for the above-grade wall. In buildings assigned to Seismic Design Category D0, D1 or D2, concrete foundation walls shall also comply with Section R404.1.4.2.

Section R405.2.3 is hereby amended to read as follows:

Section R405.2.3 - Drainage system

In other than Group I soils, a sump shall be provided to drain the porous layer and footings. The sump shall be at least ~~24 inches (610 mm)~~ 18 inches in diameter or ~~20 inches square (0.0129m²)~~ 16 inches square, shall extend at least 24 inches (610 mm) below the bottom of the basement floor and shall be capable of positive gravity or mechanical drainage to remove any accumulated water. The drainage system shall discharge into an approved sewer system or to daylight.

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1 **Section R903.5 and Figure R903.5** are hereby deleted in their entirety.

2 **Section R905.2.5** is hereby amended to read as follows:

3 Fasteners for asphalt shingles shall be galvanized steel, stainless
4 steel, aluminum or copper roofing nails, minimum 12 gage [0.105
5 inch (2.67 mm)] shank with a minimum 3/8 inch (9.5 mm)
6 diameter head, ASTM F 1667, of a length to penetrate through the
7 roofing materials and a minimum of 3/4 inch (19.1 mm) into the
8 roof sheathing or other fasteners as approved by the building
9 official and shingle manufacturer. Where the roof sheathing is less
10 than 3/4 inch (19.1 mm) thick, the fasteners shall penetrate through
11 the sheathing. Fasteners shall comply with ASTM F 1667.

12 **Section R907** is hereby deleted in its entirety and relocated to the
13 Appendices as Appendix R.

14 **Section M1301.1.1** is hereby deleted in its entirety.

15 **Section M1401.5** is hereby deleted in its entirety.

16 **Section M1411.6** is hereby deleted in its entirety.

17 **Section M1502.4.4.1** is hereby amended read as follows:

18 **Section M1502.4.4.1. Specified Length.** The maximum length of
19 the exhaust duct shall be ~~25 (7620 mm)~~ 35 (10668 mm) feet from
20 the connection to the transition duct from the dryer to the outlet
21 terminal. Where fittings are used, the maximum length of the
22 exhaust duct shall be reduced in accordance with Table
23 M1502.4.4.1.

Section M1601.4.9 is hereby deleted in its entirety.

Section M1603 is amended to read :

M1603.1 General. The minimum unobstructed total area of
supply and return air ducts from a warm-air furnace shall be in

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1 accordance with the manufacturer's installation instructions, but
2 shall not be less than 2 square inches (1290 mm sq) for each 1,000
3 Btu/h (293W) output rating of the furnace. The minimum
4 unobstructed total area of the supply and return air ducts from a
5 central air-conditioning unit and/or heat pump shall be in
6 accordance with the manufacturer's installation instructions, but
7 shall be not less than 6 square inches (3870 mm sq) for each 1,000
8 Btu/h (293W) nominal cooling output rating. Dampers, grilles, or
9 registers installed for the purpose of controlling the supply airflow
10 shall not be considered as obstructions.

6 **Section M1701.2.1** is hereby added to read as follows.

7 Section M1701.2.1 Attic spaces shall not be used as a source of
8 combustion air.

9 **Section M1801.1** is hereby amended to read as follows:

10 Section M1801.1 -- Venting required. Fuel-burning appliances
11 shall be vented to the outside in accordance with their listing and
12 label and manufacturer's installation instructions ~~except appliances~~
13 ~~listed and labeled for unvented use.~~ Venting systems shall consist
14 of approved chimneys or vents, or venting assemblies that are
15 integral parts of labeled appliances. Gas-fired appliances shall be
16 vented in accordance with Chapter 24.

15 **Section M2001.4** is hereby deleted in its entirety.

16 **Section M2101.3** is hereby amended to read as follows:

17 Section M2101.3 -- Protection of potable water. The potable water
18 system shall be protected from backflow in accordance with the
19 provisions listed in ~~Section P2902~~ the North Dakota State
20 Plumbing Code.

20 **Section M2101.10** is hereby amended to read as follows:

21 Section M2101.10 -- Tests. New ~~H~~hydronic piping shall be
22 isolated and tested hydrostatically at a pressure of not less than
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100-pounds per square inch (psi) (689 kPa) for a duration of not less than 15 minutes.

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Section M2201.6 is hereby deleted in its entirety.

Section G2404.7 is hereby deleted in its entirety.

Section G2406.2 is hereby amended to read as follows:

Section G2406.2 (303.3) Prohibited locations. *Appliances* shall not be located in sleeping rooms, bathrooms, toilet rooms, storage closets or surgical rooms, or in a space that opens only into such rooms or spaces, except where the installation complies with one of the following:

1. The *appliance* is a direct-vent *appliance* installed in accordance with the conditions of the listing and the manufacturer’s instructions.
2. *Vented room heaters, wall furnaces, vented decorative appliances, vented gas fireplaces, vented gas fireplace heaters and decorative appliances* for installation in vented solid fuel-burning *fireplaces* are installed in rooms that meet the required volume criteria of Section G2407.5.
3. ~~A single wall-mounted unvented room heater is installed in a bathroom and such unvented room heater is equipped as specified in Section G2445.6 and has an input rating not greater than 6000 Btu/h (1.76kW). The bathroom shall meet the required volume criteria of Section G2407.5.~~
4. ~~A single wall-mounted unvented room heater is installed in a bedroom and such unvented room heater is equipped as specified in Section G2445.6 and has an input rating not greater than 10,000 Btu/h (2.93kW). The bedroom shall meet the required volume criteria of Section G2407.5.~~
5. 3. The *appliance* is installed in a room or space that opens only into a bedroom or bathroom, and such room or space is used for no other purpose and is provided with a solid weather-stripped door equipped with an *approved* self-closing device. All *combustion air* shall be taken directly from the outdoors in accordance with Section G2407.6.

Figures G2407.6.1(1) AND G2407.6.1(2) are hereby deleted in their

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entirety.

1 **Figure G2407.6.2** is hereby amended to delete the reference to an
2 alternate opening location.

3 **Section G2407.11** is hereby amended to delete item number 5 as follows:

4 **Section G2407.11** (304.11) -- Combustion air ducts. Combustion
5 air ducts shall comply with all the following:

6 ***

7 5. Ducts shall not be screened where terminating in an attic space.

8 **Section G2413.5** is hereby amended to read as follows:

9 Section G2413.5 (402.5) Allowable pressure drop. The design
10 pressure loss in any piping system under maximum probable flow
11 conditions, from the point of delivery to the inlet connection of the
12 appliance, shall be such that the supply pressure at the appliance is
13 greater than or equal to the minimum pressure required by the
14 appliance but such pressure loss shall not be greater than .5 inch
15 water column.

16 **Section G2417.4.1** is hereby amended to read as follows:

17 Section G2417.4.1 (406.4.3) -- Test pressure. The test pressure to
18 be used shall not be less than one and one half times the proposed
19 maximum working pressure, but not less than ~~3~~ 25 psig (~~20 kPa~~
20 gauge), irrespective of design pressure. Where the test pressure
21 exceeds 125 psig (~~862 kPa~~ gauge), the test pressure shall not
22 exceed a value that produces a hoop stress in the piping greater
23 than 50 percent of the specified minimum yield strength of the
pipe.

Section G2419.2 is hereby amended to read as follows:

Section G2419.2 -- Drips. Where wet gas exists, a drip shall be
provided at any point in the line of pipe where condensate could
collect. ~~A drip shall also be provided at the outlet of the meter and
shall be installed so as to constitute a trap wherein an accumulation~~

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~~of condensate will shut off the flow of gas before the condensate will run back into the meter.~~

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Section G2425.8 is hereby amended to read as follows:

Section G2425.8 (501.8) Equipment not required to be vented.

The following *appliances* shall not be required to be vented:

1. Ranges.
2. Built-in domestic cooking units listed and marked for optional venting.
3. Hot plates and laundry stoves.
4. *Type 1 clothes dryers* (*Type 1 clothes dryers* shall be exhausted in accordance with the requirements of Section G2439).
5. Refrigerators.
6. Counter *appliances*.
7. ~~Room heaters listed for unvented use.~~

Where the *appliances* listed in Items 5 ~~through 7~~ and 6 above are installed so that the aggregate input rating exceeds 20 *Btu* per hour per *cubic foot* (207 W/m³) of volume of the room or space in which such *appliances* are installed, one or more shall be provided with venting *systems* or other *approved* means for conveying the *vent gases* to the outdoor atmosphere so that the aggregate input rating of the remaining *unvented appliances* does not exceed 20 *Btu* per hour per *cubic foot* (207 W/m³). Where the room or space in which the *appliance* is installed is directly connected to another room or space by a doorway, archway or other opening of comparable size that cannot be closed, the volume of such adjacent room or space shall be permitted to be included in the calculations.

Section G2425.12 is hereby amended to read as follows:

Section 2425.12 Residential and low-heat appliances flue lining systems. Flue lining systems for use with residential-type and low-heat appliances shall be limited to the following:

1. Clay flue lining complying with the requirements of ASTM C 315 or equivalent when each appliance connected into the masonry chimney has a minimum input rating greater

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than 400,000 Btu/h. Clay flue lining shall be installed in accordance with Chapter 10.

- 1 2. Listed chimney liner systems complying with UL 1777.
- 2 3. Other approved materials that will resist, without cracking,
- 3 softening, or corrosion, flue gases and condensate at
- 4 temperatures up to 1800 F (982 C).
- 5 a. Aluminum (1100 or 3003 alloy or equivalent) not
- 6 less than 0.032 inches thick up to 8 inches in
- 7 diameter.
- 8 b. Stainless steel (304 or 430 alloy or equivalent) not
- 9 less than 26 gauge (0.018 inches thick) to 8 inches
- 10 in diameter or not less than 24 gauge (0.024 inches
- 11 thick) 8 inches in diameter and larger.

When a metal liner is used other than a listed chimney liner
a condensation drip tee shall be installed and supported in
an approved manner.

Section G2427.5.2 is hereby amended to read as follows:

Section G2427.5.2 (503.5.3) Masonry chimneys. Masonry *chimneys* shall be built and installed in accordance with NFPA211 and shall be lined ~~with approved clay flue lining, a listed chimney lining system or other approved material that will resist corrosion, erosion, softening or cracking from vent gases at temperatures up to 1,800°F (982°C) as per G2425.12.~~

Exception: Masonry *chimney* flues serving listed gas *appliances* with *draft hoods*, Category I *appliances* and other gas *appliances* listed for use with Type B vents shall be permitted to be lined with a *chimney* lining system specifically listed for use only with such *appliances*. The liner shall be installed in accordance with the liner manufacturer's installation instructions. A permanent identifying attached at the point where the connection is to be made to the liner. The label shall read: "This *chimney* liner is for *appliances* that burn gas only. Do not connect to solid or liquid fuel-burning appliances or incinerators."

Section G2442.6 is hereby amended to read as follows:

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Section G2442.6 (618.6) -- Screen. Required outdoor air inlets shall be covered with a screen having ¼ inch (6.4 mm) openings. Required outdoor air inlets serving a nonresidential portion of a building shall be covered with screen having openings larger than ¼ inch (6.4 mm) and not larger than ½ inch (~~25 mm~~).

Section G2445 is hereby deleted in its entirety.

Chapters 25 through 43 are hereby deleted in their entirety.

Section 2. Penalty.

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

Section 3. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and publication, but not prior to October 1, 2010.

(SEAL)

Attest:

Steven Sprague, City Auditor

Dennis R. Walaker, Mayor

First Reading:
Second Reading:
Final Passage:
Publication:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 21.2-01 OF CHAPTER 21.2
OF THE FARGO MUNICIPAL CODE RELATING TO
THE INTERNATIONAL EXISTING BUILDING CODE

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

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

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such 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 21.2-01 of Chapter 21.2 of the Fargo Municipal Code is hereby amended to read as follows:

CHAPTER 21.2

INTERNATIONAL EXISTING BUILDING CODE

Article
21.2-01 International Existing Building Code--Adoption--Amendments, §§ 21.2-0101 to 21.2-0102

ARTICLE 21.2-01

Section
21.2-0101 Adoption of International Existing Building Code by Reference

OFFICE OF THE CITY ATTORNEY
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21.2-0102 Amendment to International Existing Building Code

1 21.2-0101. Adoption of International Existing Building Code by reference.--There
 2 is hereby adopted by reference by the board of city commissioners, for the purpose of
 3 prescribing regulations governing standards, relative to existing buildings in the city of
 4 Fargo, that certain code known as the International Existing Building Code recommended
 5 and compiled by the International Code Council, ~~2006~~2009 edition, a copy of which is on
 6 file in the office of the city auditor, and the same is hereby adopted and incorporated as
 7 fully as if set out in length herein, and from the date on which this ordinance shall take
 8 effect, the provisions thereof shall be controlling within the limits of the city, and within
 9 the extra-territorial jurisdiction of the city.

10 21.2-0102. Amendment to International Existing Building Code.--The
 11 International Existing Building Code as adopted in Section 21.2-0101 is hereby changed
 12 and amended as follows:

13 Section 101.1 is hereby amended to read as follows:

14 **101.1 Title.** These regulations shall be known as the *Existing Building*
 15 *Code* of [NAME OF JURISDICTION], the city of Fargo hereinafter
 16 referred to as "this code."

17 **Section 104.2.1.1** is hereby amended to read as follows:

18 **104.2.1.1 Building evaluation.** The *code official* is authorized to require
 19 an *existing building* to be investigated and evaluated at the owner's
 20 expense by a registered design professional based on the circumstances
 21 agreed upon at the preliminary meeting. The design professional shall
 22 notify the *code official* if any potential nonconformance with the
 23 provisions of this code is identified.

Section 104.8 is hereby amended to read as follows:

104.8 Liability. The building official, member of the board of appeals or
 employee charged with the enforcement of this code. While acting for the
 jurisdiction in good faith and without malice in the discharge of the duties
 required by this code or other pertinent law or ordinance, shall not thereby
 be rendered liable personally and is hereby relieved from personal liability
 for any damage accruing to persons or property as a result of any act or by

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1 reason of an act or omission in the discharge of official duties. Any suit
2 instituted against an officer or employee because of an act or omission
3 performed by that officer or employee in the lawful discharge of duties
4 and under the provisions of this code shall be afforded all the immunities
5 and defenses provided by applicable local, state or federal laws and shall
6 be defended by legal representative of the jurisdiction until the final
7 termination of the proceedings. The building official or any subordinate
8 shall not be liable for cost in any action, suit or proceeding that is
9 instituted in pursuance of the provisions of this code.

10 This code shall not be construed to relieve from or lessen the
11 responsibility of any person owning, operating, or controlling any building
12 or structure for any damages to persons or property caused by defects, nor
13 shall the code enforcement agency or the city be held as assuming any
14 such liability by reason of the inspection authorized by this code or any
15 permits or certificates issued under this code.

16 **Section 104.10.1** is deleted in its entirety.

17 **Section 105.2** is hereby amended to read as follows:

18 **Section 105.2--**Work exempt from permit. Exemptions from *permit* requirements
19 of this code shall not be deemed to grant authorization for any work to be done in
20 any manner in violation of the provisions of this code or any other laws or
21 ordinances of this jurisdiction. *Permits* shall not be required for the following:

22 Building:

23 ***

2. Fences not over 6 8.5 feet high.

6. Sidewalks and driveways ~~not more than 30 inches(762 mm) above adjacent~~
~~grade, and not over any basement or story below and are not part of an accessible~~
~~route.~~

11. Swings and other playground equipment accessory to detached one- and two-
family dwellings.

12. Window awnings supported by an exterior wall that ~~do not project more than~~
~~54 inches (1372 mm) from the exterior wall and do not require additional support~~
~~of group R-3 and U occupancies.~~

14. Reroofing.

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Section 2. Penalty.

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

Section 3. Effective Date.

4 This ordinance shall be in full force and effect from and after its passage,
5 approval and publication.
6

7 _____
Dennis R. Walaker, Mayor

8 (SEAL)
9 Attest:

First Reading:
Second Reading:
Final Passage:
Publication:

10 _____
Steven Sprague, City Auditor

PARENTAL PERMISSION FOR DRUG SCREEN and/ or
PRE-PLACEMENT EVALUATION

I, Denise Aberle give permission to the City of Fargo to conduct random drug screens and/or a "one time" pre-placement evaluation if the position is considered "heavy" on my son, Dan, any time from now until the end of his employment with the Fargo Street Department.

Denise Aberle

Signature

4-28-2010

Date

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 30-0106 OF ARTICLE 30-01
OF CHAPTER 30 OF THE FARGO MUNICIPAL CODE
RELATING TO THE INTERNATIONAL MECHANICAL CODE

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 30-0106 of Article 30-01 of Chapter 30 of the Fargo Municipal Code is hereby amended to read as follows:

30-0106. Standards adopted.--The following standards are hereby adopted for all heating, air conditioning and other gas, oil, or coal consuming appliances:

- A. All heating, air conditioning, or other gas, oil, or coal consuming appliances for either domestic or commercial use installed in the city of Fargo shall bear a seal of approval from the American Gas Association, American Standards Association, Underwriters Laboratories, or other nationally recognized testing laboratory.

The International Mechanical Code, sponsored by the International Code Council Conference of Building Officials, 2006~~2009~~ edition, is hereby adopted as the mechanical code for the city of Fargo, with the following amendments:

Section 101.1 Title. These regulations shall be known as the *Mechanical Code* of city of Fargo hereinafter referred to as "this code."

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Sections 103.1, 103.2 and 103.3 are hereby deleted in their entirety.

Section 104.8 is hereby enacted to read as follows:

Section 104.8 Liability. The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act or omission performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be afforded all the immunities and defenses provided by applicable local, state or federal laws. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

Section 106.4.8 is hereby deleted in its entirety.

Section 106.5.2 Fee schedule. The fees for mechanical work shall be as indicated in the following schedule as established by resolution of the board of city commissions of the city of Fargo.

Section 106.5.3 Fee refunds. The code official shall be authorized to order the refunding of fees as follows.

1. The full amount of any fee paid hereunder which was erroneously paid or collected.

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- 2. Not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.
- 3. Not more than eighty percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 201.3 is hereby amended as follows:

Section 201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Fire Code*, *International Fuel Gas Code*, ~~ICC~~ National Electrical Code and North Dakota State Wiring Standards or the International North Dakota State Plumbing Code as adopted by the city of Fargo, such terms shall have meanings ascribed to them as in those codes.

Section 305.4 is hereby amended as follows:

Section 305.4 Interval of support. Piping shall be supported at distances not exceeding the spacing specified in Table 305.4, or in accordance with MSS SP-69.

In addition to the requirements of Table 305.4, piping and tubing shall be supported within 2 feet (610 mm) of every bend or angle.

Section 307.2.2 is hereby amended to read as follows:

Section 307.2.2 Drain pipe materials and sizes. Components of the condensate disposal system shall be cast iron, galvanized steel, copper, cross-linked polyethylene, polybutylene, polyethylene, ABS, CPVC or PVC pipe or tubing. All components shall be selected for the pressure and temperature rating of the installation. Joints and connections shall be made in accordance with the applicable provisions of ~~Chapter 7 of the International~~ the North Dakota State Plumbing Code relative to the material type. Condensate waste and drain line size shall be not less than

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1 3/4-inch (19 mm) internal diameter and shall not decrease in size from the
2 drain pan connection to the place of condensate disposal. Where the drain
3 pipes from more than one unit are manifolded together for condensate
4 drainage, the pipe or tubing shall be sized in accordance with Table
5 307.2.2.

6 **Section 508.2** is hereby amended as follows:

7 **Section 508.2 Compensating hoods.** Manufacturers of compensating
8 hoods shall provide a label indicating minimum exhaust flow and/or
9 maximum makeup airflow that provides capture and containment of the
10 exhaust effluent. Short circuit compensating hoods are prohibited.

11 **Section 508.2.1** is hereby enacted to read as follows:

12 **Section 508.2.1 Compensating Hood Make-up Air.** Compensating
13 hoods shall extract at least 40% of the required exhaust air flow from the
14 kitchen area.

15 **Section 701.2** is hereby enacted as follows:

16 **Section 701.2 Attic space.** Attic space shall not be used for combustion
17 air

18 **Section 1104.2** is hereby amended to enact the following new third exception:

19 3. If an existing refrigerating system is replaced or if an existing
20 refrigeration plant is increased by not more than 50% of its original
21 capacity, but not more than 100 tons per system using a non-flammable
22 class A1 or B1 refrigerant and the refrigeration machinery room was not
23 provided in the original installation prior to 1994, a refrigeration
machinery room shall not be required. If the existing refrigeration is not
located in general machinery room separated from occupied spaces, a
refrigeration machinery room shall be provided. The space containing the
refrigeration machinery shall meet the requirement of Section 1104.3.4,
protection room refrigerant decomposition, and Section 1105.3 requiring
refrigerant detection. If the requirements of 1104.3.4 and 1105.3 cannot be
met, a refrigeration machinery room shall be provided.

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Section 2. Penalty.

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

Section 3. Effective Date.

4
5 This ordinance shall be in full force and effect from and after its passage,
6 approval and publication.

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9 _____
Dennis R. Walaker, Mayor

10 (SEAL)

11 Attest:

12 _____
13 Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 30.1-01 OF CHAPTER 30.1
OF THE FARGO MUNICIPAL CODE
RELATING TO THE INTERNATIONAL FUEL GAS CODE

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

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

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

Chapter 30.1 of the Fargo Municipal Code is hereby amended as follows:

CHAPTER 30.1

INTERNATIONAL FUEL GAS CODE

Article

30.1-01 International Fuel Gas Code—Adoption—Amendments, §§ 30.1-0101 to 30.1-0102

ARTICLE 30.1-01

INTERNATIONAL FUEL GAS CODE – ADOPTION

Section

30.1-0101 Adoption of International Fuel Gas Code by Reference
30.1-0102 Amendment to International Fuel Gas Code

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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1 30.1-0101. Adoption of International Fuel Gas Code by Reference.—There is hereby
2 adopted by reference by the Board of City Commissioners, for the purpose of prescribing
3 regulations governing standards, relative to housing in the City of Fargo, that certain code known
4 as the International Fuel Gas Code ~~recommended and compiled~~ sponsored by the ~~International
5 Conference of Building Officials~~ International Code Council, being particularly the ~~2006~~ 2009
6 Edition thereof, a copy of which is on file in the office of the City Auditor, and the same is
7 hereby adopted and incorporated as fully as if set out in length herein, and from the date on
8 which this ordinance shall take effect, the provisions thereof shall be controlling within the limits
9 of the city, and within the extra-territorial jurisdiction of the city.

10 30.1-0102. Amendment to International Fuel Gas Code.—The International Fuel Gas
11 Code as adopted in Section 30.1-0101 is hereby changed and amended as follows:

12 **Sections 103.2 and 103.3** Are here by deleted in their entirety:

13 **Section 103.4** is amended to read as follows:

14 **Section 103.4 Liability.** The code official, member of the board of appeals or
15 employee charged with the enforcement of this code, while acting for the
16 jurisdiction in good faith and without malice in the discharge of the duties
17 required by this code or other pertinent law or ordinance, shall not thereby be
18 rendered liable personally, and is hereby relieved from all personal liability for
19 any damage accruing to persons or property as a result of an act or by reason of an
20 act or omission in the discharge of official duties.

21 Any suit instituted against any officer or employee because of an act performed
22 by that officer or employee in the lawful discharge of duties and under the
23 provisions of this code shall be defended by the legal representative of the
jurisdiction until the final termination of the proceedings. The code official or any
subordinate shall not be liable for costs in an action, suit or proceeding that is
instituted in pursuance of the provisions of this code.

This code shall not be construed to relieve from or lessen the responsibility of any
person owning, operating, or controlling any building or structure for any
damages to persons or property caused by defects, nor shall the code enforcement
agency or the city be held as assuming any such liability by reason of the
inspection authorized by this code or any permits or certificates issued under this
code.

Section 106.5.8 Is hereby deleted in its entirety:

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1 **Section 106.6.2 Fee schedule.** The fees for mechanical work shall be as indicated in the
2 following schedule established by resolution of the Fargo board of city commissioners.

3 **Section 106.6.3** is hereby amended as follows:

4 **Section 106.6.3 Fee refunds.** The code official shall ~~is~~ is authorized to order the
5 refunding of fees as follows.

- 6 1. The full amount of any fee paid hereunder which was erroneously paid or
7 collected.
- 8 2. Not more than eighty percent (80%) of the permit fee paid when no work
9 has been done under a permit issued in accordance with this code.
- 10 3. Not more than eighty percent (80%) of the plan review fee paid when an
11 application for a permit for which a plan review fee has been paid is withdrawn or
12 canceled before any plan review effort has been expended.

13 The code official shall not authorize the refunding of any fee paid, except upon
14 written application filed by the original permittee not later than 180 days after the
15 date of fee payment.

16 **Section 303.3** Is hereby amended to read as follows:

17 **Section 303.3 Prohibited locations.** Appliances shall not be located in sleeping
18 rooms, bathrooms, toilet rooms, storage closets or surgical rooms, or in a space
19 that opens only into such rooms or spaces, except where the installation complies
20 with one of the following:

- 21 1. The *appliance* is a direct-vent *appliance* installed in accordance with the
22 conditions of the listing and the manufacturer's instructions.
- 23 2. Vented room heaters, wall furnaces, vented decorative appliances, vented gas
fireplaces, vented gas fireplace heaters and decorative appliances for installation
in vented solid fuel-burning fireplaces are installed in rooms that meet the
required volume criteria of Section 304.5
- ~~3. A single wall-mounted unvented room heater is installed in a bathroom and such
unvented room heater is equipped as specified in Section 621.6 and has an input
rating not greater than 6,000 Btu/h (1.76 kW). The bathroom shall meet the
required volume criteria of Section 304.5.~~

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4. ~~A single wall mounted unvented room heater is installed in a bedroom and such unvented room heater is equipped as specified in Section 621.6 and has an input rating not greater than 10,000 Btu/h (2.93 kW). The bedroom shall meet the required volume criteria of Section 304.5.~~

5.3. The *appliance* is installed in a room or space that opens only into a bedroom or bathroom, and such room or space is used for no other purpose and is provided with a solid weather-stripped door equipped with an *approved* self-closing device. All *combustion air* shall be taken directly from the outdoors in accordance with Section 304.6.

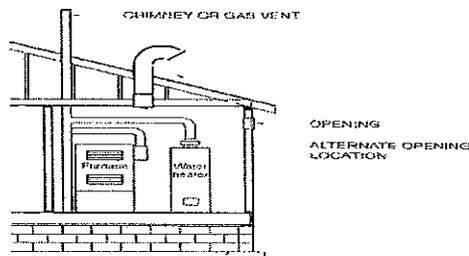
Section 304.6.1 is hereby amended to read as follows:

304.6.1 Two-permanent-openings method. Two permanent openings, one commencing within 12 inches (305 mm) of the top and one commencing within 12 inches (305 mm) of the bottom of the enclosure, shall be provided. The openings shall communicate directly, or by ducts, with the outdoors or spaces that freely communicate with the outdoors. Where directly communicating with the outdoors, or where communicating with the outdoors through vertical ducts, each opening shall have a minimum free area of 1 square inch per 4,000 Btu/h (550 mm²/kW) of total input rating of all appliances in the enclosure. ~~[see Figures 304.6.1(1) and 304.6.1(2)]~~. Where communicating with the outdoors through horizontal ducts, each opening shall have a minimum free area of not less than 1 square inch per 2,000 Btu/h (1,100 mm²/kW) of total input rating of all appliances in the enclosure [see Figure 304.6.1(3)].

Figure 304.6.1 (1) is hereby deleted in its entirety:

Figure 304.6.1 (2) is hereby deleted in its entirety:

Figure 304.6.2 is hereby amended as shown below:



Section 304.6.2 is hereby amended to read as follows:

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1 **Section 304.6.2 One-permanent-opening method.** One permanent opening,
2 commencing within 12 inches (305 mm) of the top of the enclosure, shall be
3 provided. The *appliance* shall have clearances of at least 1 inch (25 mm) from the
4 sides and back and 6 inches (152 mm) from the front of the *appliance*. The
5 opening shall directly communicate with the outdoors or through a vertical or
6 horizontal duct to the outdoors, ~~or spaces that freely communicate with the~~
7 outdoors (see Figure 304.6.2) and shall have a minimum free area of 1 square inch
8 per 3,000 Btu/h (734mm2/kW) of the total input rating of all appliances located in
9 the enclosure and not less than the sum of the areas of all vent connectors in the
10 space.

7 **Section 304.11 (5)** is hereby amended as follows

- 8 5. Ducts shall not be screened where ~~terminating~~ terminate in an attic
9 space.

10 **Section 403.3** is hereby amended as follows:

11 **Section 403.3 Other materials.** Material not covered by the standards
12 specifications listed herein shall be investigated and tested to determine that it is
13 safe and suitable for the proposed service, and, in addition, shall be recommended
14 for that service by the manufacturer and shall be *approved* by the code official.
15 Listed LPG hose may be used with natural gas when used for temporary heating
16 at a maximum length of 50 feet

15 **Section 403.10.1.1** is hereby amended to read as follows:

16 **Section 403.10.1.1** Gas supply systems with pressures 5 psig or greater and gas
17 pipe joints 2 ½ inches or larger, regardless of pressure, shall be welded.

18 **Section 403.10.4** is hereby amended to read as follows:

- 19 1. Threaded fittings in sizes ~~larger than 4 inches (102 mm)~~ 2 ½ inches or larger shall
20 not be used except where *approved*.

21 **Section 406.4** is hereby amended to read as follows:

22 **Section 406.4 Test pressure measurement.** Test pressure shall be measured with
23 a manometer or with a pressure-measuring device designed and calibrated to read,

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1 record or indicate a pressure loss caused by leakage during the pressure test
2 period. The source of pressure shall be isolated before the pressure tests are
3 made. ~~Mechanical gauges used to measure test pressures shall have a range such
4 that the highest end of the scale is not greater than five times the test pressure.~~
5 Dial gauges used to measure test pressures shall be performed with gauges of 2
6 psi increment or less and have a range not exceeding 100 psi unless otherwise
7 approved.

8 **Section 406.4.1** is hereby amended to read as follows:

9 **Section 406.4.1 Test pressure.** The test pressure to be used shall be no less than
10 1 1/2 times the proposed maximum working pressure, but not less than ~~3 psig (20~~
11 ~~kPa gauge), 25 psig~~ irrespective of design pressure. Where the test pressure
12 exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that
13 produces a hoop stress in the piping greater than 50 percent of the specified
14 minimum yield strength of the pipe.

15 **Section 408.2** is hereby amended to read as follows:

16 **Section 408.2 Drips.** Where wet gas exists, a drip shall be provided at any point
17 in the line of pipe where condensate could collect. ~~A drip shall also be provided at
18 the outlet of the meter and shall be installed so as to constitute a trap wherein an
19 accumulation of condensate will shut off the flow of gas before the condensate
20 will run back into the meter.~~

21 **Section 411.2** is hereby amended to read as follows:

22 **Section 411.2 Manufactured home connections.** Manufactured homes shall be
23 connected to the distribution *piping* system by one of the following materials:

1. ~~Metallie pipe in accordance with Section 403.4.~~
2. ~~Metallie tubing in accordance with Section 403.5.~~
3. *Listed and labeled* connectors in compliance with ANSI Z21.75/CSA 6.27 and installed in accordance with the manufacturer's installation instructions.

Section 415.1 is hereby amended to add the following:

Section 415.1 Interval of support. *Piping* shall be supported at intervals not exceeding the spacing specified in Table 415.1. Spacing of supports for CSST shall be in accordance with the CSST manufacturer's instructions.

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1 In addition to the requirements of Table 415.1, piping and tubing shall be
2 supported within 2 feet of every bend or angle.

3 **Section 501.8** is hereby amended by deleting item 8 and renumbering as follows:

- 4 ~~8.~~ ~~Room heaters listed for unvented use.~~
5 ~~9.~~ 8. Direct-fired makeup air heaters.
6 ~~10.~~ ~~9.~~ Other appliances *listed* for unvented use and not provided with flue collars.
7 ~~11.~~ 10. Specialized appliances of limited input such as laboratory burners and gas lights.

8 **Section 501.12** is hereby amended to read as follows:

9 **Section 501.12 Residential and low-heat appliances flue lining systems.**

10 Flue lining systems for use with residential-type and low-heat appliances shall be
11 limited to the following:

- 12 1. Clay flue lining complying with the requirements of ASTM C 315 or equivalent
13 when each appliance connected into the masonry chimney has a minimum input
14 rating greater than 400,000 Btu/h. Clay flue lining shall be installed in accordance
15 with the *International Building Code*.
16 2. *Listed* chimney lining systems complying with UL1777.
17 3. Other *approved* materials that will resist, without cracking, softening or corrosion,
18 flue gases and condensate at temperatures up to 1,800°F (982°C)
19 a. Aluminum (1100 or 3003 alloy or equivalent) not less than 0.032 inches
20 thick to 8 inches diameter.
21 b. Stainless steel (304 or 430 alloy or equivalent) not less than 26 gauge
22 (0.018 inches thick) to 8 inches diameter or not less than 24 gauge (0.024 inches
23 thick) 8 inches diameter and larger.

When a metal liner is used other than a listed chimney liner a condensation drip
tee shall be installed and supported in an approved manner.

Section 503.5.3 is hereby amended to read as follows:

503.5.3 Masonry chimneys. Masonry chimneys shall be built and installed in
accordance with NFPA 211 and shall be lined with ~~approved clay flue lining, a~~
~~listed chimney lining system or other approved material that will resist corrosion,~~
erosion, softening or cracking from vent gases at temperatures up to 1,800°F
(982°C). as per sec. 501.12.

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Section 503.5.6.1 is hereby amended to read as follows:

Section 503.5.6.1 Chimney lining. Chimneys shall be lined in accordance with NFPA 211 and Section 501.12.

Exception: Where an existing chimney complies with Sections 503.5.6 through 503.5.6.3 and its sizing is in accordance with Section 503.5.5, its continued use shall be allowed ~~where the *appliance* vented by such chimney is replaced by an *appliance* of similar type, input rating and efficiency. when in more than one appliance venting system the secondary appliance, such as a water heater, is replaced and the primary heating appliance remains.~~

Section 621 is hereby deleted in its entirety.

Section 2. Penalty.

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

Section 3. Effective Date.

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

Dennis R. Walaker, Mayor

(S E A L)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

27

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 31-01 OF CHAPTER 31
OF THE FARGO MUNICIPAL CODE RELATING TO
THE INTERNATIONAL PROPERTY MAINTENANCE CODE

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

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

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such 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 31-01 of Chapter 31 of the Fargo Municipal Code is hereby amended to read as follows:

ARTICLE 31-01

ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE

| | |
|---------|--|
| Section | |
| 31-0101 | Adoption of International Property Maintenance Code by Reference |
| 31-0102 | Amendment to International Property Maintenance Code |

31-0101. Adoption of International Property Maintenance Code by Reference.--There is hereby adopted by reference by the board of city commissioners, for the purpose of prescribing regulations governing standards, relative to housing in the city of Fargo, that certain code known as the International Property Maintenance Code recommended and compiled by the International Code Council Conference of Building Officials, being particularly the 2006~~2009~~ edition thereof, a copy of which

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 is on file in the office of the city auditor, and the same is hereby adopted and
2 incorporated as fully as if set out in length herein, and from the date on which this
3 ordinance shall take effect, the provisions thereof shall be controlling within the
4 limits of the city, and within the extra-territorial jurisdiction of the city.

5 31.0102. Amendment to International Property Maintenance Code.--The
6 International Property Maintenance Code as adopted in §31-0101 is hereby changed
7 and amended as follows:

8 **Section 101.1** is hereby amended to read as follows:

9 **101.1 Title.** These regulations shall be known as the Property Maintenance
10 Code of ~~[NAME OF JURISDICTION]~~ the City of Fargo, hereinafter referred
11 to as "this code".

12 **Section 102.3** is hereby amended to read as follows:

13 **102.3 Application of other codes.** Repairs, additions or alterations to a
14 structure, or changes of occupancy, shall be done in accordance with the
15 procedures and provisions of ~~the International Building Code, International
16 Fuel Gas Code, International Mechanical Code and NFPA-70~~ all applicable
17 ordinances adopted by the City of Fargo. ~~Nothing in this code shall be
18 construed to cancel, modify or set aside any provision of the International
19 Zoning Code.~~

20 **Section 103.5** is hereby amended to read as follows:

21 **103.5 Fees.** The fees for activities and services performed by the department in
22 carrying out its responsibilities under this code shall be as indicated in the following
23 schedule:

- 24 A. Initial Inspection. - No charge
- 25 B. First Re-inspection. - No charge
- 26 C. Second Re-inspection. - As to the second re-inspection, a fee of \$100
- 27 D. Third Re-inspection. - As to the third re-inspection, a fee of \$100
- 28 E. Fourth and continuing Re-Inspections. - As to the fourth and any
29 subsequent re-inspection, a fee of \$100

30 **Section 111.2** first sentence is hereby amended to read as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

111.2 Membership of board. The board of appeals shall consist of a ~~minimum of three~~ five members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction.

Section 111.2.1 first sentence is hereby amended to read as follows:

111.2.1 Alternate members. The ~~chief appointing authority~~ Board of City Commissioners shall appoint ~~two~~ one or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member.

Section 111.6 is hereby amended to read as follows:

111.6 Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a ~~majority of the total~~ four appointed board members.

Section 112.4 is hereby amended to read as follows:

112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable ~~to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars~~ subject to penalties prescribed by law.

Section 201.3 is hereby amended to add the following:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International Building Code, International Fire Code, International Zoning Code, International Plumbing Code, International Mechanical Code or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

Throughout this code, wherever reference is made to the International Plumbing Code, it shall be taken to mean the North Dakota State Plumbing Code. Throughout this code, wherever reference is made to the ICC Electrical Code, it shall be taken to

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

mean the National Electrical Code together with the North Dakota State Wiring Standards.

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Section 302.4 is hereby amended to read as follows:

302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth ~~in excess of (jurisdiction to insert height in inches) as determined by the Fargo health department.~~ All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

Section 304.14 is hereby amended to insert the dates April 1st and October 31st.

Section 602.2 exception is hereby deleted.

Section 602.3 is hereby amended to read as follows:

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat ~~during the period from (date) to (date)~~ to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. ~~The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.~~

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

~~2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.~~

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2 **Section 603.2** is hereby amended to read as follows:

3 **603.2 Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

4 ~~**Exception:** Fuel-burning equipment and appliances which are *labeled* for unvented operation.~~

5
6 **Section 704.4** is hereby amended to as follows:

7 **704.4 Interconnection.** Where more than one smoke alarm is required to be installed by this code within an individual *dwelling unit* in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected and installed in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all *bedrooms* over background noise levels with all intervening doors closed as required by the International Residential Code and International Building Code.

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11 **Exceptions:**

- 12 1. Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.
- 13 2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

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17 Section 2. Penalty.

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 3. Effective Date.

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

Dennis R. Walaker, Mayor

(SEAL)

Attest:

First Reading:
Second Reading:
Final Passage:
Publication:

Steven Sprague, City Auditor

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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

MEMORANDUM



DATE: May 27, 2010
TO: City Commission
FROM: Dan Mahli, Senior Planner, Community Development
RE: Neighborhood Stabilization Program

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, Division of Community Service (DCS) from the US Department of Housing and Urban Development (HUD). The Federal funding identified in the City's NSP plan is to be used 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.

The NSP grant award requires the Federal funding to be obligated to specific projects by June 1, 2010, and allows 3 years to complete the projects. A list of approved projects is attached. In addition, the Community Development Committee is recommending approval of the following NSP eligible housing projects. Approval of these projects will fulfill the City's \$5.01M obligation requirement for the NSP grant.

- Provide \$875K to assist in the construction of 79 affordable housing units for low income seniors in the Crossroads development (\$800K provided for acquisition in 2009; estimated development cost = \$10M)
- Assist with paying off \$412K of the \$570K gap financing loan for an affordable senior housing project in Urban Plains (estimated development cost = \$13.9M)
- Partner with the Fargo Public Schools to have the construction technology class from Fargo North High School construct a residential property at 1209 4 Ave N (estimated construction cost = \$130K)

All costs associated with these housing projects will be applied to the Federal Neighborhood Stabilization Program grant, and once complete, the housing units will be made available to qualified households under the Neighborhood Stabilization Program guidelines. The Planning Department will monitor and fulfill the NSP grant reporting requirements.

Recommended Action: Approve Neighborhood Stabilization Program grant agreements for the redevelopment of 1670 East Gateway Circle South, 4955 28th Avenue South and 1209 4th Avenue North and receive and file the attached Neighborhood Stabilization Program summary.



Neighborhood Stabilization Program (NSP) Summary

| Address | Project number | Status | NSP subsidy | City Commission approval | Purchase under contract | Rehab/Demo under contract |
|----------------------------|----------------|---|-------------|--------------------------|-------------------------|---------------------------|
| 123 16 St S | NS0001 | Demo scheduled May 2010/working with Beyond Shelter Inc (BSI) | \$725,000 | 2/8/2010 | X | X |
| 1106 1 Ave S | NS0003 | Townhouse construction complete, transfer to Habitat for Humanity | \$75,000 | 7/13/2009 | X | X |
| 1108 1 Ave S | NS0004 | Townhouse construction complete, transfer to Habitat for Humanity | \$75,000 | 7/13/2009 | X | X |
| 1110 1 Ave S | NS0005 | Townhouse construction complete, transfer to Habitat for Humanity | \$75,000 | 7/13/2009 | X | X |
| 1112 1 Ave S | NS0006 | Townhouse construction complete, transfer to Habitat for Humanity | \$75,000 | 7/13/2009 | X | X |
| 222 21 Ave N | NS0007 | Rehab underway | \$186,247 | 8/10/2009 | X | X |
| 1670 East Gateway | NS0008 | Working with Beyond Shelter, construction to start summer 2010 | \$800,000 | 7/13/2009 | X | X |
| 113 16 St S | NS0009 | Demo scheduled May 2010/working with Beyond Shelter | \$57,965 | 10/19/2009 | X | X |
| 2910 10 St N | NS0010 | Rehab underway | \$171,946 | 10/19/2009 | X | X |
| 1517 1 Ave S | NS0011 | Demo complete | \$70,573 | 9/21/2009 | X | X |
| 1205 2 Ave S | NS0012 | Demo RFP published/working with Habitat for Humanity | \$75,119 | 12/21/2009 | X | X |
| 1362 16 Ave S | NS0014 | Rehab scope of work underway | \$149,900 | 2/16/2010 | X | X |
| 1806 5 St N | NS0015 | Rehab scope of work underway | \$169,000 | 2/16/2010 | X | X |
| 1430 10 St S | NS0016 | Demo RFP published/working with Fargo Public Schools | \$182,000 | 3/29/2010 | X | X |
| 1409 10 St S | NS0017 | Demo RFP published/working with Fargo Public Schools | \$180,000 | 5/3/2010 | X | X |
| 810 25 St N | NS0018 | Demo RFP published/working with Fargo Public Schools | \$182,850 | 3/29/2010 | X | X |
| 1209 4 Ave N | NS0020 | Demo RFP published/working with Fargo Public Schools | \$184,000 | 5/3/2010 | closing 5/28 | pending CC |
| 1534 1 Ave S | NS0021 | Demo RFP published/working with Habitat for Humanity | \$50,000 | 5/3/2010 | closing 5/28 | X |
| Urban Plains (acquisition) | NS0013 | New construction on vacant property by BSI (\$1.3M project) | \$412,000 | pending CC | NA | pending CC |
| Crossroads (construction) | NS0008 | New construction on vacant property by BSI (\$1.0M project) | \$875,000 | pending CC | NA | pending CC |
| NSP administration | NS01 | | \$238,580 | 7/13/2009 | | |

Total committed \$5,010,180
Total NSP grant \$5,010,180
Total uncommitted \$0

25% cap requirement: 45%



Finance Office

P.O. Box 2083
200 3rd Street North
Fargo, North Dakota 58107-2083
Phone: 701-241-1333
Fax: 701-241-1526

A handwritten signature consisting of a lowercase letter 'e' enclosed within a hand-drawn circle.

MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Mail Delivery Contract with City Wide Express

DATE: May 24, 2010

The City of Fargo has had a mail delivery agreement with Dunbar Armored since October 2001. Due to the increase in the amount of the bill, the Auditor's office sought a quote for mail delivery service from another local firm and received a quote at a substantial savings.

Please approve the agreement with City Wide Express for mail delivery service for \$200 per month starting July 1, 2010.

Recommended Motion:

Approve the agreement from City Wide Express for mail delivery service for \$200 per month beginning July 1, 2010.

CITY WIDE EXPRESS INC.

P.O. Box 329

FARGO, N.D. 58107-0329

Phone (701) 277-1614

Fax (701) 281-1626

E-Mail cwexpressinc@msn.com

City of Fargo Utility Dept.
Attn: Steve Spraug

As per our conversation concerning mail delivery from the Fargo
Post Office.

Pickup mail from the following Boxes #1607 / 2083 & 1066.
Deliver mail to the Water Dept. area on second floor between 7:45 &
8:15 AM daily.

The monthly rate will be \$ 200.00 per month.

Thank You for the opportunity to be of service to the City of Fargo



Paul Dukart

May 24, 2010

Dunbar Armored
Attn: Brian Zitzmann
732 40th Street NW
Fargo, ND 58103

Dear Brian:

Beginning July 1, 2010, the City of Fargo will no longer require Dunbar's services to pick up and drop off our mail in the mornings. This would be for all three City of Fargo post office boxes, #1607, #2083 and #1066. We are able to save a substantial amount of money by having another firm provide these services.

Please return the post office box keys when you deliver the mail on June 30th.

It is the expectation of the City of Fargo that Dunbar Armored will continue to pick up our bank deposits and bring them to the bank of our choice.

Feel free to give me a call if you have any questions, 701-241-1301.

Sincerely,



Steven Sprague
City Auditor



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



MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: PLANNING DIRECTOR JIM GILMOUR 

DATE: MAY 27, 2010

SUBJECT: TILE REPLACEMENT CONTRACT – METRO TRANSIT GARAGE

The decorative tile installed on the exterior of the Metro Transit Garage has been breaking, and needs to be replaced. Last year, the City received money as a settlement for the original work done by Roers Construction.

I have worked with the City Attorney to identify a contractor to remove and replace the exterior tile. We were only able to obtain one proposal for this replacement work, McArthur Tile Company.

Because of the difficult time obtaining proposals for this work, I am recommending a sole source contract with McArthur Tile Company. The Finance Committee has reviewed this request for a sole source contract, and recommends approval.

RECOMMENDED MOTION: Approve a \$29,500 contract with McArthur Tile Company to remove and replace the exterior tile on the Metro Transit Garage.





GAMING SITE AUTHORIZATION
OFFICE OF ATTORNEY GENERAL
SFN 17996 (10-2009)

G - _____ (_____) 91
Site License Number
(Attorney General Use Only)

The Arc Lepper Valley Inc
(Full, Legal Name of Gaming Organization)

is hereby authorized to conduct games of

chance under the license granted by the Attorney General of the State of North Dakota at the following location: JT Cigarros the address of which is:

4554 7th AVE S. Fargo ND 58103
(Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning 7/1/10 Ending 6/30/11

Specific location where games of chance will be conducted and played at the site (required):
EAST WALL, TOBACCO SHOP, ENTIRE BAR (UPPER LEVEL)

Number of twenty-one tables (required)(if zero, enter "0"): 2

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations _____
2. Hours of gaming _____
3. List each specific game type prohibited Bingo, Raffles, Club Specials, Tip Boards, Seal Boards, Prize Boards, Punch Boards, Sports Pools, Poker, Calcutta, Pull Tab Dispensing Devices

05-17-2010

Attorney General

Date

Signature of City/County Auditor

Date

Steven Sprague, City Auditor

PRINT Name / Official Position of person signing above

INSTRUCTIONS:

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

RETURN ALL DOCUMENTS TO:

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



GAMING SITE AUTHORIZATION
OFFICE OF ATTORNEY GENERAL
SFN 17996 (10-2009)

G - _____ (_____) _____
Site License Number
(Attorney General Use Only)

99

DBA - Fargo Youth Commission
Boys & Girls Club of the Red River Valley

is hereby authorized to conduct games of

(Full, Legal Name of Gaming Organization)

chance under the license granted by the Attorney General of the State of North Dakota
at the following location: Mr. G's the address of which is:

1150 43 1/2 Street South Fargo 58103 Cass
(Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning 7/1/10 Ending 6/30/11

Specific location where games of chance will be conducted and played at the site (required):
Entire lounge area, excluding restrooms and entry ways.

Number of twenty-one tables (required)(if zero, enter "0"): 2

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations _____
2. Hours of gaming _____
3. List each specific game type prohibited Bingo, Club Specials, Tip Boards, Seal Boards, Prize Boards, Punch Boards, Sports Pools, Calcutta, Paddlewheels, Pull Tab Dispensing Devices

Attorney General

Date

Signature of City/County Auditor

06-01-2010
Date

Steven Sprague, City Auditor

PRINT Name / Official Position of person signing above

INSTRUCTIONS:

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Bismarck, ND 58505-0040
Telephone: 701-328-2329 OR 800-326-9240



GAMING SITE AUTHORIZATION
OFFICE OF ATTORNEY GENERAL
SFN 17996 (10-2009)

G - _____ (_____) _____
Site License Number
(Attorney General Use Only)

92

DBA - Fargo Youth Commission
Boys & Girls Club of the Red River Valley

(Full, Legal Name of Gaming Organization)

is hereby authorized to conduct games of

chance under the license granted by the Attorney General of the State of North Dakota
at the following location: Slammers Sports Bar/RR Lanes the address of which is:

707 28th Avenue North Fargo 58102 Cass
(Street) (City) (Zip Code) (County)

Date(s) Authorized: Beginning 7/1/10 Ending 6/30/11

Specific location where games of chance will be conducted and played at the site (required):
Entire lounge area, excluding restrooms and entry ways.

Number of twenty-one tables (required)(if zero, enter "0"): 2

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)

1. Days of week of gaming operations _____
2. Hours of gaming _____
3. List each specific game type prohibited Bingo, Club Specials, Tip Boards, Seal Boards, Prize Boards, Punch Boards, Sports Pools, Calcutta, Paddlewheels, Pull Tab Dispensing Devices

06-01-2010

Attorney General

Date

Signature of City/County Auditor

Date

Steven Sprague, City Auditor

PRINT Name / Official Position of person signing above

INSTRUCTIONS:

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RETURN ALL DOCUMENTS TO:

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



GAMING SITE AUTHORIZATION
OFFICE OF ATTORNEY GENERAL
SFN 17996 (10-2009)

G - _____ (____)____
Site License Number
(Attorney General Use Only)

92

DBA- Fargo Youth Commission
Boys & Girls Club of the Red River Valley

_____ is hereby authorized to conduct games of
(Full, Legal Name of Gaming Organization)
chance under the license granted by the Attorney General of the State of North Dakota
at the following location: Borrowed Bucks Roadhouse the address of which is:
1201 Westrac Drive Fargo 58103 Cass
(Street) (City) (Zip Code) (County)
Date(s) Authorized: Beginning 7/1/10 Ending 6/30/11
Specific location where games of chance will be conducted and played at the site (required): _____
Entire lounge area, excluding restrooms and entry ways.
Number of twenty-one tables (required)(if zero, enter "0"): 4

RESTRICTIONS: (to be completed ONLY if restrictions are set by the local governing body)
1. Days of week of gaming operations _____
2. Hours of gaming _____
3. List each specific game type prohibited Bingo, Club Specials, Tip Boards, Seal Boards,
Prize Boards, Punch Boards, Sports Pools, Calcutta, Paddlewheels, Pull Tab Dispensing
Devices

Attorney General Date Signature of City/County Auditor Date
Steven Sprague, City Auditor
06-01-2010
PRINT Name / Official Position of person signing above

INSTRUCTIONS:

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RETURN ALL DOCUMENTS TO:

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

APPLICATION FOR A LOCAL PERMIT

City of Fargo
Rev. 12-09

05-24-10
CR# 3564
25-00
R

| | | | |
|--|----------------------|--|--|
| Name of Non-profit Organization SW OPTIMIST CLUB OF FARGO | | Date(s) of Activity JUNE 21, 2010 to JUNE 21, 2010 | |
| Person Responsible for the Gaming Operation RYAN S BERG | | Title BOARD MEMBER | Business Phone Number 701 293-5789 |
| Business Address 808 3RD AVE S. STE 420 | City FARGO | State ND | Zip Code 58103 |
| Mailing Address (if different) PO BOX 9124 | City FARGO | State ND | Zip Code 58109 |
| Name of Site Where Game(s) will be Conducted FARGO NORTH HIGH SCHOOL Gym | | Site Address 801 17TH AVE NORTH | |
| City FARGO | State ND | Zip Code 58102 | County CASS |
| 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 |
|-----------|----------------------|-----------------------|-----------|----------------------|-------------------------------------|
| 50/50 | CASH | \$ 150 | | | \$ |
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| Total: | | | | | (Limit \$12,000 per year) \$ 150 |

Intended uses of gaming proceeds: GIVE AWAY TO A CHILDHOOD CANCER ORGANIZATION

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 1-800-328-9240.

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>Stacy Karnet</i> | Date 5-20-2010 | Title President | Day time Phone Number 298-1581 |
|---|--------------------------|---------------------------|--|



Public Health
Prevent. Promote. Protect.
Fargo Cass Public Health

FARGO CASS PUBLIC HEALTH
401 Third Avenue North
Fargo, ND 58102
Phone 701-241-1360
Fax 701-241-8559
www.cityoffargo.com/health

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

**FROM: RUTH BACHMEIER
DIRECTOR OF PUBLIC HEALTH**

DATE: MAY 25, 2010

**RE: JOINT POWERS AGREEMENT AMONG THE LOCAL
PUBLIC HEALTH UNITS OF THE STATE OF NORTH
DAKOTA**

The attached JPA is in regards to the cooperative and joint development and administration of a North Dakota State Association of City County Health Officials (ND SACCHO). Creation of a SACCHO will provide for collective training, policy development, advocacy, planning and coordination of public health services for local public health.

Suggested Motion: Move to approve the SACCHO Joint Powers Agreement

RB/la
Enclosure

**JOINT POWERS AGREEMENT
AMONG THE
LOCAL PUBLIC HEALTH UNITS OF THE STATE OF NORTH DAKOTA**

This Joint Powers Agreement is entered into this 21 day of May, 2010, between and among the respective governing boards of the local public health units of the State of North Dakota signing below, hereinafter collectively referred to as the "Joint Powers Group" or "Group", in order to fulfill the provisions of Chapter 54-40.3 of the North Dakota Century Code relating to a Joint Powers Agreement for the cooperative and joint development and administration of a North Dakota Association of Local Public Health Units, ND State Association of City County Health Officials (ND SACCHO) as set forth below:

1. AGREEMENT PURPOSE. Each local public health unit member of the Group agrees to become a party to this Agreement to establish a ND SACCHO to provide collective training, policy development, advocacy, planning and coordination of public health services. This includes entering into contracts, expending funds and other activities pertaining to the ND SACCHO as deemed appropriate by the Executive Committee. By signing this agreement, each local public health unit member agrees to the terms and conditions identified.
2. JOINT POWERS AUTHORITY. Article VII, Section 10, of the North Dakota Constitution permits two or more local political subdivisions to jointly exercise their common powers. The provisions of Chapter 54-40.3 of the North Dakota Century Code specifically permit and, by their nature, encourage the cooperative and joint administration of government functions.
3. MEMBERSHIP ENTITLEMENT. Membership in this Group shall be open to any North Dakota local public health unit established in accordance with Chapter 23-35 of the North Dakota Century Code.
4. ADDITIONAL MEMBERS. North Dakota local public health units that are not original signatory parties to this Agreement may, from time to time, agree, by appropriate action of their governing board, to become a party to this Agreement and may be added as members of the Joint Powers Group upon their written agreement to be fully bound to the terms of this Agreement, upon the acceptance of application by Executive Committee, and the payment of any reasonable expenses related to their membership in the Group.
5. CONTINUATION OF AGREEMENT. This Agreement will remain in force as to each member of the Group until terminated in writing by each respective signatory unit so terminating. If one or more health unit

member of the Group elects to terminate this Agreement, the Agreement shall continue in effect as to the remaining county members of the Group. This Agreement shall terminate according to the provision of paragraph 10, below.

6. EXECUTIVE COMMITTEE. The initial Executive Committee of this Joint Powers Group as selected and appointed by local public health administrators shall consist of five members of the ND SACCHO planning committee and five ad hoc* (non-voting) members. (*Ad hoc members include Chairperson of the local public health administrators, ND Local Public Health Liaison, ND State Health Officer (or designee), ND SACCHO representative, and ND Association of Counties representative). The Executive Committee however will be reestablished in accordance with the by-laws adopted as required in paragraph 7, below. The Executive Committee has the authority to develop and implement operating policies and procedures necessary to administer this agreement and approve expenditures in accordance with its provisions and any by-laws subsequently adopted.
7. BY-LAWS. The Executive Committee shall develop and propose by-laws to direct and document the Group's specific activities and responsibilities under this Agreement. These by-laws and future amendments to these by-laws must be approved by a majority of the participating local public health units.
8. ADMINISTRATIVE FUNCTION Central Valley Health District is hereby designated the administrative agency of this Agreement. This administrative function may be transferred to another appropriate local public health unit or entity by majority vote of the Executive Committee.
9. GROUP PARTICIPATION FEE. Each participating local health unit member under this Agreement may be assessed a participation fee as delineated by the by-laws. Any adjustments to such fees in accordance with its provisions and any by-laws subsequently adopted.
10. TERM OF AGREEMENT/TERMINATION. This Agreement shall be effective upon approval of 17 local public health unit members and remain in effect until:
 - A. Terminated in writing by 60% or more of the participating local health units members of the Group or any 17 local health unit members of the Group, whichever shall be the lesser;
 - B. Suspended or superseded by a subsequent agreement among a majority of the participating members;

C. Terminated or modified by operation of law;

11. WITHDRAWAL. Any local health unit member may withdraw from this Agreement upon giving 30 days advance written notice to the Executive Committee. The withdrawal of a member shall not effect the continuation of this Agreement as to the remaining members of the Group. A Group member that withdraws shall remain liable on a pro rata basis for all debts, obligations and liabilities, which were incurred on its behalf by the Group during the term of its membership. The withdrawing member shall be entitled to any accrued prorated benefits of the Group only if deemed appropriate by the Executive Committee and in an amount acceptable to the Executive Committee. The Executive Committee, at its sole discretion, may determine the nature and timing of any distribution or return of assets to a withdrawing member. A withdrawing member may be entitled to reimbursement, a return of a payment or a prorated share thereof only to the extent as may be determined by the Executive Committee in its sole discretion. A withdrawing member may be considered for subsequent membership in the Group.

12. AGREEMENT SCOPE. This Agreement, all appendices subsequently adopted and appropriate to this Agreement, and any by-laws approved by a majority of the participating members, shall constitute the entire agreement among the parties. No modifications of the terms of this Agreement shall bind the parties unless in writing. The Executive Committee, however, through the adoption of policies and procedures, may modify or expand upon this Agreement in order to more fully implement and administer its provisions.

13. NOTICES. Any notices given by the parties under this Agreement shall be provided in writing to the Executive Committee and sent by electronic mail, U.S. mail, or delivered by hand, addressed as follows:

ND SACCHO – Executive Committee
C/o Central Valley Health District
PO Box 880
Jamestown, ND 58402-0880
tdillman@nd.gov

14. APPLICABLE LAW. This Agreement shall be construed under the constitution and laws of the State of North Dakota.

15. EXECUTION IN COUNTERPARTS. This Agreement may be executed in multiple counterparts or duplicate originals, each of which constitutes and is considered as one and the same document.

The authorized representative(s) of the local public health unit signing below acknowledges by their signature that the governing board of their local public health unit has formally approved participation in this joint powers agreement.

FARGO CASS PUBLIC HEALTH

Ruth Bahmeier
Name

Director of Public Health
Title

May 6, 2010
Date

Michelle M. Szwarski
Name

Chair, Board of Health
Title

5-21-10
Date

Name

Mayor, City of Fargo
Title

Date



FARGO CASS PUBLIC HEALTH
401 Third Avenue North
Fargo, ND 58102
Phone 701-241-1360
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Public Health
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Fargo Cass Public Health

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: RUTH BACHMEIER
DIRECTOR OF PUBLIC HEALTH

DATE: MAY 25, 2010

RE: MEMORANDUM OF UNDERSTANDING AGREEMENT
WITH CLAY COUNTY PUBLIC HEALTH

The following Memorandum of Understanding with Clay County Public Health is to share resources in the event of a public health emergency.

No budget adjustments are required for this contract. If you have any questions please give me a call.

Suggested Motion: Move to approve the MOU Agreement with Clay County Public Health.

RB/LA
Enclosure

Memorandum of Understanding Agreement

This agreement is a way to formalize a working relationship between local public health units. Signors will work together in a mutually beneficial way when a public health emergency exists, or when there are opportunities to do so.

Fargo Cass Public Health and Clay County Public Health agree to a community partnership agreement for the program year beginning January 1, 2010 and ending December 31, 2014.

Fargo Cass Public Health agrees to do the following to assist Clay County Public Health:

1. Upon request, provide resources to assist in responding to a public health emergency.
2. Upon request, provide resources to assist in recover of a public health emergency.
3. Participate in planning and exercising, for a response to a public health emergency.

Clay County Public Health agrees to do the following to assist Fargo Cass Public Health:

1. Upon request, provide resources to assist in responding to a public health emergency.
2. Upon request, provide resources to assist in recover of a public health emergency.
3. Participate in planning and exercising, for a response to a public health emergency.

Both agencies agree to the following:

1. Modifications to this agreement will be made by mutual agreement in writing.
2. Either party, upon giving thirty (30) days written notice to the other party, may terminate the agreement without cause. If the project is terminated, both parties shall be entitled to compensation for all work performed prior to such termination.
3. Provide compensation for work performed during a public health emergency or for work performed that is outside the scope of previous agreements.

By signing this community partnership agreement, both agencies agree to be active community partners and to abide by its terms.

Fargo Cass Public Health

Ruth Bahmeier 5-25-2010
Administrator Date

Mayor Date

Clay County Public Health

Kathy Motley 5-12-2010
Administrator Date

Ken Campbell 5-12-2010
County Commissioner Date



Public Health
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Fargo Cass Public Health

FARGO CASS PUBLIC HEALTH
401 Third Avenue North
Fargo, ND 58102
Phone 701-241-1360
Fax 701-241-8559
www.cityoffargo.com/health

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: RUTH BACHMEIER
DIRECTOR OF PUBLIC HEALTH

DATE: MAY 25, 2010

RE: CONTRACT WITH NORTH DAKOTA DEPARTMENT OF
HEALTH FOR EPIDEMIOLOGY AND LABORATORY CAPACITY
PROGRAM (WEST NILE VIRUS)
CONTRACT NO. 09-721 CFDA NO. 93.283

The attached contract with the North Dakota Department of Health is for West Nile Virus activities. There is no budget adjustment for this grant award.

Suggested Motion: Move to approve the North Dakota Department of Health contract for the West Nile Virus program.

RB/la
Enclosure

| | | | | | |
|--|----------------------------------|------------------------------|---|---|------|
| Contract No. 09-721 | | CFDA No. 93.283 | | North Dakota Department of Health 600 East Boulevard Ave-Dept. 301 Bismarck, ND 58505-0200 | |
| Contract Period From: May 12, 2010 | | Through: December 1, 2010 | | Type: Notice of Grant Award (SFN53771) RESTRICTED FUNDING (See special conditions) | |
| This contract is not effective and expenditures related to this contract should not be incurred until all parties have signed this document. | | | | | |
| Title of Project/Program: Epidemiology and Laboratory Capacity Program Health Dept. Grant Code: HLH242 | | | | | |
| Contractor Name and Address: Fargo Cass Public Health 401 - 3 rd Avenue North Fargo, ND 58102-4839 Contact Name: Ruth Bachmeier, Administrator Telephone: 701.241.1360 | | | North Dakota Department of Health Program Director: Tracy K. Miller, MPH Division of Disease Control 2635 East Main Avenue PO Box 5520 Bismarck, ND 58506-5520 Telephone: 701.328.2387 | | |
| Financial Information | Dept of Health Cost Share | Contractor Cost Share | Total Project/Program Costs | | |
| Amount of Financial Assistance | \$2,500 | \$0 | \$2,500 | | |
| Previous Funds Awarded | \$0 | \$0 | \$0 | | |
| Total Funds Awarded to Date | \$2,500 | \$0 | \$2,500 | | |
| Scope of Service: Services under and allowable expenditures for this contract may include: 1. Funding for West Nile virus surveillance, vector control and other West Nile virus activities. 2. Funding for temporary employee(s) to perform West Nile virus activities. | | | | | |
| Reporting Requirements: The expenditure report for the period May 12, 2010 through June 30, 2010 must be received by July 15, 2010. Final expenditure report for the period ending December 1, 2010 must be received by January 15, 2011. Reimbursement will be processed upon Department approval of expenditure reports. | | | | | |
| Special Conditions: Funding for this contract is restricted to \$1,000 until such time as the Federal Award is received and processed by the Health Department. During this restriction, contractor expenditures will be limited to scope of service details, any other expenditures will need to be approved by the North Dakota Department of Health Program Director. The Health Department will send notice to the contractor when the restriction has been lifted. | | | | | |
| This contract is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements for Contracts issued by ND Dept. of Health as signed by Contractor for the period July 1, 2009 to June 30, 2011 [Accounting Use Only <input checked="" type="checkbox"/> Requirements Received] (2) applicable Federal and State regulations. | | | | | |
| Evidence of Contractor's Acceptance | | | Evidence of Departmental Acceptance | | |
|  Signature | May 25, 2010 Date | | Signature | | Date |
| Typed Name and Title of Authorized Representative Ruth Bachmeier, Administrator Fargo Cass Public Health | | | Typed Name and Title of Authorized Representative Arvy Smith, Deputy State Health Officer | | |
| Signature | Date | | Signature | | Date |
| Typed Name and Title of Authorized Representative Dennis R. Walaker Mayor, City of Fargo | | | Typed Name and Title of Authorized Representative Kirby Kruger, Chief Medical Services Section | | |
| Health Department Use Only: Restriction Lifted: Date _____ Initials _____ | | | | | |

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



| City of Fargo Staff Report | | | |
|---------------------------------------|---|--|-------------------------------|
| Title: | The Shoppes at Osgood Southwest First Addition | Date: Update: Update: | 4/07/10 5/03/10 5/27/10 |
| Location: | 4627 44th Ave S | Staff Contact: | Nicole Crutchfield |
| Owner(s)/Applicant: | Paces Lodging | Engineer: | |
| Reason for Request: | Minor Subdivision | | |
| Status: | City Commission Public Hearing | | |

| Existing | Proposed |
|---|---|
| Land Use: Vacant | Land Use: Day Care and Office |
| Zoning: GO – General Office | Zoning: GO – General Office |
| Uses Allowed: GO – General Office. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, and commercial parking. | Uses Allowed: GO – General Office. Allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, and commercial parking. |
| Maximum Density Allowed: 65% building coverage | Maximum Density Allowed: 65% building coverage |

| |
|--|
| Area Plans: |
| The subject properties are within the boundaries governed by the Growth Plan for the Urban Fringe and Extraterritorial Area of the City of Fargo. The application meets the intent of the growth plan. |
| Schools and Parks: |
| This property is within the West Fargo School District. The parks and open space have been included with the overall master plan of the Osgood Development and the original plat. These aspects are not modifying with this application. |
| Staff Analysis: |
| This application is located at 4627 44 Ave South. The purpose of the application is a minor subdivision, a replat of all of Lot 4, Block 1, Osgood Townsite First Addition. The applicant is Paces Lodging. The boundary of the plat includes 2.56 acres, 2 lots, and one block. |
| The property is being subdivided for the purpose of accommodating new construction for a day care. Attached is information about details of the daycare business, general site plan layout and building elevations which the applicant chose to include in the city's notice to the public. Staff has no concerns about the proposed land use for Lot 1 and believes the schematic meets the intent of the Land Development Code and existing zoning. |
| The property is located at the northeast corner of 44 th Avenue South and 47 th Avenue South. The property was originally platted in 2003. Property abutting the north and south property lines were originally part of this original plat, but were replatted in 2003 abutting the north property line and 2006 abutting the east property line. The abutting land uses on the north property line are drainage facilities and apartment housing, abutting the east property line is retail, across 47 th Street the abutting land uses are twin homes, and the abutting uses across 47 th Avenue are apartments. |
| Since this is a two lot subdivision, the review of this application was fairly straight forward. Staff did have commentary on standardized formatting, signature lines, negative access easements, and documentation that is required by our process and the County Courthouse. Staff also asked for clarification regarding the abutting detention and storm water facility on the north property and the abutting access easement located on the retail property adjacent to the east property line. Staff has confirmed that these items are addressed. |

The LDC stipulates that the following criteria is met before a minor plat can be approved:

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The proposed replat is consistent with the Area Plan as identified within the *Growth Plan for the Urban Fringe and Extraterritorial Area of the City of Fargo*. The plan supports the proposed land use and the zoning classification is not changing. Article 20-06 specifically addresses subdivision design and improvements. The article also appears to be a blanket provision to ensure that local, state and other governmental regulations are being adhered to and met prior to the approval of development. No deficiencies are noted in terms of availability of services, utilities, or access, staff therefore finds that the proposal is in compliance the standards of Article 20-06. Staff further finds that the proposal complies with the adopted Area Plans, with the applicable zoning districts standards and all other applicable requirement of the Land Development Code. **(Criteria Satisfied)**

2. **Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals. **(Criteria Satisfied)**

Based on a thorough review of the application, staff believes all the aspects of the Land Development code have been met and recommends approval.

Planning Commission:

On May 12th, in an unanimous decision, the Planning Commission accepted the findings and recommendations of staff and recommended approval to the City Commission of the proposed The Shoppes at Osgood Southwest First Addition as the proposal complies with the adopted Area Plan, the standards of Article 20-06, Section 20-0907.B (1-4) and all other applicable requirements of the Land Development Code."

Staff Recommendation:

Suggested Motion: To accept the Planning Commission recommendation and the findings of staff and move to approve the proposed The Shoppes at Osgood Southwest First Addition as the proposal complies with the adopted Area Plan, the standards of Article 20-06, Section 20-0907.B (1-4) and all other applicable requirements of the Land Development Code."

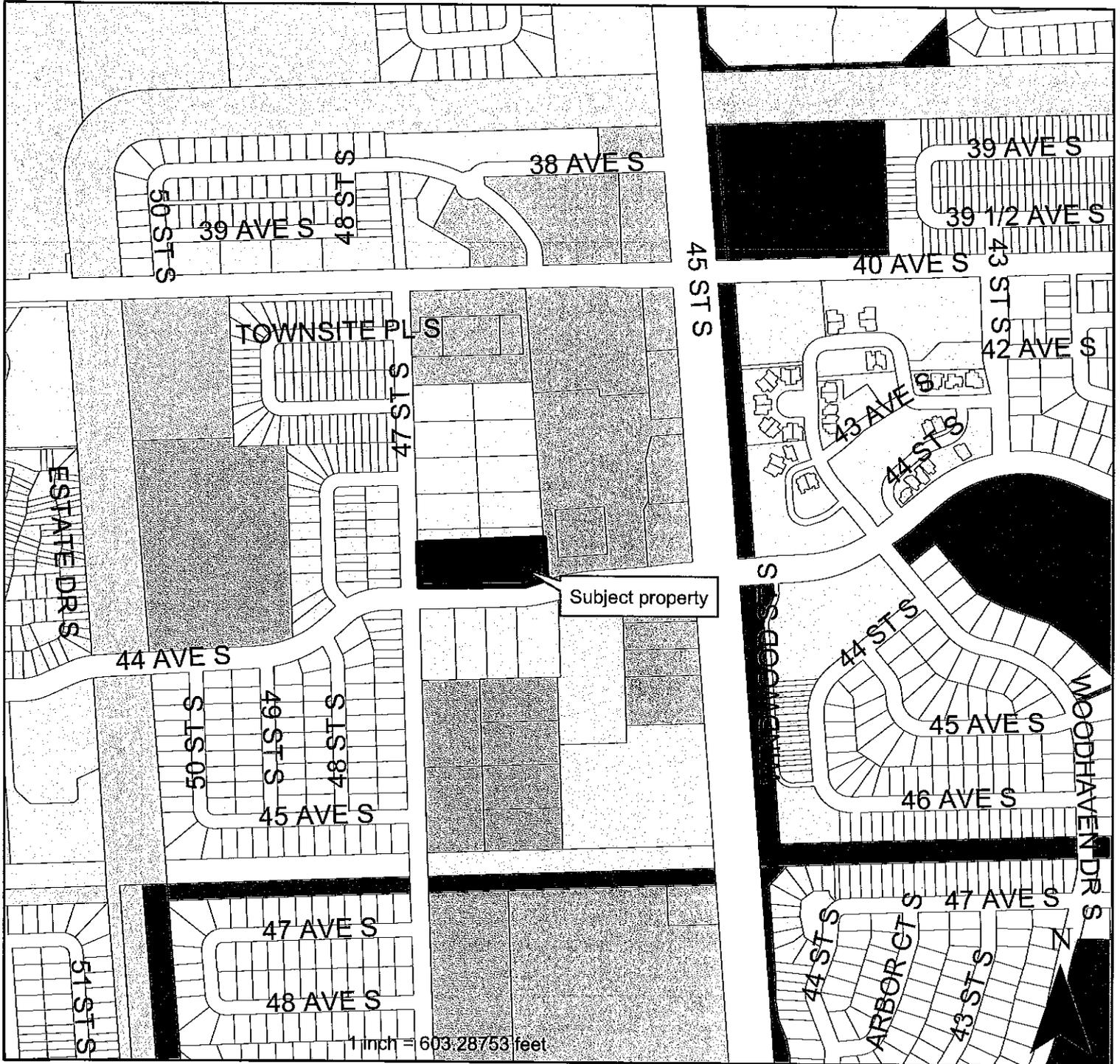
City Commission Decision:

June 1, 2010

Plat (Minor Subdivision)

Shoppes at Osgood Southwest First Addition

4601 44th Ave S



Legend

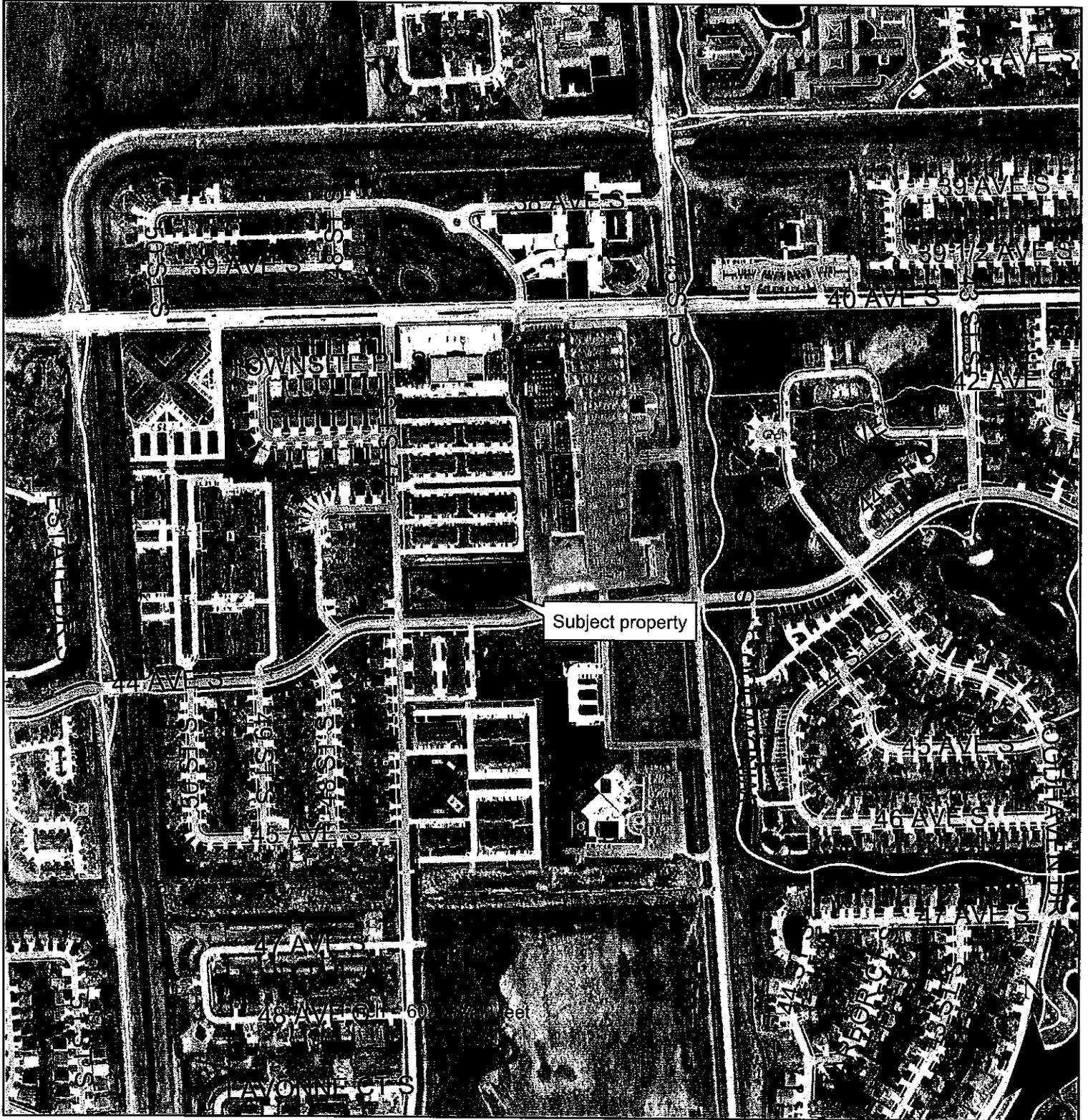
| | | | | | | | |
|--|-----|--|------|--|-------------------|--|------|
| | AG | | MR-2 | | LI | | SR-3 |
| | DMU | | MR-3 | | MHP | | SR-4 |
| | GC | | NC | | MR-1 | | SR-5 |
| | GI | | NO | | City Limits | | |
| | GO | | P/I | | Proposed Property | | |
| | LC | | SR-2 | | | | |



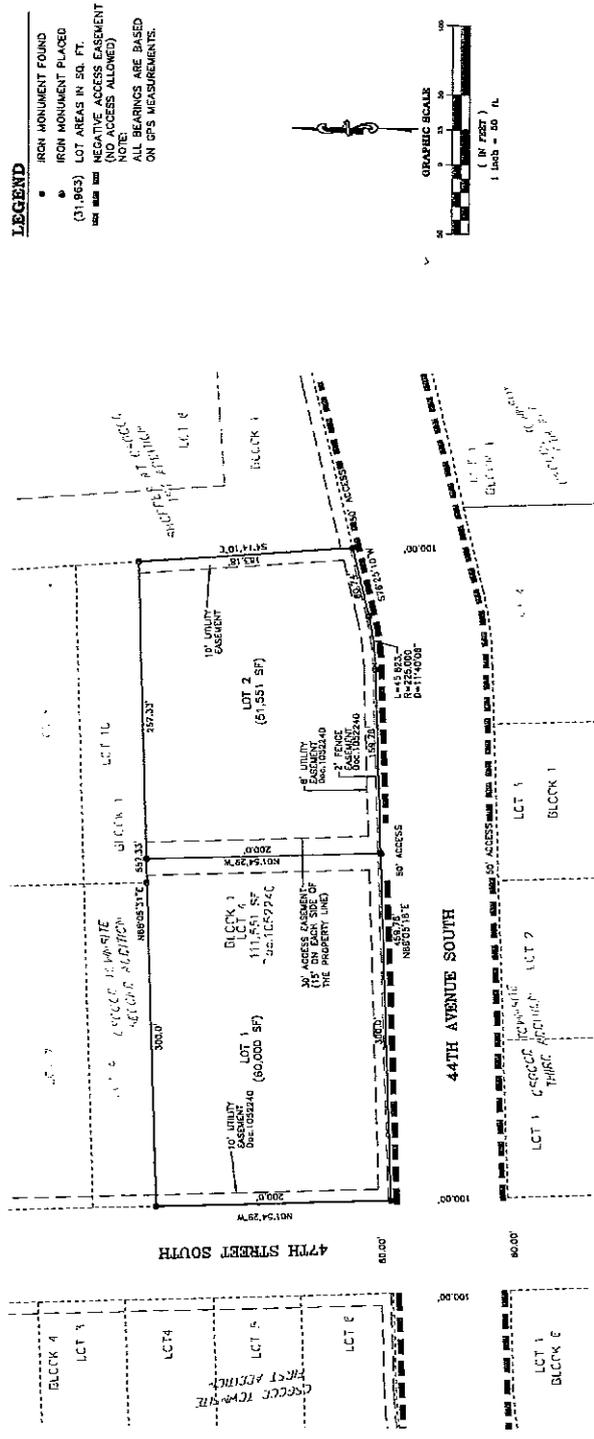
Fargo Planning Commission
April 10, 2010

Plat (Minor Subdivision) Shoppes at Osgood Southwest First Addition

4601 44th Ave S

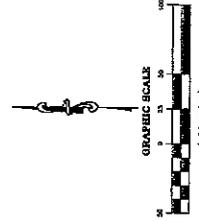


**A MINOR SUBDIVISION PLAT OF
SHOPPES AT OSGOOD SOUTHWEST FIRST ADDITION
A REPLAT OF ALL OF LOT 4, BLOCK 1 OF OSGOOD TOWNSHIP FIRST ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA.**



LEGEND

- IRON MONUMENT FOUND
- IRON MONUMENT PLACED
- (31,963) LOT AREAS IN SQ. FT.
- NEGATIVE ACCESS EASEMENT NOT ACCESS ALLOWED
- ALL BEARINGS ARE BASED ON C.P.'S MEASUREMENTS.



SHEET 1 OF 2

DOCUMENT NO. _____
STATE OF NORTH DAKOTA
COUNTY OF CASS

I HEREBY CERTIFY THAT THE ABOVE INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON THIS DAY OF _____ A.D. 19____ AT _____ O'CLOCK _____ AND WAS RECORDED IN BOOK _____ OF _____ PAGE _____

COUNTY RECORDER
BY DEPUTY _____



Fargo Water Treatment Plant
435 14th Avenue South
Fargo, North Dakota 58103
Phone (701) 241-1469
FAX (701) 241-8110

N

May 25, 2010

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

Re: Building Lease for Sandbag Storage

Dear Commissioners:

Attached for your reference, please find a Report of Action (ROA) from the April 7, 2010, Utility Committee meeting related to long-term storage of 370,000 unused sandbags from the 2010 spring flood. It was the opinion of staff that an effort should be made to store and preserve the sandbags for use (if needed) in the event of a 2011 spring flood. Therefore, staff solicited building lease quotes from three owners of available long-term storage facilities as detailed in the attached ROA. It was recommended to pursue a long-term (12 months) lease agreement for the building at 909 25th Street North for the following reasons:

1. Proximity to Sandbag Central (2301 8th Avenue North)
2. Adequate available floor space (20,200 square feet)
3. Ability to be utilized as a secondary sandbag production facility in the event of a 2011 spring flood.

The Utility Committee voted to authorize staff to pursue a 12-month lease agreement for the building at 909 25th Street North on the condition that the owner provide evidence of the suitability of the floor for 12-month storage of sandbags.

To that end, staff and the City Attorney have negotiated a 12-month lease with Barrier Lake Investments, LLC, for the building at 909 25th Street North for the purpose of sandbag storage. A copy of the lease has been attached for your reference. Please note that a copy of the building structural report has been included in the lease as Exhibit C. Also, note that the lease allows sandbag storage to be accomplished through the double stacking of pallets. In addition, the lease includes provisions whereby the building owner agrees to hold the City harmless for damage to the structure as a result of sandbag storage not exceeding two pallets high.

It is the recommendation of this office that the attached 12-month lease with Barrier Lake Investments for the building at 909 25th Street North be approved for sandbag storage at a rental rate of \$12,890 per month. Your consideration in this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads "Bruce P. Grubb".

Bruce P. Grubb
Enterprise Director

cc: Pat Zavoral, City Administrator
Terry Ludlum, Solid Waste Utility Manager
Erik Johnson, City Attorney

SUGGESTED MOTION:

Approve the attached 12-month lease with Barrier Lake Investments, LLC, for the building at 909 25th Street North for storage of unused sandbags from the 2010 spring flood.

REPORT OF ACTION
UTILITY COMMITTEE

Project No. NA Type: Long-Term Sandbag Storage

Location: 909 25th Street North

Date of Hearing: 4/07/10

| | |
|-----------------------|-------------|
| <u>Routing</u> | <u>Date</u> |
| City Commission _____ | _____ |
| Project File _____ | _____ |

Bruce Grubb, Enterprise Director, presented the attached memo and exhibits related to the long-term (12 months) storage of 370,000 sandbags that were unused during the 2010 spring flood fight. It is the opinion of Sandbag Central Staff that the unused pallets of sandbags should be stored for one-year to be available (if needed) in the event of a 2011 spring flood. Therefore, staff solicited building lease quotes from three owners of available long-term storage facilities. A summary of the lease quotes is shown below:

| <u>Owner</u> | <u>Address</u> | <u>Sq. Ft.</u> | <u>Annual Rent</u> |
|-------------------------|------------------------|----------------|--------------------|
| Comstock Land Co. | 1301 39th Street North | 33,960 | \$179,308.80 |
| Barrier Lake Investment | 909 25th Street North | 20,200 | \$146,450.00 |
| Record Keepers | 601 15th Street North | 10,000 | \$ 45,000.00 |

After receipt of the quotes, a subsequent professional opinion from a structural engineer recommended that the floor at 1301 39th Street North was not suitable for long-term sandbag storage due to an interior floor drain system. In addition, it was determined by staff that the floor at 601 15th Street North was insufficient in size to accommodate 370,000 sandbags.

Thus, staff requested authorization to pursue a long-term (12 months) lease agreement for the building at 909 25th Street North for the following reasons:

1. Proximity to Sandbag Central (2301 8th Avenue North)
2. Adequate available floor space (20,200 sq. ft.)
3. Ability to be utilized as a secondary sandbag production facility in the event of a 2011 spring flood.

The pursuit of a long-term lease agreement at 909 25th Street North would be conditioned on receipt of a favorable engineering opinion regarding the adequacy of the building floor for sandbag storage. The total estimated cost to reproduce 370,000 is \$303,400.

Motion:

On a motion by Mike Williams, seconded by Mark Bittner, the Utility Committee voted to authorize staff to pursue a 12-month lease agreement for the building at 909 25th Street North on the condition that the owner provide evidence of the suitability of the floor for 12-month storage of sandbags.

| <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 | X | | | |
| Pat Zavoral, City Administrator | X | | | |
| Mark Bittner, City Engineer | X | | | |
| Kent Costin, Director of Finance | | | | |
| Ron Hendricksen, Water Plant Supt. | X | | | |
| Peter Bilstad, Wastewater Plant Supt. | X | | | |
| Bruce Grubb, Enterprise Director | X | | | |
| Scott Liudahl, City Forester | X | | | |
| Terry Ludlum, Solid Waste Utility Manager | X | | | |
| James Hausauer, Wastewater Util. Manager | X | | | |
| Ben Dow, Public Works Operations Manger | X | | | |

ATTEST:



Bruce P. Grubb
Enterprise Director

C: Commissioner Mahoney
Commissioner Wimmer
Commissioner Piepkorn



Fargo Water Treatment Plant
435 14th Avenue South
Fargo, North Dakota 58103
Phone (701) 241-1469
FAX (701) 241-8110

April 6, 2010

MEMORANDUM

To: Utility Committee
From: Bruce P. Grubb, Enterprise Director
Re: Building Lease for Long-Term Sandbag Storage

As you may be aware, the City initiated sandbag production on March 1, 2010, in preparation for the 2010 spring flood. An initial goal of 1,000,000 sandbags was established to achieve a 40' levee elevation along the City's primary line of protection. As shown on the attached spreadsheet, approximately 8,063 pallets (774,000 bags) of sandbags were delivered to designated locations along the primary line of protection. Fortunately, the Red River crested on March 21, 2010, at an elevation of 36.99'.

After the crest, the City's transportation contractor went back through the delivery areas and collected unused pallets of sandbags. A total of 1,700 pallets (163,000 bags) of sandbags were returned to the City's temporary storage building at 65 28th St. S. As a result, the temporary storage building contains approximately 370,000 sandbags that are shrink wrapped on pallets.

It is the opinion of Sandbag Central staff that the unused pallets of sandbags be stored for one-year to be available (if needed) in the event of a 2011 spring flood. To that end, staff solicited building lease quotes from three owners of available long-term storage facilities. A summary of the lease quotes has been attached for your reference.

Unfortunately, a subsequent professional opinion from a structural engineer recommended that the floor at 1301 39th St. N. was not suitable for long-term sandbag storage due to the presence of an interior floor drain system. The building at 601 15th St. N. was determined by staff to be insufficient in size to accommodate storage of 370,000 sandbags.

Therefore, staff would like to pursue a long-term (12 months) lease agreement for the building at 909 25th St. N. for the following reasons:

1. Proximity to Sandbag Central (2301 8th Ave. N.)
2. Adequate available floor space (20,200 square feet)
3. Facility can be utilized as a secondary sandbag production facility in the event of a 2011 spring flood

The pursuit of a long-term lease agreement at 909 25th St. N. would be conditioned on a favorable engineering opinion regarding the adequacy of the building floor for sandbag storage.

For your information, I have also attached a spreadsheet identifying the sandbag cost of production for the 2010 spring flood. The approximate cost per sandbag was \$0.82 which would translate to a total cost of \$303,400 to re-produce 370,000 sandbags next spring.

Your consideration in this matter is greatly appreciated.

SUGGESTED MOTION

Authorize staff to negotiate a long-term lease agreement for the building at 909 25th St. N. on the condition that the owner provide evidence of the suitability of the floor for long-term storage of sandbags.

Sandbag Delivery summary

| Reach # | Name | Pallets Delivered | Pallets Returned | Balance |
|--------------|----------------------|----------------------|---------------------|-------------|
| 1 | Riverwood | 38 | 0 | 38 |
| 3 | 15th to 35th | 733 | 56 | 677 |
| 4 | 12th to 15th | 28 | 0 | 28 |
| 7 | Oak Grove | 253 | 0 | 253 |
| 11 | Belmont | 281 | 84 | 197 |
| 15 | Southwood | 506 | 392 | 114 |
| 16 | Harwood Groves | 1406 | 196 | 1210 |
| 17 | River Drive | 1322 | 168 | 1154 |
| 19 | River Vile | 563 | 84 | 479 |
| 20 | Rose Creek | 1069 | 168 | 901 |
| 22 | Timberline | 394 | 196 | 198 |
| 23 | Copperfield | 253 | 56 | 197 |
| 28 | Oak Creek | 497 | 20 | 477 |
| 29 | Coulees Cross | 9 | 0 | 9 |
| 30 | Meadow Creek | 338 | 84 | 254 |
| 32 | Silver Leaf | 84 | 84 | 0 |
| 34 | Southern Line | 9 | 0 | 9 |
| | Edgewood Golf Course | 280 | 112 | 168 |
| Total | | 8063 | 1700 | 6363 |

2010 Flood - Long Term Sandbag Storage

Informal Quote Summary

| OWNER | ADDRESS | SQ. FT. | Annual Unit Cost | Annual Unit Cost | Annual Total |
|--------------------------|------------------|---------|---------------------|---------------------|-----------------|
| Comstock Land Company | 1301 39th St. N. | 33,960 | 3.96/sf | 1.32/sf | \$ 179,308.80 |
| Barrier Lake Investments | 909 25th St. N. | 20,200 | 5.75/sf | 1.50/sf | \$ 146,450.00 |
| Record Keepers | 601 15th St. N. | 10,000 | 4.00/sf | 0.50/sf | \$ 45,000.00 |

LEASE

This Lease, effective the 1st day of June, 2010, ("Effective Date") by and between Barrier Lake Investments, LLC, a North Dakota limited liability company, herein called "Landlord", and the City of Fargo, herein called "Tenant".

For and in consideration of the rentals herein reserved and the conditions, covenants and agreements herein contained, to be kept, observed and performed by the parties hereto, the parties agree as follows:

1. **PROPERTY.** Landlord does hereby lease and rent to Tenant the following described real property and all buildings and other personal property appurtenant thereto lying and being in the City of Fargo, Cass County, North Dakota, located at 909 25th Street North, and further described, to wit: See attached Exhibit "A", sometimes herein referred to as "Leased Premises" or "Premises".

Landlord is leasing to Tenant the building on the Premises which is depicted on attached Exhibit "B". The leased commercial real estate consists of a total of 21,200 rentable square feet. The Premises do not include and the Landlord reserves the land beneath the Premises and further the Premises are subject to various easements that are reserved. The Premises are provided "as is." Any clean up is Tenant's responsibility.

Tenant acknowledges that Vanity is using the parking lot to the north of the building on the Premises to turn trucks around and access its warehouse and that Tenant will take no actions to interfere with them and their access to their building. In that regard, Tenant will not leave sandbags, equipment, sand and anything else for that matter, in the parking lot to the north of the building so as to impede Vanity's ability to access Vanity's building.

2. **USE.** The Premises shall be used for sandbag filling and/or sandbag storage (no more than two pallets high), but for no other purpose without the prior written consent of Landlord, which will not be unreasonably withheld, conditioned or delayed.

Tenant agrees it will not use, permit or suffer the use of, the Premises or any part thereof, for any other business or purpose.

3. **TERM.** The term shall be from June 1, 2010, through May 31, 2011.

4. RENT. Tenant covenants and agrees to pay Landlord for the Premises, without offset or deduction, and without previous notice or demand therefore, the sum of One Hundred Nineteen Thousand Seven Hundred Eighty Dollars and no/100ths (\$119,780.00), payable in monthly installments of Nine Thousand Nine Hundred Eighty-one and 67/100ths Dollars (\$9,981.67) on the first day of each month beginning June 1, 2010, plus costs of Thirty-four Thousand Nine Hundred and no/100ths Dollars (\$34,900.00), payable in monthly installments of Two Thousand Nine Hundred Eight and 33/100ths Dollars (\$2,908.33) on the first day of each month beginning June 1, 2010, for a total monthly rental amount of Twelve Thousand Eight Hundred Ninety and 00/100ths Dollars (\$12,890.00).

If the rent is not received by Landlord by the first day of the month, then Tenant shall pay as additional rent, the sum of One Hundred and no/100ths (\$100.00) per day until the rent is paid in full.

The parties recognize and agree that the payment of costs of Two Thousand Nine Hundred Eight and 33/100 Dollars (\$2,908.33) per month by Tenant is Tenant's obligation to cover real estate taxes, insurance on the structure (property and casualty—the City will provide insurance coverage for liability is set forth below), electricity (Xcel Energy), telephone, security system, Nova fire service and repairs (except where damage caused by the City or its employee(s)) as well as a one-time cost item being one-half the cost of a study and report by Northern Technologies, Inc., Exhibit C. In the event of a holdover, as described below, the monthly payment of costs will be reduced by \$145.83 (\$1,750/12) because of this one-time cost item.

It is agreed that Landlord shall be responsible for payment of the actual costs and that Tenant's obligation is limited to payment of said sum to Landlord.

All payments of rent shall be made by Tenant to Landlord at the notice address, or at such other place as Landlord may, from time to time designate.

As additional rent and consideration for this Lease, Tenant shall take care of all snow removal and lawn care; repair and replace any damage done to the Premises during the term of this Lease by Tenant; and when the lease expires, clean the leased Premises, both inside and/or outside so as to remove all sand and debris.

Tenant shall be allowed to pre-pay any and all Rent; provided that in the event this Lease is terminated early, other than by a default of this Lease

by Tenant, to the extent such pre-paid rent has not been earned, , such unearned prepaid rent shall be reimbursed to Tenant.

5. ADDITIONAL RENT. Reserved -- this paragraph intentionally left blank.
6. TAXES. Reserved- this paragraph intentionally left blank.
7. INSURANCE. Tenant shall, during the term of this Lease, as additional rent, obtain and maintain the following types and amounts of insurance:
 - (A) Public Liability Insurance. Tenant agrees to carry at its own expense throughout the term of this Lease public liability insurance covering the Leased Premises and Tenant's use thereof, together with contractual liability endorsement covering Tenant's obligations set forth in this Lease, in companies and in a form satisfactory to Landlord, with minimums of \$2,000,000 on account of bodily injuries to or death of one person and \$2,000,000 on account of bodily injuries to or death of more than one person as a result of any occurrence and with \$2,000,000 coverage for property damage with no deductible greater than \$250,000, and to deposit said policy or policies (or certificates thereof) with Landlord prior to the date of any use or occupancy of the Leased Premises by Tenant. Said policy or policies shall name Tenant as the insured and Landlord as additional insured and shall bear endorsements to the effect that the insurer agrees to notify Landlord not less than ten (10) days in advance of any modifications to cancellation thereof. Should Tenant fail to carry such public liability insurance, Landlord may at its option (but shall not be required to do so) cause public liability insurance as aforesaid to be issued, and in such event, tenant agrees to pay the premium for such insurance promptly upon Landlord's demand. The parties agree that Tenant's participation in the North Dakota Insurance Reserve Fund, as described in the "Liability Memorandum of Coverage" applicable for the period of this Lease shall satisfy the requirements of this paragraph.
8. UTILITIES. Tenant shall be responsible for city utilities, such as water, sewer and garbage. Landlord shall have no obligation or liability for any such expenses or expense of similar nature.
9. REPRESENTATIONS BY TENANT. Tenant has taken possession of said Premises as they are presently constituted, and the taking of possession of said Premises by Tenant shall be conclusive evidence that said Premises are in all respects in satisfactory and acceptable condition and that nothing further is required of Landlord to make them conform to the terms and requirements of this Lease suitable for the occupancy of Tenant.

10. UNLAWFUL AND DANGEROUS ACTIVITY. Tenant shall comply with all covenants, conditions and restrictions of record and all applicable laws, ordinances and regulations of duly constituted governmental bodies now or hereafter in any manner affecting the demised Premises or the appurtenances thereto.

Tenant shall neither use nor occupy the demised Premises or any part thereof for any unlawful, disreputable or ultra-hazardous business purpose, nor operate or conduct its business in a manner constituting a nuisance of any kind. Tenant shall immediately on discovery of any unlawful, disreputable or ultra-hazardous use take action to halt such activity.

Tenant shall not maintain any environmentally hazardous materials on the Premises nor engage in any activities which would be environmentally hazardous or would cause an increase in taxes, assessments, costs, insurance premiums of any sort or nature to landlord because of the use of potentially environmentally hazardous materials.

Notwithstanding anything contained herein to the contrary, Landlord will hold Tenant harmless from any claim for damage to the structure based upon damage done by weight loaded on the structure by sandbags no more than two pallets high, it being understood that a stack of sandbags two pallets high is estimated at weighing 5,000 pounds, each pallet weighing an estimated 2,500 pounds or less. The report by Northern Technologies, Inc. dated May 17, 2010 is attached hereto as Exhibit C. In no event shall the pallets be stacked more than two high.

This hold harmless provision does not apply to any other damage (only a waiver on weight on structure as per the study by Northern Technologies, Inc.).

11. REPAIRS. Tenant shall be responsible for repairing damages done by Tenant or Tenant's invitees. Landlord shall take care of other repairs and maintenance, but Tenant must give Landlord notice and opportunity to do the repairs before Tenant takes action. Tenant shall cut the grass on a regular basis and shall do all snow removal from the Premises, including sidewalks and parking lots at Tenant's expense. Further, Tenant shall do all repairs, up keep and replacement of the parking lot and yard.

Landlord, or his agents, shall at reasonable times during working hours of Tenant have access to said Premises for the purpose of examining the same and doing any necessary repairs.

12. ALTERATIONS, ADDITIONS AND IMPROVEMENTS. Subject to the limitation that no substantial portion of the building shall be demolished or removed by Tenant without the prior written consent of Landlord and, if necessary, of any mortgagee, Tenant may at any time during the Lease term, subject to the conditions set forth herein, make any alterations, additions or improvements in and to the demised building. Alterations shall be performed in a workmanlike manner and shall not weaken or impair the structural strength or lessen the value of the property or change the purpose for which the building, or any part thereof may be used.

Before commencement of any such work, all plans and specifications shall be approved by the Landlord, which approval will not be unreasonably withheld, and shall be filed with and approved by all governmental departments or authorities having jurisdiction thereof. All alterations, additions or improvements on or in the demised Premises at the commencement of the term, and that may be erected or installed during the term, shall become part of the demised Premises and the sole property of Landlord, except that all movable trade fixtures installed by Tenant shall be and remain the property of Tenant. Tenant shall repair any damage to the demised Premises which is caused by any such removal. Prior to commencement of any work, Tenant shall deliver to Landlord for Landlord's approval plans and specifications. Such plans and specifications must be approved by Landlord's architect in advance of commencement of any work. Tenant shall pay all costs associated with the Landlord's architect's approval and review plus an 18% administrative fee.

13. SIGNS. Tenant may install or allow to be installed in or about the demised Premises such signs and equipment as may be necessary for the operations of its business all in accordance with applicable laws, ordinances, and regulations of duly constituted public authorities. Landlord may, at the termination of its Lease, require the removal of Tenant, at Tenant's expense, of any such signs and equipment. Tenant shall be responsible for any damage resulting from such removal and repair the same. All signage must be approved by Landlord at the expense of the Tenant. Landlord's approval will not be unreasonably withheld, conditioned or delayed.

14. INDEMNITY. Tenant shall be in exclusive control and possession of the demised Premises and Landlord shall not be liable for any injury or damages to any property or to any person on or about the demised Premises, not for any injury or damage to any property of Tenant.

Tenant shall hold Landlord harmless against any loss or claim for damages or expense of any kind suffered by Tenant, or by any person, by

reason of any damage to or destruction of said Premises by fire, the elements or otherwise, or by reason of any failure or defective maintenance thereof.

Tenant shall defend and indemnify Landlord and save it harmless from and against all liability, damages, costs or expenses, including attorneys' fees arising from any negligence of Tenant, its franchisees, contractors or licensees, or its agents, servants, invitees or employees, for injuries or damage to any persons or property occurring in or about the demised Premises or any part thereof. Tenant shall not do or suffer anything to be done by which persons or property at or about or adjacent to the demised Premises may be injured or endangered.

Tenant shall indemnify Landlord against all expenses, liabilities and claims of every kind, including reasonable counsel's fees, by or on behalf of any person or entity arising out of either a failure by Tenant to perform any of the terms or conditions of this Lease, any injury or damage happening on or about the demised Premises, failure to comply with any law of any governmental authority, or any mechanic's lien or security interest filed against the demised Premises or equipment, materials or alterations of buildings or improvements thereon.

15. SUBORDINATION. This Lease and all rights of Tenant hereunder shall be subject and subordinate to the lien of any and all mortgages that may now or hereafter affect the demised Premises or any part thereof, and to any or all renewals, modifications or extensions of any such mortgages. Tenant shall, on demand, execute, acknowledge and deliver to Landlord, without expense to Landlord, any and all instruments that may be necessary or proper to subordinate this Lease and all rights, therein to the lien of any such mortgage or mortgages and each renewal, modification or extension. If Tenant shall fail at any time to execute, acknowledge and deliver any such subordination instrument, Landlord, in addition to any other remedies available in consequence thereof, may execute, acknowledge and deliver the name as Tenant's attorney-in-fact and in Tenant's name. Tenant hereby irrevocably makes, constitutes and appoints Landlord, its successors and assigns, its attorney-in-fact for that purpose.
16. EASEMENTS, AGREEMENTS AND ENCUMBRANCES. Tenant shall be bound by all existing easements, agreements and encumbrances of record relating to the demised Premises, whether recorded or not, and Landlord shall not be liable to Tenant for any damages resulting from any action taken by a holder of an interest pursuant to the rights of that holder thereunder.

17. ASSIGNMENT, MORTGAGE OR SUB-LEASE. Neither Tenant nor its successors or assigns shall assign, mortgage, pledge or encumber this Lease, or sublet the whole or any portion of the demised Premises, nor shall this Lease be assigned or transferred by operation of law without the prior consent, in writing, of Landlord in each instance which consent shall not be unreasonably withheld.

If this Lease is otherwise assigned or transferred, or if all of the demised Premises is sublet or occupied by anybody other than Tenant, Landlord may, after default by Tenant, collect rent from the assignee, transferee, sub-tenants or occupants and apply the net amount collected to the rent reserved herein, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any agreement or condition hereof, or the acceptance of the assignee, transferee, sub-tenant or occupant as Tenant. Tenant shall continue to be liable hereunder in accordance with the terms and conditions of this Lease and shall not be released from the performance of the terms and conditions hereof. The consent by Landlord to an assignment, mortgage, pledge or transfer shall not be construed to relieve Tenant from obtaining the expressed written consent of Landlord to any further transfer of interest.

18. ACCESS TO PREMISES. Landlord and its authorized representative shall have the right to enter upon the Premises at all reasonable times for the purpose of inspecting or exhibiting the same to prospective purchasers, mortgagees, or for the purpose of making such additions, alterations or repairs to the Premises or to any utilities, systems or equipment located in, above, or under the Premises as Landlord may deem necessary or desirable. Landlord shall have the right to take all materials, tools, and equipment in, through, or above the Premises that may be required therefor, without the same constituting an actual or constructive eviction of Tenant. Landlord shall, in no event, be liable for any inconvenience, disturbance, loss of business or other damage to Tenant by reason of the performance by Landlord of any work in, upon, above or under Premises or for bringing materials, tools and equipment in, through or above the Premises, nor shall the same constitute any ground for the abatement of any rents hereunder. During the last twelve (12) months of the term of this Lease, Landlord may place in or upon the Premises the usual notice "To Rent", which notice shall not be removed, obliterated or hidden by Tenant.

19. DESTRUCTION OF THE PREMISES. In the event of the partial destruction of the Premises during the term from any cause, Landlord shall forthwith repair the same, provided the repairs can be made within a reasonable time and in accordance with the laws and regulations of applicable governmental authorities. Any partial destruction shall neither

annul nor void this Lease, except that Tenant shall be entitled to a proportionate reduction of the rent while the repairs are being made, any proportionate reduction being based on the extent to which the making of repairs shall interfere with the business carried on by Tenant on the Premises. Notwithstanding the foregoing, the purpose of Tenant's occupancy of the premises being to provide heated storage space for sandbags and to protect the stored sandbags from the damaging effects of sunlight and, therefore, to the extent such damage were to occur, partial or otherwise, that would compromise these two purposes, this lease may be terminated upon 30 days' notice by Tenant and any pre-paid rent that is rendered unearned as a result of such early termination shall be refunded to Tenant, as provided in paragraph 4, above.

In the event repairs cannot be made within a reasonable time for the benefit of both the Landlord and Tenant, or repairs cannot be made under the laws and regulations of the applicable governmental authorities, this Lease may be terminated at the option of either party and the rent shall be apportioned and paid to the time of such injury or destruction.

20. CONDEMNATION. If the whole of the demised Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this Lease shall cease and terminate as of the date in which title shall vest thereby in that authority and the rent reserved hereunder shall be apportioned and paid to that date.

If only a portion of the demised Premises shall be taken or condemned, this Lease and the term hereof shall not cease or terminate, but the rent payable after the date on which Tenant shall be required to surrender possession of such portion shall be reduced in proportion to the decreased use suffered by Tenant as the parties may agree, except that if the partial taking reduces the Premises to the extent that Tenant cannot reasonably conduct its business thereon, Tenant may terminate this Lease and the rent shall be apportioned and paid to the time of such injury or destruction.

In the event of any taking or condemnation, in whole or in part, the Tenant and Landlord shall each prosecute their respective claims for damages resulting from such taking or condemnation; however, at the request of one or the other, they will join and cooperate in such prosecution.

In none of the above events shall either party receive any portion of or make any claim against any award made to the other party by the condemning authority in respect to the condemnation of the demised Premises, and each party does hereby waive and relinquish any and all claims against such award and all other claims for compensation or

damages against the other that may be occasioned by the taking of the demised Premises or any part thereof.

In the event of a partial taking, Landlord shall promptly proceed to restore the remainder of the demised Premises to a self-contained architectural unit and Landlord shall pay the cost of restoration, but in no event to exceed a sum equal to the amount of the separate award made to and received by Landlord. The balance of any separate award or allocated amount not so used shall belong to and be retained by Landlord as its sole property.

21. DEFAULT BY TENANT. This Lease is made upon the condition that the Tenant shall punctually and faithfully perform all of the covenants and agreements by it to be performed as herein set forth, and if any of the following events of default shall occur, to-wit: (a) any installment of monthly rent, additional rent or any other sums required to be paid by Tenant hereunder, or any part thereof, shall at any time be in arrears and unpaid for three (3) days after written demand therefor; or (b) there be any default on the part of Tenant in the observance or performance of any of the other covenants, agreements or conditions of this Lease on the part of Tenant to be kept and performed, and said default shall continue for a period of fifteen (15) days after written notice thereof from Landlord to Tenant (unless such default cannot reasonably be cured within fifteen (15) days and Tenant shall have commenced to cure said default within said fifteen (15) days and continues diligently to pursue to the curing of the same); or (c) Tenant or any guarantor of this Lease shall file a petition in bankruptcy or be adjudicated a bankrupt, or file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation, or make an assignment for the benefit of creditors; or (d) any trustee, receiver or liquidator of Tenant or any guarantor of this Lease or of all or any substantial part of its properties or of the Leased Premises shall be appointed in any action, suit or proceeding by or against Tenant or any guarantor of this Lease and such proceeding or action shall not have been dismissed within thirty (30) days after such appointment; or (e) the leasehold estate hereby created shall be taken on execution or by other process of law; or (f) Tenant shall vacate or abandon the Premises, then, and in any of said cases, Landlord at its option may terminate this Lease and re-enter upon the Leased Premises and take possession thereof with full right to sue for and collect all sums or amounts with respect to which Tenant may then be in default and accrued up to the time of such entry, including damages to Landlord by reason of any breach or default on the part of Tenant, or Landlord may, if it elects to do so, bring suit for the collection of such rents and damages without entering into possession of the Premises or voiding this Lease.

In addition to, but not in limitation of, any of the remedies set forth in this Lease or given to Landlord by law or in equity, Landlord shall also have the right and option, in the event of any default by Tenant under this Lease and the continuance of such default after the period of notice above provided, to retake possession of the Premises from Tenant by summary proceedings or otherwise, and it is agreed that the commencement and prosecution of any action by Landlord in forcible entry and detainer, ejectment or otherwise, or any execution of any judgment or decree obtained in any action to recover possession of the Premises shall not be construed as an election to terminate this Lease unless Landlord expressly exercises its option hereinbefore provided to declare the term hereof ended, whether or not such entry or re-entry be had or taken under a summary proceedings or otherwise, and shall not be deemed to have absolved or discharge Tenant from any of its obligations and liabilities for the remainder of the term of this Lease, and Tenant shall, notwithstanding such entry or re-entry, continue to be liable for the payment of the rents and the performance of the other covenants and conditions hereof and shall pay to Landlord all monthly deficits after any such re-entry in monthly installments as the amounts of such deficits from time to time are ascertained and, if in the event of any such ouster, Landlord rents or leases the Premises to some other person, firm or corporation (whether for a term greater, less than or equal to the unexpired portion of the term created hereunder) for an aggregate rent during the portion of such new lease co-extensive with the term created hereunder which is less than the rent and other charges which Tenant would pay hereunder for such period, Landlord may immediately upon the making of such new lease for the portion of the term co-extensive with the term created hereunder and the rent with Tenant would pay hereunder for such period, together with any expense to which Landlord may be put for brokerage commission, placing the Premises in tenantable condition or otherwise. If such new lease or tenancy is made for a shorter term than the balance of the term of this lease, any such action brought by Landlord to collect the deficit for that period shall not bar Landlord from thereafter suing for any loss accruing during the balance of the unexpired term of this Lease.

If Tenant at any time shall fail to pay any taxes, assessments, or liens, or to make any payment or perform any act required by this Lease to be made or performed by it, Landlord, without waiving or releasing Tenant from any obligation or default under this Lease, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of Tenant. All sums so paid by Landlord and all costs and expenses to be incurred shall accrue interest at the rate of six percent (6%) from the date of payment or incurring thereof by Landlord and shall constitute Additional Rent payable by Tenant under

this Lease and shall be paid by Tenant to Landlord under this Lease, if not paid when due, shall accrue interest at the rate of six percent (6%) from their due date until paid, said interest to be so much additional rent under this Lease and shall be paid to Landlord by Tenant upon demand. All rights and remedies of Landlord herein enumerated shall be cumulative, and none shall exclude any other remedies allowed at law or in equity.

22. EFFECT OF DEFAULT. In the event of any default hereunder, the rights of Landlord shall be as follows:

- (A) Landlord shall have the right to cancel and terminate this Lease as well as all of the right, title and interest of Tenant hereunder by giving to Tenant not less than thirty-days' notice of the cancellation and termination. On expiration of the time fixed in the Notice, this Lease and the right, title and interest of Tenant hereunder shall terminate in the same manner and with the same force and effect, except as to Tenant's liability, as if the date fixed in the Notice of Cancellation and Termination were the end of the term herein originally terminated.
- (B) Landlord may elect, but shall not be obligated to make any payment required of Tenant herein or comply with any agreement, term or condition required hereby to be performed by Tenant and Landlord shall have the right to enter the demised Premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied, but any expenditure for the correction by Landlord shall not be deemed to waive or release the default of Tenant or the right of Landlord to take any action as may be otherwise permissible hereunder in the case of any default.
- (C) Landlord may reenter the Premises immediately and remove the property and personnel of Tenant and store the property in a public warehouse or at a place selected by Landlord at the expense of Tenant. After re-entry, Landlord may terminate the Lease on giving thirty-days' written notice of termination to Tenant and such termination shall have the same force and effect as though the full term of this Lease had expired under the terms hereof. Without the notice, re-entry will not terminate the Lease.
- (D) After re-entry, Landlord may relet the Premises, or any part thereof, for any term without terminating this Lease at such rent and on such terms as Landlord may choose. Landlord shall have the privilege of re-leasing all or any portion of the demised Premises for such term and for such use deemed satisfactory to Landlord, applying each month the net proceeds obtained from said leasing

to the credit of the Tenant and said leasing shall not release the Tenant from liability hereunder for the rents reserved herein, but Tenant shall be responsible each month for the difference, if any, between the net rents obtained from such releasing and the monthly rent reserved hereunder, and said difference shall be payable to the Landlord on the first day of each month of the term hereof.

23. REMEDIES OF LANDLORD. In the event of a breach or a threatened breach by Tenant of any of the terms or conditions hereof, Landlord shall have the right or injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity as if the specific remedies of indemnity or reimbursement were not provided herein.

The rights and remedies given to Landlord in the Lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Landlord, shall be deemed to be an exclusion of any of the others herein by law or by equity provided.

24. WAIVER. The failure of Landlord to insist on the strict performance of any of the terms and conditions hereof shall not be deemed a waiver of the rights or remedies that Landlord may have regarding that specific instance nor shall it be deemed a waiver of any subsequent breach or default of any terms or conditions.
25. INSURANCE SUBROGATION. Each party hereto waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance, subject to the limitation that this waiver shall apply only when permitted by the applicable policy of insurance.
26. HOLDING OVER. Upon the expiration of the term of this Lease and if the same is not renewed in writing, any holding over or further occupancy by the Tenant shall be at the sufferance of the Landlord and Tenant shall occupy said Premises on a month-to-month basis.
27. SURRENDER OF POSSESSION. Tenant shall on the last day of the term or on earlier termination and forfeiture of the Lease peaceably and quietly surrender and deliver the demised Premises to Landlord, free of sub-tenancies, including all buildings, additions and improvements constructed or placed thereon by Tenant, except movable trade fixtures, signs, lights and poles, all in the same condition and repair as the Premises are as of the date of this Lease, ordinary wear and tear excepted. Tenant shall repair and restore all damage to the demised Premises caused by the

removal of removable trade fixtures, signs, lights, poles and other personal property.

Any trade fixtures or personal property not used in connection with the operation of the demised Premises and belonging to Tenant if not so removed at the termination or default, and if Landlord shall so elect, shall be deemed abandoned and become the property of Landlord without any payment or offset therefore. Landlord may remove such fixtures or property from the demised Premises and store them at the risk and expense of Tenant.

28. NOTICE. All notices to be given with respect to this Lease shall be in writing. Each notice may be sent by registered or certified mail, postage prepaid and return receipt requested or by facsimile, or by e-mail, to the parties to be notified at the address set forth herein or at such other address as either party may, from time to time, designate in writing.

Every notice shall be deemed to have been given at the time it shall be deposited in United States Mail or at the time it is sent by facsimile or e-mail with proof of delivery preserved in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service or summons or other legal process.

To Tenant

City of Fargo
Attn: Terry Ludlum, Solid Waste
Manager
2301 8th Avenue N
Fargo, ND 58102
Facsimile no. 701-241-8101
E-Mail: tludlum@cityoffargo.com

To Landlord

Barrier Lake Investments, LLC
Attn: Lowell P. Bottrell
P.O. Box 10247
Fargo, ND 58106-0247
Facsimile no. 701-237-3154
E-Mail: lbottrell@andersonbottrell.com

29. QUIET ENJOYMENT. Landlord warrants that Tenant shall be granted peaceable and quiet enjoyment of the demised Premises, free from any eviction or interference by Landlord if Tenant pays the rent and other charges provided herein and otherwise fully and punctually performs the terms and conditions imposed upon tenant.
30. NO PARTNERSHIP. Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with Tenant.

31. TOTAL AGREEMENT. This Lease constitutes the entire agreement between the parties and correctly describes the parties' mutual understanding of the agreement. Any and all oral or written agreements, representations or understandings between the parties engaged into or made prior to or contemporaneously with the effective date of this Lease have been incorporated into this agreement or were revoked, released and terminated before the effective date of this Lease. No modifications, additions, deletions nor amendments of or to this Lease shall be binding on the parties unless the same are all reduced to writing and the writing is signed by each of the parties.

32. MISCELLANEOUS. Tenant shall not permit the accumulation of any rubbish, trash, garbage or other refuse in or around the Premises. Tenant agrees to keep all refuse in proper containers on the interior of the Premises; and (i) to contract, at Tenant's expense, for its removal; or (ii) if Landlord shall install compactors within building or on the Premises, to use such compactor designated by Landlord at such times and in such manner as Landlord shall direct by notice to Tenant. In the event Tenant fails to remove any accumulation of rubbish within three days of notice to remove the same, Landlord shall have the right to remove the same, in which event the cost thereof shall be paid by Tenant as Additional Rent for the following month except that Landlord shall at not time be obligated to remove the same, and may cancel this Lease if continual violations occur.

33. APPLICABLE LAW. This Agreement shall be interpreted, construed, and enforced in all respects in accordance with the laws in force under the State of North Dakota, United States of America, and Tenant consents to the courts of North Dakota as the EXCLUSIVE AND SOLE COURTS with jurisdiction and authority to resolve any disputes over the Agreement, its implementation, or enforcement save and except that question affecting the construction. North Dakota courts shall be the exclusive forum for the adjudication of all disputes arising out of this agreement.

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

CITY OF FARGO

By: _____
DENNIS R. WALAKER, its Mayor

ATTEST:

STEVEN SPRAGUE, City Auditor

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

The foregoing instrument was acknowledged before me on this ____ day of _____, 2010, by Dennis R. Walaker, and Steven Sprague, known by me to be the Mayor and City Auditor, respectively, of the City of Fargo, on behalf of the City.

Notary Public
My Commission Expires:

jmn f5453\Lease-City of Fargo June 1

EXHIBIT A

Parcel #0100-19200 – South 40 feet of Lot One (1), all of Lots Two (2), Three (3), Four (4), Twenty-five (25), Twenty-six (26), Twenty-seven (27), and the South 40 feet of Lot Twenty-eight (28), less that portion of said lots dedicated for street purposes, in Block 30; the vacated alley between the Lots in Block 30; the West Half of vacated 24th Street North adjacent to said Lots; and the South 16 feet of vacated 10th Avenue North, less the Easterly 150 feet of the Westerly 274 feet of the North 4 feet of the South 16 feet of vacated 10th Avenue North adjoining Block 30; all in Beardsley's Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

EXHIBIT B

EXHIBIT C

**NORTHERN TECHNOLOGIES, INC.**

3522 4th Avenue S., Fargo, ND 58103 701-232-1822 701-232-1864 Fax

May 17, 2010

Barrier Lake Investments, LLC
PO Box 10247
Fargo, ND 58108

Attn: Mr. Lowell Bottrell

Subject: Review of Potential Settlement from Sandbag Storage
Warehouse at 909 25th Street North – Fargo, North Dakota
NTI Project No. 10-10716.100

In accordance to your request and subsequent April 29, 2010 authorization, Northern Technologies, Inc. (NTI) conducted an engineering review of potential settlement associated with storage of sand bag filled pallets one to three tiers in height at the above referenced warehouse. Our services included advancement of a single exploration boring and analysis of potential settlements due to sand bag. Our work was performed in general accordance with our proposal of April 21, 2010.

Background

The proposed sandbag storage is within an 80 by 260 foot warehouse at 909 25th Street North in Fargo, North Dakota. Plans are to store City of Fargo filled sandbags for an undetermined period for rapid response to future flooding. At present we understand the pallets will be stacked one to three high throughout the warehouse.

Based on the pallet weight information provided to us from Lowell Bottrell, we estimated a pallet full of filled sandbags weighs approximately 2,500 pounds and has a plan area of 48 inches by 40 inches (standard pallet size). Based on this information the pallets would exert loading of 190, 380, and 570 pounds per square foot respectively for one, two, and three pallets stacked on the warehouse concrete floor.

The scope of our services was limited to advancing a single soil boring (near the northeast corner of the existing building) to a depth of 85 feet, performing limited laboratory testing to recovered samples for estimation of soil parameters, and estimation of additional settlement of floor / structure due to applied sandbag loads.

Field Exploration and Laboratory Testing

We conducted our field exploration on May 4, 2010 and encountered fill consisting of organic clay (topsoil) to three feet, followed by one foot of clay fill, and then two and one half feet of buried topsoil. Soils underlying the fill and buried topsoil consist of Glacial Lake Agassiz (GLA) deposits including silty fat clay, clayey silt, silty clay with layers of peat from 24 to 32 feet, and dark gray fat clay extending to the termination depth of the boring. The consistency of the GLA soils varied from medium to soft.



While we did not encounter measurable ground water during or at the completion of drilling operations, select soil samples recovered during our exploration program were moist. The moisture content of lens soils and the host clays can vary annually and per recent precipitation. Based on moisture density tests the soils below 30 feet were in a near saturated condition.

Our analysis and recommendations of this report are based upon our interpretation of the standard penetration resistance determined while sampling soils, hand penetrometer test results obtained during classification of retained soils, and experience with similar soils from other sites near the project. The results of such tests are summarized on the boring logs within the report attachments.

Estimate of Settlements

The warehouse will experience both immediate elastic deformation and long term consolidation settlement due to the placement of the sandbags. The elastic deformation is deflection that will happen upon placement of the sandbags. Consolidation settlement will occur over an extended period with the upper estimate of consolidation settlement occurring over after years of storage. Table 1 presents our estimate of immediate elastic deformation and long term consolidation settlement based the given pallet weights and dimensions as previously mentioned in this report:

Table 1: Summary of Elastic Deformation and Consolidation Settlement

| Height of Pallets | Load Applied (lbs/ft ²) | Incremental Elastic Deformation (inch) | Consolidation Settlement (inch) | Average Total Settlement (inch) <small>Note 1</small> | Differential Settlement (%) <small>Note 2</small> |
|-------------------|-------------------------------------|--|---------------------------------|--|--|
| 1 Pallet | 190 | ¼ to ½ | Trace to ¼ | ¼ to ¾ | 50 |
| 2 Pallets | 380 | 3/8 to 5/8 | ¼ to ½ | ¾ to 1 ¼ | 50 |
| 3 Pallets | 570 | 1 to 1 ½ | 1 to 1 ½ | 2 to 3 | 100 |

Note 1. Potential settlement with long term storage of sand bags.

Note 2. Potential differential settlement between center and edge of storage area.

Our findings relative to elastic deformation are predicated on significant loading of warehouse floor has occurred previously. As such, the Table 1 findings reflect our estimate of “incremental” elastic deformation associated with sandbag storage at center of warehouse. Note Table 1 findings are significantly less than theoretical estimate of elastic deformation occurring at a “virgin” site.

Theoretical elastic deformation theory also suggests significant variation in settlement between the center and outside corner of warehouse will occur [normally at a ratio of approximately 2 ½:1]. It has been our experience the actual magnitude of differential settlement between center and corner is less pronounced when foundation support is provided by highly plastic fat clays of GLA origin. Regardless to past findings, you should expect differential settlement of floor slab will occur at the warehouse.

A majority but not all of elastic deformation typically rebounds with removal of loading. You should expect a major percentage of elastic settlement at the warehouse should rebound with removal of sandbag loading. We estimate such rebound of floor may be on the order of ½ to 1 inch.

Conversely, consolidation settlement of GLA clays below the warehouse will occur slowly over extended time. Such settlement represents a structural change within the soil matrix and is permanent. A significant percentage of consolidation settlement results when applied loading to the



soft, dark gray fat clays [i.e. Brenna Formation] exceeds pre-consolidation loading from past geological events [normally a loading on the order of 1,000 psf]. The previous fill placement that has occurred on site [see boring results] and application of upper sandbag loading would approach this critical limiting criteria. Thus the greatest variation of consolidation settlement occurs when the third tier of sandbag loading is applied to the warehouse floor.

Note that the large area extent of sandbag storage will cause mass settlement of supporting soils. This movement will also be transferred to warehouse foundations. Lacking current review of structure integrity / distress, our findings for sandbag loading to two pallets in height suggest overall average settlement at center of warehouse should be similar in magnitude to settlement normally predicted for structures erected on GLA clays.

Under such premise, we believe the warehouse structure would be capable of tolerating additional incremental settlement associated with storage of sandbags to 2 pallets in height. However, storage of sandbags to 3 pallets in height will likely cause adverse differential settlement of warehouse.

In summary, we believe you should implement a "precondition" structural survey of the warehouse and floor slab to document present distress and settlement (rotational distortion). Information from this survey may be used to judge the ability of structure to accommodate additional settlement(s) associated with sandbag storage. This same survey will also allow comparison of any detrimental damage caused by storage of sandbags within the warehouse.

Remarks and Standard of Care

Soil samples obtained at the site will be held for 60 days at which time they will be discarded. Please advise us in writing if you wish to have us retain them for a longer period. A fee for storage will be assessed to the project if soil samples are retained beyond this period.

This report has been prepared for the exclusive use of Barrier Lake Investments, LLC for use in evaluation of sandbag storage within the warehouse at 909 25th Street North in Fargo, North Dakota. The conclusions in this report represent our professional opinions, based on our interpretation of the site conditions and information provided to us by others. We arrived at these opinions and recommendations in accordance with currently accepted engineering practices at this time and location. Other than this, no warranty is implied or intended.

We appreciate the opportunity to have been of service on this project. If there are any questions regarding the soils explored or our review and recommendations, please contact us at your convenience at (701) 232-1822.

Northern Technologies, Inc.

Daniel Gibson

Dan Gibson, P.E.
 Project Engineer

Bret R. Anderson

Bret R. Anderson, P.E.
 Associate



Daniel Gibson

Date: 5-17-2010

Attachments

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GEOTECHNICAL EVALUATION OF RECOVERED SOIL SAMPLES

Soil samples recovered during exploration were visually examined to estimate distribution of grain sizes, plasticity, consistency, moisture condition, color, presence of lenses and seams, and apparent geologic origin. We then classified the soils according to type using the Unified Soil Classification System (ASTM D2488). A chart describing the classification system and general notes explaining soil sampling procedures are presented within other report appendices.

Note that the stratification depth lines between soil types on the logs are estimated based on the available data. In situ, the transition between soil types may be distinct or gradual in either the horizontal or vertical directions. The soil conditions have been established at our specific boring locations only. Variations in the soil stratigraphy may occur between and around the borings, with the nature and extent of such change not readily evident until exposed by excavation. These variations must be properly assessed when utilizing the information presented on the boring logs.

We request that you, your design team or other contractors contact NTI immediately if local site conditions differ from those assumed by this report, as we would need to review how such changes impact our report recommendations. Such contact would also allow us to revise our recommendations as necessary to account for the changed site conditions.

FIELD EXPLORATION PROCEDURES

Soil Sampling – Standard Penetration Boring:

Soil sampling was performed according to the procedures described by ASTM D-1586. Using this procedure, a 2 inch O.D. split barrel sampler is driven into the soil by a 140 pound weight falling 30 inches. After an initial set of six inches, the number of blows required to drive the sampler an additional 12 inches is recorded (known as the penetration resistance (i.e. “N-value”) of the soil at the point of sampling. The N-value is an index of the relative density of cohesionless soils and an approximation of the consistency of cohesive soils.

Soil Sampling – Power Auger Boring:

The boring(s) was/were advanced with a 6 inch nominal diameter continuous flight auger. As a result, samples recovered from the boring are disturbed, and our determination of the depth, extent of various stratum and layers, and relative density or consistency of the soils is approximate.

Soil Classification:

Soil samples were visually and manually classified by the crew chief in general conformance with ASTM D-2488 as they were removed from the respective sampler(s). Representative fractions of soil samples were then sealed within respective containers and returned to the laboratory for further examination and verification of the field classification. In addition, select samples were submitted to a program of laboratory tests. Individual sample information, identification of sampling methods, method of advancement of the samples and other pertinent information concerning the soil samples are presented on boring logs and related report attachments.



| GENERAL NOTES | | | |
|--|-------------------------------|--|--|
| DRILLING & SAMPLING SYMBOLS | | LABORATORY TEST SYMBOLS | |
| SYMBOL | DEFINITION | SYMBOL | DEFINITION |
| C.S. | Continuous Sampling | W | Moisture content-percent of dry weight |
| P.D. | 2-3/8" Pipe Drill | D | Dry Density-pounds per cubic foot |
| C.O. | Cleanout Tube | LL, PL | Liquid and plastic limits determined in accordance with ASTM D 423 and D 424 |
| 3 HSA | 3 1/4" I.D. Hollow Stem Auger | Q _u | Unconfined compressive strength-pounds per square foot in accordance with ASTM D 2166-66 |
| 4 FA | 4" Diameter Flight Auger | | |
| 6 FA | 6" Diameter Flight Auger | | |
| 2 1/2 C | 2 1/2" Casing | | |
| 4 C | 4" Casing | | |
| D.M. | Drilling Mud | | |
| J.W. | Jet Water | | |
| H.A. | Hand Auger | | |
| NXC | Size NX Casing | | |
| BXC | Size BX Casing | | |
| AXC | Size AX casing | | |
| SS | 2" O.D. Split Spoon Sample | | |
| 2T | 2" Thin Wall Tube Sample | | |
| 3T | 3" Thin Wall Tube Sample | | |
| | | | Additional insertions in Qu Column |
| | | Pq | Penetrometer reading-tons/square foot |
| | | S | Torvane reading-tons/square foot |
| | | G | Specific Gravity - ASTM D 854-58 |
| | | SL | Shrinkage limit - ASTM 427-61 |
| | | pH | Hydrogen ion content-meter method |
| | | O | Organic content-combustion method |
| | | M.A.* | Grain size analysis |
| | | C* | One dimensional consolidation |
| | | Q _c * | Triaxial Compression |
| | | | * See attached data Sheet and/or graph |
| WATER LEVEL SYMBOL | | | |
| <p>Water levels shown on the boring logs are the levels measured in the borings at the time and under the conditions indicated. In sand, the indicated levels can be considered reliable ground water levels. In clay soils, it is not possible to determine the ground water level within the normal scope of a test boring investigation, except where lenses or layers of more pervious water bearing soil is present and then a long period of time may be necessary to reach equilibrium. Therefore, the position of the water level symbol for cohesive or mixed soils may not indicate the true level of the ground water table. The available water level information is given at the bottom of the log sheet.</p> | | | |
| DESCRIPTIVE TERMINOLOGY | | | |
| DENSITY | | CONSISTENCY | |
| TERM | "N" VALUE | TERM | "N" VALUE |
| Very Loose | 0-4 | Soft | 0-4 |
| Loose | 5-8 | Medium | 5-8 |
| Medium Dense | 9 - 15 | Rather Stiff | 9 - 15 |
| Dense | 16 - 30 | Stiff | 16 - 30 |
| Very Dense | Over 30 | Very Stiff | Over 30 |
| <p><i>Standard "N" Penetration:</i> Blows per foot of a 140 pound hammer falling 30 inches on a 2 inch OD split spoon.</p> | | | |
| RELATIVE PROPORTIONS | | PARTICLE SIZES | |
| TERMS | RANGE | Boulders | Over 3" |
| Trace | 0-5% | Gravel - Coarse | 3/4" - 3" |
| A little | 5-15% | Medium | #4 - 3/4" |
| Some | 15-30% | Sand - Coarse | #4 - #10 |
| With | 30-50% | Medium | #10 - #40 |
| | | Fine | #40 - #200 |
| | | Silt and Clay | Determined by plasticity characteristics. |
| | | <p><i>Note:</i> Sieve sizes are U.S. Standard.</p> | |



| CLASSIFICATION OF SOILS FOR ENGINEERING PURPOSES ASTM Designation D-2487 and D 2488 (Unified Soil Classification System) | | | | | | | | | |
|--|--|---|--|--|---|--|---|--|---|
| Major Divisions | Group Symbols | Typical Names | Classification Criteria | | | | | | |
| Course Grained Soils More than 50% retained on No. 200 sieve * | Gravels 50% or more of coarse fraction retained on No. 4 sieve. | Clean Gravels | GW Well-graded gravels and gravel-sand mixtures, little or no fines. GP Poorly graded gravels and gravel-sand mixtures, little or no fines. | $C_u = D_{60} / D_{10}$ greater than 4. $C_z = (D_{30})^2 / (D_{10} \times D_{60})$ between 1 & 3. Not meeting both criteria for GW materials. | | | | | |
| | | Gravels with Fines | GM Silty gravels, gravel-sand-silt mixtures. GC Clayey gravels, gravel-sand-clay mixtures. | | Atterberg limits below "A" line, or P.I. less than 4. Atterberg limits plotting in hatched area are <i>borderline</i> classifications requiring use of dual symbols. | | | | |
| | | | Sands More than 50% of coarse fraction passes No. 4 sieve. | | | Clean Sands | SW Well-graded sands and gravelly sands, little or no fines. SP Poorly-graded sands and gravelly sands, little or no fines. | $C_u = D_{60} / D_{10}$ greater than 6. $C_z = (D_{30})^2 / (D_{10} \times D_{60})$ between 1 & 3. Not meeting both criteria for SW materials. | |
| | | Sands with Fines | | | | SM Silty sands, sand-silt mixtures. SC Clayey sands, sand-clay mixtures. | Atterberg limits below "A" line, or P.I. less than 4. Atterberg limits plotting in hatched area are <i>borderline</i> classifications requiring use of dual symbols. | | |
| | | | | | | Classification on basis of percentage of fines. Less than 5% passing No. 200 Sieve: GW, GP, SW, SP More than 5% passing No. 200 Sieve: GM, GC, SM, SC From 5% to 12% passing No. 200 Sieve: Borderline Classification requiring use of dual symbols. | | | |
| | | Fine Grained Soils More than 50% passes No. 200 sieve * | | | | Silts and Clays Liquid Limit of 50% or less | | | ML Inorganic silts, very fine sands, rock flour, silty or clayey fine sands. |
| | CL Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays. | | | | | | | | |
| | OL Organic silts and organic silty clays of low plasticity. | | | | | | | | |
| | Silts and Clays Liquid Limit greater than 50%. | | MH Inorganic silts, micaceous or diatomaceous fine sands or silts, elastic silts. | | | | | | |
| | | | CH Inorganic clays of high plasticity, fat clays. | | | | | | |
| | | | OH Organic clays of medium to high plasticity. | | | | | | |
| | | | Pt Peat, muck and other highly organic soils. | | | | | | |



GROUND WATER ISSUES

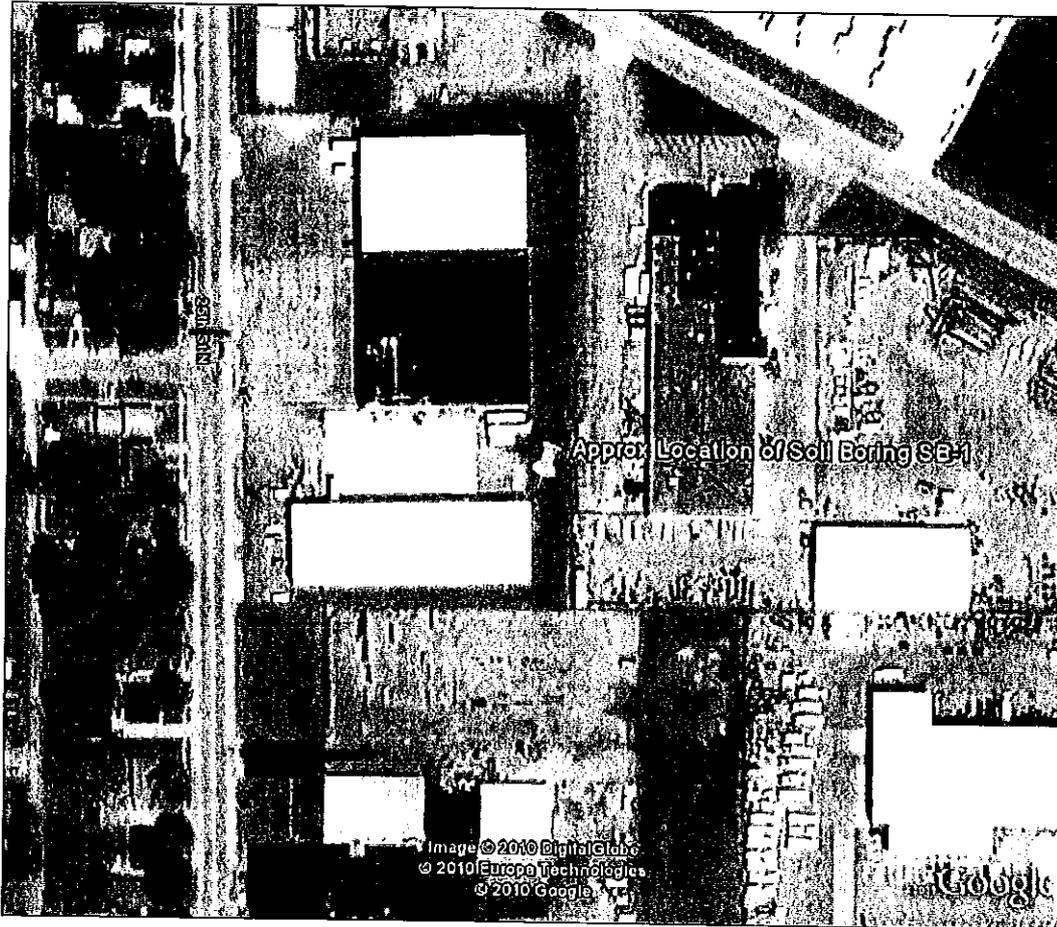
The following presents additional comment and soil specific issues related to measurement of ground water conditions at your project site.

Note that our ground water measurements, or lack thereof, will vary depending on the time allowed for equilibrium to occur in the borings. Extended observation time was not available during the scope of the field exploration program and, therefore, ground water measurements as noted on the borings logs may or may not accurately reflect actual conditions at your site.

Seasonal and yearly fluctuations of the ground water level, if any, occur. Perched ground water may be present within sand and silt lenses bedded within cohesive soil formations. Groundwater typically exists at depth within cohesive and cohesionless soils.

Documentation of the local ground water surface and any perched ground water conditions at the project site would require installation of temporary piezometers and extended periods of monitoring due to the relatively low permeability exhibited by the site soils. We have not performed such ground water evaluation due to the scope of services authorized for this project.

We anticipate pumps installed within temporary sumps should control subsurface seepage from perched conditions. However, we caution such seepage from such formations and any water entry from excavations below the ground water table may be heavy and will vary based on seasonal and annual precipitation, and ground related impacts in the vicinity of the project.



Soil Boring Diagram: Pin attached to diagram depicts approximate location of NTI soil boring.

GEOTECHNICAL BORING LOG

PROJECT TITLE: PROPOSED SANDBAG STORAGE SITE - FARGO, NORTH DAKOTA
 PROJ. NUMBER: 10-10716.100

BORING NUMBER: SB-1

| DEPTH (feet) | DESCRIPTION OF MATERIAL surface elevation: na | GEOLOGIC ORIGIN | SAMPLE DATA | | | | LABORATORY TESTS | | | | |
|-----------------|--|------------------------------|---|---|----|------|------------------|----|----------|----------|---------|
| | | | WL | N | NO | TYPE | W | D | LL PL | Qu Pg | |
| | TOPSOIL, ORGANIC SILTY FAT CLAY, BLACK (OH) | TOPSOIL | | | 1 | FA | | | | | |
| 3 | FILL, SILTY FAT CLAY, DARK GRAY | FILL | | 6 | 2 | SS | 35 | 86 | | | - / 2.2 |
| 4 | BURIED TOPSOIL, ORGANIC SILTY FAT CLAY, BLACK (OH) | BURIED TOPSOIL | | 6 | 3 | SS | 40 | 81 | | | - / 1.5 |
| 6 1/2 | SILTY FAT CLAY, LIGHT GRAY WITH LENSES OF LIGHT BROWN SILTS, MEDIUM TO SOFT TO MEDIUM (CH) | GLACIAL LAKE AGASSIZ DEPOSIT | | 6 | 4 | SS | 43 | 75 | | | - / 2.6 |
| | | | | 5 | 5 | SS | 43 | 78 | | | - / 2.2 |
| | | | | 4 | 6 | SS | 48 | 74 | | | - / 1.6 |
| | | | | 5 | 7 | SS | 48 | 73 | | | - / 1.7 |
| 18 | | | CLAYEY SILT, TRACE OF SAND, FINE GRAINED, LIGHT BROWN TO LIGHT GRAY, MEDIUM (MH-CH) | | | 6 | 8 | SS | 29 | 95 | |
| 24 1/2 | SILTY FAT CLAY, GRAY, WITH LENSES & LAYERS OF PEAT, GRAY TO BROWN TO BLACK, MEDIUM (CH-Pt) | GLACIAL LAKE AGASSIZ DEPOSIT | | 7 | 9 | SS | 50 | 71 | | | - / 2.3 |
| 26 1/2 | 3" LENS OF SAND, FINE GRAINED LITTLE SILT (SM) | MIXED ALLUVIUM | | | | | | | | | |
| | SILTY FAT CLAY, GRAY, WITH LENSES & LAYERS OF PEAT, GRAY TO BROWN TO BLACK, SOFT TO MEDIUM (CH-Pt) | GLACIAL LAKE AGASSIZ DEPOSIT | | 3 | 10 | SS | 36 | 86 | | | - / 1.0 |
| | | | | 5 | 11 | SS | 44 | 78 | | | - / 0.7 |
| 32 1/2 | FAT CLAY, DARK GRAY MOTTLED, MEDIUM (CH) | | | 7 | 12 | SS | 54 | 69 | | | - / 1.1 |

Boring continued on next page

GEOTECHNICAL BORING LOG

PROJECT TITLE: PROPOSED SANDBAG STORAGE SITE - FARGO, NORTH DAKOTA
 PROJ. NUMBER: 10-10716.100

BORING NUMBER: SB-1

| DEPTH (feet) | DESCRIPTION OF MATERIAL <small>surface elevation: na</small> | GEOLOGIC ORIGIN | SAMPLE DATA | | | | LABORATORY TESTS | | | | |
|-----------------|---|------------------------------|-------------|---|----|------|------------------|----|----------|----------|---------|
| | | | WL | N | NO | TYPE | W | D | LL PL | Qu Pg | |
| 40 | (cont'd) FAT CLAY, DARK GRAY MOTTLED, MEDIUM (CH) | GLACIAL LAKE AGASSIZ DEPOSIT | | 3 | 13 | SS | 77 | 56 | | - / 1.9 | |
| | | | | 2 | 14 | SS | 76 | 56 | | - / 1.5 | |
| | | | | | | 15 | 3T | | | | - / 0.6 |
| | | | | | 2 | 16 | SS | 64 | 63 | | - / 0.7 |
| | | | | | 2 | 17 | SS | 59 | 65 | | - / 0.6 |
| | | | | | 2 | 18 | SS | 51 | 71 | | - / 0.7 |
| | | | | | 2 | 19 | SS | 52 | 70 | | - / 0.7 |
| | | | | | 2 | 20 | SS | 53 | 70 | | - / 0.7 |

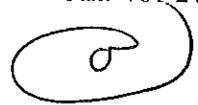
Boring continued on next page

GEOTECHNICAL BORING LOG

PROJECT TITLE: PROPOSED SANDBAG STORAGE SITE - FARGO, NORTH DAKOTA
 PROJ. NUMBER: 10-10716.100

BORING NUMBER: SB-1

| DEPTH (feet) | DESCRIPTION OF MATERIAL | GEOLOGIC ORIGIN | SAMPLE DATA | | | | LABORATORY TESTS | | | |
|--|---|---------------------------------|--|---|----|------|--|----|----------|----------|
| | | | WL | N | NO | TYPE | W | D | LL PL | Qu Pg |
| 80 | surface elevation: na (cont'd) FAT CLAY, DARK GRAY MOTTLED, MEDIUM (CH) | GLACIAL LAKE AGASSIZ DEPOSIT | | 2 | 21 | SS | 55 | 69 | | - / 0.7 |
| 86 | END OF BORING | | | 2 | 22 | SS | 56 | 68 | | - / 0.7 |
| Boring terminated at 86 feet. Bore hole filled with soil cuttings after retrieval of hollow stem auger. Cave-in Depth: 12 feet. Depth of Frost: NA | | | | | | | | | | |
| DATE: 5/4/10 | | | WATER TABLE MEASUREMENTS | | | | DATE: 5/4/2010 | | | |
| | | | No measurable groundwater encountered during or at completion of boring. | | | | METHOD OF DRILLING: 3 1/2" H.S.A. 0 to 84 1/2 ft | | | |
| | | | | | | | CREW CHIEF: J. BROOKS | | | |



MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Agreement for Special Improvements – Carefree Investments, LLC

DATE: May 16, 2010

Carefree Investments, LLC (Jim Bullis, President) has requested municipal improvements in MGB 1st Addition. Attached is the Agreement for Special Improvements relating to improvement district #5945. Carefree Investments, LLC has executed this agreement and will provide the necessary Letter of Credit.

Recommended Motion:

Approve the agreement for special improvements between the City of Fargo and Carefree Investments, LLC for municipal improvements in MGB 1st Addition.

AGREEMENT FOR SPECIAL IMPROVEMENTS

THIS AGREEMENT, Made and entered into this ____ day of _____, 2010, by and between THE CITY OF FARGO, a municipal corporation, hereinafter "CITY"; and Carefree Investments LLC, hereinafter "DEVELOPER",

WHEREAS, DEVELOPER has made request of CITY for Sanitary Sewer, Water Main, Storm Sewer, Paving Street Lights & Lot Filling and Incidentals hereinafter "Utilities", in MGB 1st Addition, hereinafter "Development";

WHEREAS, CITY has approved the installation of utilities in the development with certain conditions and requirements; and

WHEREAS, CITY will create Special Improvement District Number 5945 hereinafter "SID #5945", for the purpose of constructing said utilities; and

WHEREAS, a promise to pay the suitable security is required of DEVELOPER by CITY in order to insure payment of special assessments which will result from said utilities; and,

WHEREAS, DEVELOPER has agreed to pay said special assessments and to provide security therefor,

NOW, THEREFORE, It is hereby agreed by and between the parties as follows:

1. CITY agrees to create SID #5945 for purpose of constructing utilities in the development, to finance said utilities through its municipal bonding authority, and to levy special assessments against said property for the payment of the bonds sold to finance the utilities.
2. Subsequent to the execution of this Agreement and prior to the award of a contract for construction of the utilities, DEVELOPER agrees to furnish to CITY, cash or other security in an amount equal to 50% of the estimated costs for the construction of said utilities (as determined by CITY); said cash or other security to be retained and utilized by CITY pursuant to this Agreement or to be returned to DEVELOPER upon satisfaction of all of the terms and conditions of this agreement as hereinafter provided. The security, other than cash, which is furnished to CITY may be certificates of deposit, negotiable instruments, or a letter of credit, provided that the form and sufficiency thereof shall be subject to the approval of CITY, and CITY may, in its sole discretion, accept or reject the form of security which is offered by DEVELOPER.
3. DEVELOPER shall have the right to cancel this agreement at any time prior to the award of a contract for construction of the utilities; provided, that written notice of such cancellation shall be delivered to CITY at least 72 hours prior to the time scheduled for such contract award and provided further, that DEVELOPER pays to CITY, at the time of delivery of such written notice, an amount which is equal to 0.5% of the estimated costs for the construction

of said utilities (as determined by CITY) or \$1,000, whichever is greater. The parties hereto understand and agree that CITY has incurred substantial administrative, engineering and other expenses for preparation of plans, solicitation of bids and other tasks and that the amount of such expenses would be impossible to ascertain with certainty and that the cancellation payment as hereinabove provided constitutes liquidated damages and is fair and reasonable compensation for such expenses. It is further understood and agreed that in the event that DEVELOPER cancels this agreement without making payments as hereinabove provided, CITY may draw upon the letter of credit or other security which has been furnished pursuant to paragraph 2 of this agreement for such liquidated damages.

4. DEVELOPER agrees, for and on behalf of itself and its successors and assigns, to pay on or before March 1 of each year, the current annual installment of special assessments and any accrued penalties on each and every unimproved lot located in the development. It is understood and agreed that a transfer of any of said lots from DEVELOPER to third parties shall not relieve DEVELOPER of its obligation to pay annual installments of special assessments as hereinabove set forth. It is provided, however, that if transferee furnishes cash or other security (as hereinbefore defined) for the lot or lots acquired, the DEVELOPER's security may be correspondingly reduced. Making arrangements for and obtaining such letter of credit shall be the responsibility of the DEVELOPER. The intent of this proviso on substitute security is that the CITY is protected to the same level as the original letter of credit provided.

5. A letter of credit which is furnished as security by DEVELOPER pursuant to paragraph 2 above shall be irrevocable without the express written consent of CITY. Provided that the letter of credit may provide that it will expire 60 days after written notice is given to CITY by certified mail, return receipt requested.

6. In the event that DEVELOPER, or its successor, fails to pay on or before March 1 of each year, annual installments of special assessments and any accrued penalties as provided in paragraph 4 above, CITY may utilize the cash or other security which has been furnished to CITY, or may draw upon the letter of credit, and apply said funds to pay all or part of the special assessments and accrued penalties which have been levied against said property but have not been certified for collection. Any amount remaining after payment of all uncertified special assessments may, in the discretion of CITY, be retained for future use pursuant to this Agreement or may be applied to current annual installments of special assessments. Provided, that CITY shall not utilize the cash or other security, or draw upon the letter of credit without first giving DEVELOPER 30 days' written notice of its intent to do so.

7. In the event that DEVELOPER fails to pay on or before March 1 of each year, annual installments of special assessments as provided in paragraph 4 above, and if the amount of cash or other security which has been furnished to CITY is not sufficient to pay all special assessments which have been levied against said property, whether or not said assessments have been certified for collection, CITY shall have a cause of action against DEVELOPER, and any guarantor of DEVELOPER for the remaining balance of all unpaid special assessments on all unimproved lots located in the development.

The parties hereto understand and agree that this Agreement is made as an inducement for installation of utilities in the development by CITY and that the remedy provided herein is in addition to any and all statutory remedies provided for collection of delinquent taxes and special assessments.

8. Upon improvement of all lots located in the development, or upon payment of the entire balance of special assessments levied against said property, whether certified for collection or not, CITY shall return to DEVELOPER, any cash or other security which has been furnished to CITY, or any remaining and unused portion thereof. It is specifically understood and agreed that "improvement" means construction of a building such as a house, apartment building, office building or commercial structure or other principal building reflecting the intended use of the property. Construction of a garage, storage building or other accessory type structure shall not constitute "improvement" of a lot pursuant to this Agreement, unless such accessory-type structure is a significant or necessarily-associated accessory to a principal structure located upon a contiguous lot under common ownership as part of a multi-lot project. In addition, "improvement" is deemed accomplished if (a) the bare lot is contiguous to a lot containing a principal structure under common ownership; (b) the bare lot is part of a multi-lot project; and (c) the project plans as filed with the City indicate that the bare lot is to remain unimproved indefinitely as a part of the project in which case, the proper documentation must be prepared, executed and recorded by the owner stating that the unimproved lot is to be considered a portion of the developed or improved lot.

9. In the event of expiration of the letter of credit upon written notice as provide in paragraph 5 of this Agreement, if any lots in the development are not improved or if all special assessments are not paid, all as set forth in paragraph 8 above, then, and in that event, CITY may draw upon the letter of credit and the proceeds thereof shall be applied first toward unpaid special assessments levied against said property which have not been certified for collection. Any amount remaining after application of funds to uncertified special assessments shall be applied to special assessments which have been certified for collection. It shall be in the sole discretion of CITY whether any remaining funds shall be applied uniformly to all unimproved lots in said development, or selectively to any particular lot or lots. If the amount of cash available from the letter of credit is not sufficient to pay all special assessments on all unimproved lots in the development, CITY shall have a cause of action against DEVELOPER, or any guarantor of DEVELOPER, for the deficiency, all as provided in paragraph 7 hereof.

10. DEVELOPER hereby agrees to indemnify the CITY for any expenses involved in the enforcement of this Agreement, including, but not limited to, reasonable attorneys fees and costs.

11. This Agreement shall be binding upon the parties hereto and their respective successors and assigns. Transfer or conveyance of any or all of the lots in the development shall not relieve DEVELOPER of any of its responsibility under the terms of this Agreement. This Agreement shall be deemed to be separable, and the failure of any of its terms shall not constitute failure of the remaining terms of the Agreement, and the terms and conditions of this Agreement shall be interpreted in accordance with the laws of the State of North Dakota.

Dated the day and year first above written.

THE CITY OF FARGO, a municipal corporation

By _____
Dennis R. Walaker, Mayor

ATTEST:

Steven Sprague, City Auditor

DEVELOPER

By 
Its PRESIDENT



May 18, 2010

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

**Re: First International Bank & Trust
Purchase Agreement – Temporary Construction Easement
Improvement District #5700**

Dear Commissioners:

Enclosed and delivered to the Commission Office are (3) original Purchase Agreement documents for the acquisition of a temporary construction easement from First International Bank & Trust 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 First National Bank & Trust 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 ____ day of _____, 2010, by and between **FIRST INTERNATIONAL BANK & TRUST**, 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 Four Thousand Four Hundred Eleven and no/100 Dollars (\$4,411.00).
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.

SELLER:

FIRST INTERNATIONAL BANK & TRUST

By: 

Its: AVP - Director

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 FIRST INTERNATIONAL BANK & TRUST, 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 Two (2), Town Square Village Addition, 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 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 0.18 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.

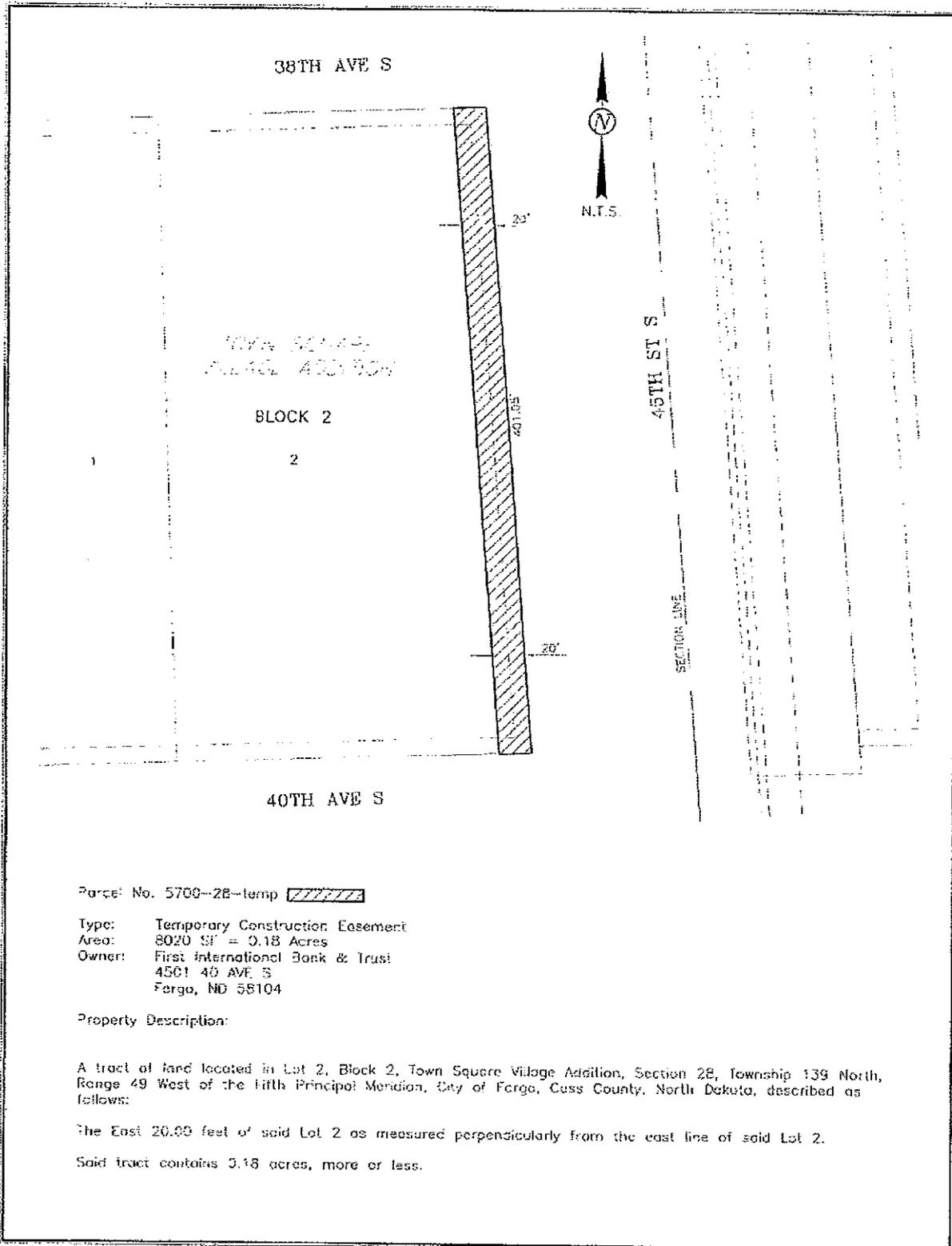
IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this ____ day of _____, 2009.

FIRST INTERNATIONAL BANK & TRUST

By _____

Its _____

Exhibit "A"





PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. 5958

Type: Striping for On-Street Bike Lanes

Location: 1st Ave S – University Dr to 21st St
 9th Ave S/Westrac Dr – 36th St to Fiechtner Dr
 Fiechtner Dr – Westrac Dr to 5th Ave S
 5th Ave S – Fiechtner Dr to 25th St
 9th Ave S – 45th to 42nd St
 4th Ave N – 2nd St to Broadway (completed)

Date of Hearing: 05/25/10

| | |
|------------------|---------------|
| <u>Routing</u> | <u>Date</u> |
| City Commission | 06/01/10 |
| PWPEC File | X |
| Project File | Jeremy Gorden |
| Petitioners | |
| David W. Johnson | |

The Committee reviewed the accompanying recommendation from Jeremy Gorden, Senior Transportation Engineer, to stripe on-street bike lanes on the streets listed above and shown on the attached map. Mark Bittner stated that street striping is typically funded directly out of the Traffic Engineering budget. Pat Zavoral recommended that the costs for this striping be funded out of the Traffic Engineering budget and submittal of a mid-year budget adjustment request in the estimated amount of \$65,000 (includes 4th Avenue North striping previously completed).

On a motion by Mark Bittner, seconded by Jim Gilmour, the Committee voted to recommend approval of bike lane striping and budget adjustment of \$65,000 for Traffic Engineering.

RECOMMENDED MOTION

Approve on-street bike lane striping for the areas listed above and approve a mid-year budget adjustment for Traffic Engineering to fund the improvements estimated at \$65,000.

PROJECT FINANCING INFORMATION:

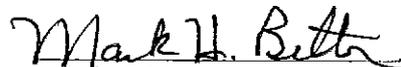
Recommended source of funding for project: Traffic Engineering

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

COMMITTEE

| | | | | |
|--|----------------|------------|-----------|------------------|
| | <u>Present</u> | <u>Yes</u> | <u>No</u> | <u>Unanimous</u> |
| Pat Zavoral, City Administrator | X | X | | X |
| Jim Gilmour, Planning Director | X | X | | |
| Bruce Hoover, Fire Chief | X | X | | |
| Mark Bittner, City Engineer | X | X | | |
| Bruce Grubb, Enterprise Director | X | X | | |
| Ben Dow, Acting Director of Operations | X | X | | |
| Steve Sprague, City Auditor | X | X | | |

ATTEST:


 Mark H. Bittner
 City Engineer

Cc: Bev Martinson



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

May 20, 2010

MEMORANDUM

To: PWPEC
From: Jeremy Gorden, P.E. *Jmg*
Senior Engineer, Transportation
Subject: Results of the Public Input Meeting on Proposed List of On-Street Bike Lanes to be Striped in 2010 and Associated Costs

A public input meeting was held on May 11 in the Commission Room to gather input from property owners along the routes listed below and to gather general public feedback as well. I have attached a summary sheet from the comment sheets that were handed out at that meeting. The meeting was fairly well attended (in the range of 40 people) and nearly all of them were in favor of what I would like to sign and stripe this summer. I would propose we move forward with a striping project this summer, with Sign & Signal Shop staff installing the necessary signage for the routes. The construction cost estimate for each portion is listed below.

I moved forward with the 4th Avenue North striping project this week as the public meeting that we had in April specifically addressing 4th Avenue North was very lightly attended with all positive feedback. We sent proposals to 3 striping contractors and we got an excellent bid of \$12,800 to do the work; we had estimated roughly \$24,000. This work should be completed by Friday, May 21.

To refresh your memory, here is the list of streets that I am recommending be converted to have an on-street facility on them this summer:

1. **1st Avenue South – University Drive to 21st Street** – Current 40' wide street with room for striped on-street bike lanes. Remove parking from the north side and stripe two 5' bike lanes. **Estimated Cost \$18,000.**
2. **9th Avenue South – 45th Street to 42nd Street** – Mill & overlay project in area this summer between 45th Street and 42nd Street. Current road width is sufficiently wide to stripe on-street bike lanes. Remove parking on north side between 45th Street and 42nd Street and stripe two 5' on-street bike lanes. **Estimated Cost (added to Improvement District 5640) \$7,500.**
3. **Westrac Drive (9th Avenue South) - 36th Street to Fiechtner Drive** – Street is sufficiently wide to accommodate striped two 5' on-street bike lanes. Remove parking from the north side. **Estimated Cost \$11,500.**
4. **Fiechtner Drive – Westrac Drive to 5th Avenue South** – Street is sufficiently wide to accommodate two striped 6' on-street bike lanes without removing parking. **Estimated Cost \$15,500.**
5. **5th Avenue South – Fiechtner Drive to 25th Street** – Currently room for two 5' striped on-street bikes lanes to connect to shared use path along west side of 25th Street. Remove parking from the north side of avenue. **Estimated Cost \$7,000.**

Total construction cost = \$52,000 (does not include 9th Avenue South work)

Street Lighting
Sidewalks

Design & Construction
Traffic Engineering

Truck Regulatory
Flood Plain Mgmt.

Mapping & GIS
Utility Locations

May 11, 2010

Comment Sheet – RESULTS FROM MEETING

On-Street Striped Bike Lanes for 2010

Please let us know your thoughts on the 6 alternatives listed below.

1. 9th Avenue S – 45th Street to 42nd Street Alternative

Which alternative(s) do you prefer?

 0 1) Leave it as is.

 7 2) Remove parking from the north side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

 10 3) Remove parking from the south side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

2. Westrac Drive (9th Avenue S) – 36th Street to Fiechtner Drive Alternative

Which alternative(s) do you prefer?

 2 1) Leave it as is.

 9 2) Remove parking from the north side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

 7 3) Remove parking from the south side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

3. Fiechtner Drive – Westrac (9th Avenue S) to 5th Avenue S Alternative

Which alternative(s) do you prefer?

 0 1) Leave it as is.

 20 2) Leave parking as it is and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

4. 5th Avenue S – Fiechtner Drive to 25th Street Alternative

Which alternative(s) do you prefer?

 1 1) Leave it as is.

 13 2) Remove parking from the north side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

 4 3) Remove parking from the south side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

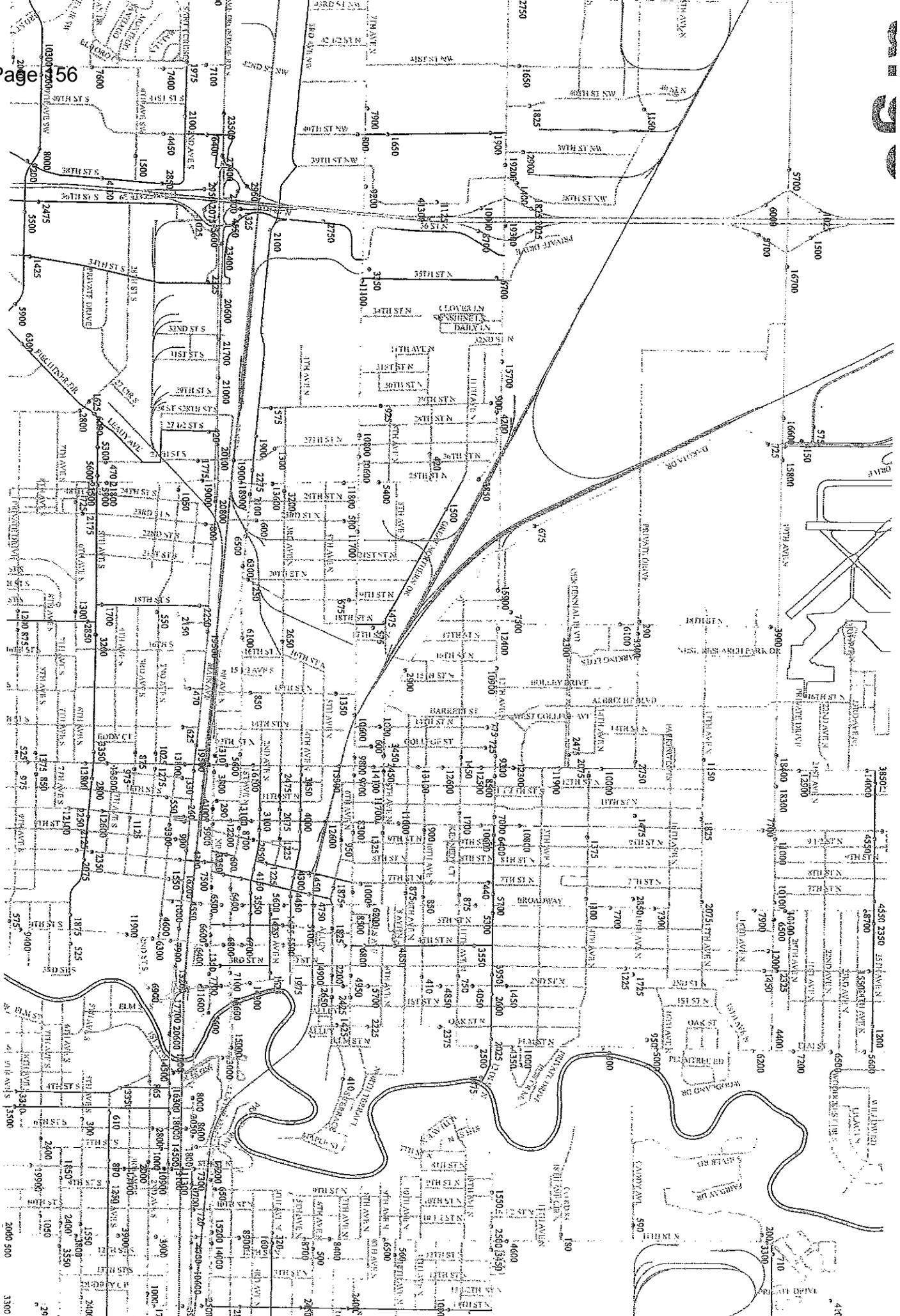
5. 1st Avenue S – 21st Street to University Drive Alternative

Which alternative(s) do you prefer?

 1 1) Leave it as is.

 14 2) Remove parking from the north side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.

 5 3) Remove parking from the south side and stripe it as a 2-lane roadway with two 5' on-street bike lanes.





May 14, 2010

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

**Re: CFJ Properties, LLC
Purchase Agreement –Temporary\Permanent Sanitary Sewer Easements
Improvement District #5726**

Dear Commissioners:

Enclosed and delivered to the Commission Office are (3) original Purchase Agreement documents for the acquisition of a temporary and permanent sanitary sewer easement from CFJ Properties, LLC in association with Improvement District #5726. 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 and permanent sanitary sewer easement from CFJ Properties, LLC in association with Improvement District #5726 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 _____ day of _____, 2010, by and between, **CFJ PROPERTIES, LLC**, hereinafter "Seller" and **THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter "City".

WITNESSETH:

WHEREAS, Seller 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 acquire a permanent sanitary sewer easement and temporary construction easement on the Property and pay Seller 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 hereinbefore described, the same being undeveloped bare land.
2. Purchase Price. The total purchase price for the easements 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. Abstract and Title Assurance. City shall assure itself as to title and Seller need not provide an abstract of title.
5. 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.
6. Liens and Encumbrances. The easement on the Property shall be conveyed to City free and clear of all liens and encumbrances except special assessments, and subject, however, to all other easements or covenants of record, if any.

7. Title. City wishes to take title as follows:

The City of Fargo, North Dakota
a municipal corporation

The City shall prepare the necessary permanent sanitary sewer easement and temporary construction easement to transfer said property interests to the City of Fargo, North Dakota, a municipal corporation. Conveyance of the subject property shall be by said easement(s) in the usual form used in North Dakota. The City will arrange preparation of said easement(s), and pay the cost of recording the same.

8. 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).

9. Property Purchased "AS IS". The City represents to Seller that the Property has been inspected by City and that City has been assured by means independent of Seller or any agent of the Seller of the truth of all facts material to this contract and that the property as it is described in this contract is and has been purchased by the City as a result of such inspection or investigation and not by or through any representations made by Seller or by an agent of Seller. The City hereby expressly waives any and all claims for damages or for rescission or cancellation of this contract because of any representations by Seller or any agent of Seller other than such representation as may be contained in this contract. The City further agrees that Seller and any and all agents of Seller shall not be liable for or on account of any inducements, promises, representations, or agreements not contained in this contract and no agent or employee of Seller is or has been authorized by Seller to make any representations with respect to the property and that if any such representations have been made, they are wholly unauthorized and not binding on Seller.

DATED the day and year as set forth above.

SELLER:

CITY:

CFJ PROPERTIES, LLC

THE CITY OF FARGO, NORTH DAKOTA,
a municipal corporation

By: _____

By: _____

Its: _____

Dennis R. Walaker, Mayor

ATTEST:

Steven Sprague, City Auditor

Exhibit "A"

Temporary Construction Easement

A Forty Foot (40.00') strip of land located in Lot Ten (10), Block One (1), ADAMS FIFTH ADDITION to the City of Fargo, North Dakota, more particularly described as follows: Commencing at the Northeast corner of Lot Three (3) of said Block One (1); thence S 12°43'11" W, on the West line of said Lot Ten (10), a distance of Twenty and Ninety-eight Hundredths Feet (20.98') to the true point of beginning; thence N 85°09'32" E, a distance of Seventy-eight and Sixty-seven Hundredths Feet (78.67') to the East line of said Lot Ten (10); thence S 12°43'11" W, on said East line, a distance of Forty-one and Ninety-six Hundredths Feet (41.96'); thence S 85°09'32" W, a distance of Seventy-eight and Sixty-seven Hundredths Feet (78.67') to the West line of said Lot Ten (10); thence N 12°43'11" E, on said West line, a distance of Forty-one and Ninety-six Hundredths Feet (41.96') to the point of beginning. Containing 3,147 square feet, more or less. Subject to all easements and rights of way of record.

Permanent Easement

A Twenty Foot (20.00') strip of land located in Lot Ten (10), Block One (1), ADAMS FIFTH ADDITION to the City of Fargo, North Dakota, more particularly described as follows: Beginning at the Northeast corner of Lot Three (3) of said Block One (1); thence N 85°09'32" E, a distance of Seventy-five and Five Hundredths Feet (75.05') to the East line of Lot Ten (10) of said Block One (1); thence Southeasterly on said East line, an arc length of Ten and Twenty-two Hundredths Feet (10.22'), on a non-tangential curve concave to the Northwest, having a radius of Twenty-two Thousand Seven Hundred Thirty-three and Thirty-three Hundredths Feet (22,733.33'), a central angle of 00°01'33", and a long chord which bears S 07°01'04" E a distance of Ten and Twenty-two Hundredths Feet (10.22'); thence S 12°43'11" W, on said East line, a distance of Ten and Twenty-seven Hundredths Feet (10.27'); thence S 85°09'32" W, a distance of Seventy-eight and Sixty-seven Hundredths Feet (78.67') to the West line of said Lot Ten (10); thence N 12°43'11" E, on said West line, a distance of Twenty and Ninety-eight Hundredths Feet (20.98') to the point of beginning. Containing 1,555 square feet, more or less. Subject to all easements and rights of way of record.

May 26, 2010

3

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

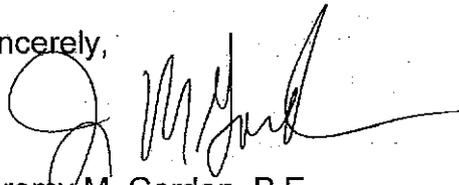
Dear Commissioners:

I have attached an Amendment to an existing Cost Participation, Construction, and Maintenance Agreement (CPM) agreement with the NDDOT, and a new CPM Agreement with the NDDOT for City Project # 5919-02, Safer Routes to School Using Advanced Technologies, for your review. The amendment to the existing CPM calls for the original CPM agreement to be terminated, and the new CPM Agreement replaces the original CPM agreement. The only item that is different between the original CPM Agreement and the new proposed CPM Agreement is the location where the bids are opened. Originally, the City of Fargo was going to do the bid opening, but the NDDOT has changed their policy on bidding projects using Federal Funds, so they now would like to have the NDDOT complete the bid opening in Bismarck next month.

Recommended Motion:

Approval of the Amendment to the existing CPM Agreement and approval of the new CPM Agreement for City Project #5919-02.

Sincerely,



Jeremy M. Gorden, P.E.
Senior Engineer, Transportation

JMG/pan
Attachment



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

May 25, 2010

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

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

Enclosed are the Cost Participation, Construction, and Maintenance Agreement for the Safe Routes to School project. Also enclosed is the amendment to terminate the original Cost Participation, Construction, and Maintenance Agreement. Please review and execute all agreements and send them back to my attention. If you have any questions, please feel free to contact me at 701-328-4787.

Pam Wenger

PAM WENGER-SRTS PROGRAM COORDINATOR-SAFETY DIVISION

enclosures

**North Dakota Department of Transportation
AMENDMENT TO COST PARTICIPATION, CONSTRUCTION,
AND MAINTENANCE AGREEMENT FOR SAFE ROUTES TO SCHOOL
Project No. SRU-8-984(121)124**

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 the City of Fargo, hereinafter known as the City, whose address is 200 Third Street North, Fargo, North Dakota 58102.

WHEREAS, the parties entered into a contract on March 11, 2010; and

WHEREAS, the parties would like to terminate the existing contract; and

NOW THEREFORE, the City and NDDOT agree that the above-referenced contract is terminated upon execution of this amendment.

All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

Executed the date last below signed.

APPROVED:

CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

CITY OF FARGO

NAME (TYPE OR PRINT)

SIGNATURE

*

TITLE

DATE

ATTEST:

CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

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

APPROVED as to substance by:

SAFETY DIVISION DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 52494 (Div. 06)
L.D. Approved 5-19-00; 5-03
DK 5-17-10

**North Dakota Department of Transportation
AMENDMENT TO COST PARTICIPATION, CONSTRUCTION,
AND MAINTENANCE AGREEMENT FOR SAFE ROUTES TO SCHOOL
Project No. SRU-8-984(121)124**

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 the City of Fargo, hereinafter known as the City, whose address is 200 Third Street North, Fargo, North Dakota 58102.

WHEREAS, the parties entered into a contract on March 11, 2010; and

WHEREAS, the parties would like to terminate the existing contract; and

NOW THEREFORE, the City and NDDOT agree that the above-referenced contract is terminated upon execution of this amendment.

All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

Executed the date last below signed.

APPROVED:

CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

CITY OF FARGO

NAME (TYPE OR PRINT)

SIGNATURE

*

TITLE

DATE

ATTEST:

CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

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

APPROVED as to substance by:

SAFETY DIVISION DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

*Mayor or President City Commission

DOT 52494 (Div. 06)
L.D. Approved 5-19-00; 5-03
DK 5-17-10

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

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205

CFDA Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Administration

NDDOT Program Mgr: Pam Wenger

Telephone: 701-328-4787

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

For NDDOT use only.

FHWA Authorization date:

Project No. SRU-8-984(121)124 City of Fargo

Location: Fargo, North Dakota

Type of Improvement: Safer Routes to School Using Advanced Technologies

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

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

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

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

Federal funds obligated for this project shall not exceed 100 percent of the total eligible project cost up to a maximum of \$46,500.00. The balance of the project cost is the obligation of the City.

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

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

PART I

City Obligation:

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

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

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

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

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:
 - a. Withholding of payments to the City under the agreement until the City causes compliance, or
 - b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:
 - a. Submit the final plans to NDDOT.
 - b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
 - c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.
 - d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.
2. On behalf of the City, NDDOT will:
 - a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
 - b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.
 - c. Tabulate the bids and send to the City.
 - d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.
 - e. Distribute copies of the plans to the parties.
3. The City will:
 - a. Review bids to determine the lowest responsible bidder.
 - b. Execute the contract.
 - c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.
4. During the construction of the project, the City will:
 - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual*, the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction*.
 - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.

- c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.
- d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
2. Provide maintenance to the completed project at its own cost and expense.
3. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

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

If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.
4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

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

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

City of Fargo
200 Third Street North
Fargo, ND 58102

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

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

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

APPROVED:

CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo

*

NAME (TYPE OR PRINT)

SIGNATURE

*

TITLE

DATE

ATTEST:

CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

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

APPROVED as to substance:

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SAFETY DIVISION DIRECTOR (TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

DATE

*Mayor or President City Commission

DOT 2001-12
L.D. Approved 3-15-10

VMP

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.

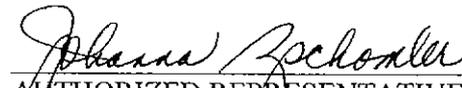
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS:

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

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

Federal Award Information—To be provided by NDDOT

CFDA No.: 20.205

CFDA Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Administration

NDDOT Program Mgr: Pam Wenger

Telephone: 701-328-4787

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

For NDDOT use only.

FHWA Authorization date:

Project No. SRU-8-984(121)124 City of Fargo

Location: Fargo, North Dakota

Type of Improvement: Safer Routes to School Using Advanced Technologies

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

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

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

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

Federal funds obligated for this project shall not exceed 100 percent of the total eligible project cost up to a maximum of \$46,500.00. The balance of the project cost is the obligation of the City.

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

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

PART I

City Obligation:

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

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

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

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

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. Comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 STAT. 252), the regulations of the Federal Department of Transportation, 49 CFR Part 21, and Executive Order 11246, relative to the employment practices under any engineering contract awarded in conjunction with this agreement. If the City fails to comply with the federal or state civil rights requirements of this agreement, sanctions may be imposed by FHWA or NDDOT as may be appropriate, including, but not limited to:
 - a. Withholding of payments to the City under the agreement until the City causes compliance, or
 - b. Cancellation, termination, or suspension of the agreement, in whole or in part.

PART II

Contracting and Construction:

1. Ten weeks before the bid opening date the City will:
 - a. Submit the final plans to NDDOT.
 - b. Certify that the right of way has been acquired in its name and at its sole expense, and in conformity with state and federal law and NDDOT's current edition of *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
 - c. Provide NDDOT with the permit or agreement authorizing utility facilities to be installed or continued on, under or over the right of way.
 - d. Provide NDDOT with all permits or clearances required for the construction of the project by state or federal law.
2. On behalf of the City, NDDOT will:
 - a. Prepare the bid proposals, print and distribute the proposals and plans, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
 - b. Evaluate the bids as to the sufficiency of Small Business participation and the bidder's good faith efforts in satisfying the requirements of the current edition of special provision, *Small Business Participation* and 49 CFR Part 26, Participation by DBE in DOT programs. NDDOT shall have exclusive authority in evaluating the adequacy of Small Business participation.
 - c. Tabulate the bids and send to the City.
 - d. Concur in the award of the contract, after the City has executed the contract, for the sole purpose of enabling the City to procure federal aid for the construction of the project.
 - e. Distribute copies of the plans to the parties.
3. The City will:
 - a. Review bids to determine the lowest responsible bidder.
 - b. Execute the contract.
 - c. Distribute copies of the executed contract and contract bond to NDDOT and the prime contractor.
4. During the construction of the project, the City will:
 - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual*, the *Construction Manual*, and the *Standard Specifications for Road and Bridge Construction*.
 - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.

- c. Make all records available to NDDOT and FHWA for inspection upon request. The City will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the City.
- d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the City agrees to:

1. Maintain the signing and marking of the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
2. Provide maintenance to the completed project at its own cost and expense.
3. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

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

If the City fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the City, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the City out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the City who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the City shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the City, and such officer, employee, or person has not participated in such acquisition for and in behalf of the City.
4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
5. NDDOT requires contracts executed with counties, cities, other state agencies, and Indian tribes to comply with OMB Cir. A-133.

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

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

City of Fargo
200 Third Street North
Fargo, ND 58102

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

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

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

APPROVED:

CITY ATTORNEY (TYPE OR PRINT)

SIGNATURE

DATE

City of Fargo

*

NAME (TYPE OR PRINT)

SIGNATURE

*

TITLE

DATE

ATTEST:

CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

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

APPROVED as to substance:

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SAFETY DIVISION DIRECTOR (TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

DATE

*Mayor or President City Commission

DOT 2001-12
L.D. Approved 3-15-10

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.

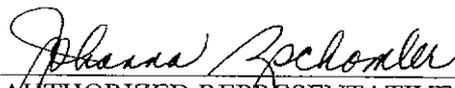
THE STATE OF NORTH DAKOTA HAS FUNDED FOR THIS LIABILITY EXPOSURE AT A LEVEL DETERMINED BY AN INDEPENDENT ACTUARY.

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



ENGINEERING DEPARTMENT

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

May 25, 2010

To: Public Works Project Evaluation Committee

From: Brenda E. Derrig, Senior Engineer *Brenda E. Derrig*

Re: Engineering Services Proposal for Improvement District #5732

The City is currently designing the sanitary sewer lift station to service the area west of Veteran's Boulevard from a half mile north of 52nd Avenue South to the south City Limits. Attached you will find an Engineering Services Proposal from Ulteig Engineers for assisting with the pump design for the sanitary sewer lift station and for designing and overseeing the electrical work for the sanitary sewer lift station.

I recommend that the Public Works Project Evaluation Committee approve the Engineering Services Proposal of \$15,500 with Ulteig Engineers.



May 13, 2010

Brenda Derrig, PE
City of Fargo Engineering
200 3rd Street North
Fargo, ND 58102

**Subject: Sanitary Lift Station – Project #5732
Engineering Services Proposal**

Dear Ms Derrig:

Thank you for the opportunity to present you with this Proposal for Engineering Services on the above referenced project. I have attached a proposed scope of work, fee schedule, estimated project schedule, and rate sheet for your review.

Based on the scope of work, we propose to complete the work for a fee not to exceed \$15,500, including any reimbursables. This is for the design and bidding phases of the project. Any assistance necessary during construction or station start up would be on an hourly basis based on the attached rate sheet. Please review this proposal and, if acceptable, sign below and return to me.

We look forward to working with you on this project and, again, thank you for the opportunity. If you have any questions or need further information, please feel free to contact me.

Sincerely,

Ulteig Engineers, Inc.

A handwritten signature in black ink, appearing to read "Timothy J. Paustian".

Timothy J. Paustian, PE
Associate Vice President

Accepted: _____
Name:
Title:

May 13, 2010

City of Fargo, North Dakota

Sanitary Lift Station Design & Bidding Assistance – Project #5732

Scope of Services

Index:

| Engineering Service No. | Description |
|-------------------------|-------------------------------|
| 1. | Contract Document Development |
| 2. | Bid Period Activities |
| 3. | Construction Administration |

1. Contract Document Development

Objective:

To produce a plan and specification for a new sanitary lift station located south of 52nd Avenue South near 63rd Street. Lift Station is a part of City Project #5732.

Activities:

1. Kickoff meeting and project objectives discussion.
2. Generate System Head Curve
3. Pump Selection
4. Evaluate Pump Manufacturers to be Named
5. Electrical Requirements
6. Evaluate Instrumentation and Control Vendors to be Named
7. Evaluate Constructability Issues and Structural Uplift
8. Develop 90% Construction Documents for Lift Station
9. Conduct 90% Design Review Meeting
10. Incorporate Comments from 90% Review
11. Develop Final Plan & Specification
12. QA/QC review of lift station plan and specification.

City of Fargo Responsibilities

- Provide Ulteig Engineers with drawings, background information, etc.
- Provide input to Ulteig on existing, proposed, and future flows for sizing the lift station
- Attend 90% design review meetings.
- Provide comments at various design stages.

Ulteig Engineers, Inc. Responsibilities

- Provide the City with plan and specification at 90% and 100%. Plan and Specification is to be incorporated into the City's plans and specifications for Project #5732.
- Incorporate City comments into each plan review set.

2. Bid Period Activities

Objective:

The objective of this task is to provide the City of Fargo with assistance in answering bid period questions regarding the new Lift Station.

Activities:

1. Answer bid period questions from the City.

City of Fargo Responsibilities

- Correspond with Ulteig regarding bid period questions on the Lift Station portion of the project.

Ulteig Engineers, Inc. Responsibilities

- Provide the City with timely responses to bid period questions on the Lift Station portion of the project.

3. Construction Administration

Objective:

The objective of this task is to conduct Construction Administration activities as requested by the City of Fargo.

Activities:

1. Review shop drawings as requested by the City of Fargo.
2. Monitor construction activities as requested by the City of Fargo
3. Attend Lift Station startup as requested by the City of Fargo.

City of Fargo Responsibilities

- Forward any Shop Drawings to be reviewed.
- Forward any requests for Construction assistance
- Forward any requests for Startup assistance.

Ulteig Engineers, Inc. Responsibilities

- Assist with Shop Drawing review as requested by the City of Fargo.
- Assist with Construction Administration activities as requested by the City of Fargo.
- Assist with Lift Station startup and performance testing as requested by the City of Fargo.

Sanitary Lift Station – Project #5732

Fargo, North Dakota

Proposed Schedule

| Item | Schedule (week of) |
|--------------------------------|-----------------------------|
| 1. Project Kickoff | May 10 th , 2010 |
| 2. 90% Plans & Specification | May 24 th , 2010 |
| 3. Final Plans & Specification | May 31 st , 2010 |
| 4. Bid Period Assistance | As Needed |
| 5. Construction Assistance | As Needed |

| ESTIMATED LEVEL OF STAFFING | Ulteig Engineers, Inc. | | | | | | | Total hours | Cost | |
|--|------------------------|-----------------|------------------|------------------|---------------|----------|-----|----------------------|------|----------|
| | Principal | Project Manager | Project Engineer | Civil Technician | Staff Support | Clerical | | | | |
| Sanitary Lift Station - City of Fargo Project #5732 | | | | | | | | | | |
| TASK 1.0 - Project Management and General Meetings | | | | | | | | | | \$816 |
| 1.1 Kickoff and Scoping Meeting with City Personnel | | 1 | | | | | | | | \$136 |
| 1.2 Secure Existing Plans, Specifications and Operational Data as Needed | | 1 | | | | | | | | \$136 |
| 1.3 Correspondance and General Progress Meetings | | 4 | | | | | | | | \$544 |
| TASK 2.0 - Contract Document Development | | | | | | | | | | \$13,429 |
| 2.1 Flow Projections and Basis of Design | | 1 | 4 | | | | 5 | | | \$596 |
| 2.2 Generate System Head Curve | | 1 | 2 | | | | 3 | | | \$366 |
| 2.3 Pump Selection | | 2 | 6 | | | | 8 | | | \$962 |
| 2.4 Evaluate Various Pump Manufacturers to be Named | | 1 | 2 | | | | 3 | | | \$366 |
| 2.5 Electrical Requirements | | 16 | 4 | 2 | | | 22 | | | \$2,816 |
| 2.6 Evaluate Constructability Issues for Lift Station & Structure Uplift | | 2 | 4 | | | | 6 | | | \$732 |
| 2.7 Develop 90% Design Documents | | 8 | 24 | 16 | 2 | 4 | 54 | | | \$5,708 |
| 2.8 Conduct 90% Design Review Meeting | | 1 | 1 | | | | 2 | | | \$251 |
| 2.9 Incorporate Comments from 90% Design Review | | 1 | 2 | 4 | | | 7 | | | \$726 |
| 2.10 Develop Final Plan & Specification | 1 | 1 | 2 | 4 | | | 8 | | | \$906 |
| TASK 3.0 - Bid Period Services | | | | | | | | | | \$774 |
| 3.1 Answer Bid Period Questions from City Personnel | | 4 | 2 | | | | 6 | | | \$774 |
| TASK 4.0 - Construction Administration | | | | | | | | | | \$0 |
| <i>As Needed on an Hourly Basis based on Attached rate sheet.</i> | | | | | | | | | | |
| TASK 5.0 - Project Closeout & Start Up | | | | | | | | | | \$0 |
| <i>As Needed on an Hourly Basis based on Attached rate sheet.</i> | | | | | | | | | | |
| Subtotal | 1 | 44 | 53 | 26 | 2 | 4 | 124 | \$15,019 | | \$15,019 |
| | | | | | | | | Reimbursables | | \$481 |
| | | | | | | | | Total | | \$15,500 |

Reimbursables: Includes CAD, mileage, & document printing.



ULTEIG ENGINEERS, INC.
2010 Hourly Rate Schedule
City of Fargo Project #5732

| CLASSIFICATION | 2010 Hourly Rate |
|--------------------------------|---------------------|
| Principal | \$180.00 |
| Senior Engineer | \$150.00 |
| Lead Engineer | \$136.00 |
| Engineer | \$125.00 |
| Design Engineer | \$115.00 |
| Graduate Engineer | \$96.00 |
| Right-of-Way Manager | \$128.00 |
| Senior Right-of-Way Specialist | \$104.00 |
| Lead Right-of-Way Specialist | \$94.00 |
| Right-of-Way Specialist II | \$85.00 |
| Right-of-Way Specialist I | \$75.00 |
| Senior Land Surveyor | \$128.00 |
| Land Surveyor | \$102.00 |
| Senior Survey Crew Chief | \$90.00 |
| Survey Crew Chief | \$80.00 |
| Surveyor Technician II | \$70.00 |
| Surveyor Technician I | \$60.00 |
| Senior Engineering Technician | \$112.00 |
| Lead Engineering Technician | \$100.00 |
| Engineering Technician | \$90.00 |
| CADD Tech II | \$80.00 |
| CADD Tech I | \$75.00 |
| Senior GIS Analyst | \$128.00 |
| Lead GIS Analyst | \$114.00 |
| GIS Analyst | \$100.00 |
| GIS Technician II | \$88.00 |
| GIS Technician I | \$78.00 |
| Planning Manager | \$128.00 |
| Senior Planner | \$114.00 |
| Lead Planner | \$103.00 |
| Planner II | \$92.00 |
| Planner I | \$81.00 |
| Senior Staff Support | \$134.00 |
| Staff Support Lead | \$98.00 |
| Staff Support | \$80.00 |
| Clerical | \$65.00 |

All subcontractors & sub consultants engaged by us on behalf of the client will be billed at cost plus ten percent

| | | |
|--|--|---------------------|
| Survey Vehicle | | \$0.80/Mile |
| Car/Pickup | | IRS rate/Mile |
| Inspection Vehicle | | \$105.00/Day (min.) |
| Snowmobile | | \$150.00/Day |
| All Terrain Vehicle | | \$110.00/Day |
| GPS | | \$25.00/Hour |
| Robotic Total Station (Each Unit) | | \$35.00/Hour |
| Total Station | | \$16.00/Hour |
| CADD/Engineering Computer | | \$12.00/Hour |
| PSS/E Software | | \$15.00/Hour |
| Scanning System | | \$50.00/Hour |
| Printing: | Plan Sheet Prints (Black and White) | \$1.00/Sq Ft |
| | Plan Sheet Prints (Color) | Per Project Basis |
| | 8 1/2 x 11 Sheet Copying (Black and White) | \$0.20/Each |
| | 8 1/2 x 11 Sheet Copying (Color) | \$0.50/Each |
| Subsistence, Postage/Messenger and Miscellaneous Out-of-Pocket | | At Cost |

"For additional project related services, such as: software development, network and system design, IT consulting, market analysis, training, administrative or general support services, please contact your Ulteig representative for capabilities and rates"

U

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. 5957 Type: Engineering & Survey Service

Location: 2130 Sterling Rose Lane Date of Hearing: 05/11/10

| Routing | Date |
|------------------|-----------------|
| City Commission | 6/1/10 |
| PWPEC File | X |
| Project File | Nathan Boerboom |
| Petitioners | |
| David W. Johnson | |

The Committee reviewed a proposal from Ulteig Engineers for consulting engineering services at 2130 Sterling Rose Lane. Prior to the 2010 Flood, the City attempted to convince the owner of this house to remove the existing walkout basement opening since the walkout level made flood protection very difficult across this lot. The homeowner then offered to sell the property and allow the City to take care of the walkout flood protection problems. Upon removal of the walkout and other potential flood protection enhancements, the property will be offered for sale.

On a motion by Bruce Hoover, seconded by Bruce Grubb, the Committee voted to recommend approval of the cost proposal for engineering services.

RECOMMENDED MOTION

Approve contract with Ulteig Engineers, Inc., in the amount of \$17,500 for Project 5957.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax

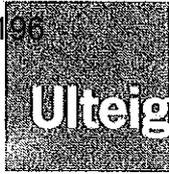
| | Yes | No |
|--|-----|----|
| Developer meets City policy for payment of delinquent specials | N/A | |
| Agreement for payment of specials required of developer | N/A | |
| 50% escrow deposit required | N/A | |

COMMITTEE

| | Present | Yes | No | Unanimous |
|--|---------|-----|----|---------------|
| Pat Zavoral, City Administrator | | | | X |
| Jim Gilmour, Planning Director | X | X | | |
| Bruce Hoover, Fire Chief | X | X | | |
| Mark Bittner, City Engineer | X | X | | |
| Bruce Grubb, Enterprise Director | X | X | | |
| Ben Dow, Acting Director of Operations | X | X | | |
| Steve Sprague, City Auditor | X | X | | |
| | | | | Dan Eberhardt |

ATTEST:

Mark H. Bittner
Mark H. Bittner
City Engineer



3350 38th Ave. S.
Fargo, ND 58104

Tel 701-280-8500
Fax 701-237-3191

www.ulteig.com

March 16, 2010

City of Fargo
Attn: Brenda Derrig
200 3rd Street North
Fargo, North Dakota 58102

Subject: Proposal for Engineering and Survey Services
2130 Sterling Rose Residence in Fargo, North Dakota

Dear Ms. Derrig,

Ulteig Engineers, Inc. appreciates the opportunity to submit this proposal for engineering, architectural, and survey services for the residence located at 2130 Sterling Rose Lane in Fargo, North Dakota. It is our understanding that the residence has a walkout basement that interferes with the City of Fargo's ability to construct temporary dikes along the Rose Creek Coulee, and the City of Fargo would like Ulteig to provide recommendations for filling in the existing walkout. As discussed on March 4, 2010, at an on-site meeting, Ulteig will provide the City of Fargo with two options for filling in the walkout; one of which will be chosen prior to the start of the design. The options are as follows:

Option #1: Small Walkout

1. A small walkout will remain which will extend out approximately 10 feet from the existing basement walls on the south side of the house.
2. A concrete retaining wall will support the soil brought on site to raise the original grades.
3. Options for drainage of the walkout area will be discussed in detail with the City of Fargo prior to approval of this option. However, our initial fees will include accommodations for a drain to be installed (with shut-off valves), which will drain into the existing coulee.

Option #2: Full Basement with Egress Windows

1. The entire site will be brought up to an acceptable grade as determined by the City of Fargo.
2. The existing windows and doors in the basement will be removed, and new egress windows will be incorporated into the basement walls.
3. The basement walls will be evaluated for their ability to resist the lateral loads induced by the additional soil, and modifications to the existing walls will be made as necessary.

Ulteig will provide civil engineering, structural engineering, and survey services for the project. Ulteig has requested the assistance of Ken Anderson with Anderson Architecture, PC, to provide architectural services as necessary for the project. Our proposed scope of services is as follows:

Civil Engineering:

1. Provide a grading plan for the City of Fargo to use to widen and raise the existing clay dike to assist with the spring 2010 flood fight. Specifications can be provided at the City of Fargo's request.
2. Provide a preliminary construction estimate for Option #1 and Option #2 to assist the City of Fargo in determining which option to pursue.
3. Provide a grading plan and specifications for the final grade to be constructed after the spring 2010 flood according to the option chosen.
4. Design of drainage system for Option #1 as described above.

Structural Engineering:

1. Provide a preliminary construction estimate for Option #1 and Option #2 to assist the City of Fargo in determining which option to pursue.
2. Provide structural plans and specifications for the option chosen.
3. Design of concrete retaining wall for Option #1 or wood basement walls for Option #2.

Architectural Services:

1. Provide a preliminary construction estimate and wall sections for Option #1 and Option #2 to assist the City of Fargo in determining which option to pursue.
2. Perform a limited code review of the residence based on the Option chosen.
3. Provide assistance in determining finishes for areas of the residence that are affected by the construction.

Survey Services:

1. Provide the City of Fargo with a topographic survey of the existing site.
2. Perform construction staking for widening and raising the existing dike for the spring 2010 flood.
3. Perform construction staking for the final grading of the site.

We propose to provide the services listed above for the following hourly not to exceed fees:

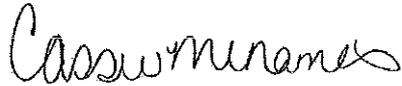
| | |
|-----------------------------|--|
| Civil Engineering..... | \$5,000 |
| Structural Engineering..... | \$6,000 |
| Topographic Survey..... | \$1,500 |
| Construction Staking..... | \$3,000 |
| Architectural..... | <u>\$2,000</u> |
| | Estimated Not to Exceed Fee: \$17,500 |

Expenses will be reimbursed as per our Professional Service Agreement.

Ulteig is available to assist in the bidding and construction of this project upon your request. These services will be billed at our hourly rate schedule.

We are available to begin work on this project immediately upon your approval. If you have questions about the scope of work or fees, please contact me at 701-280-8636. I've attached a copy of our Professional Service Agreement for your review. Please call with any questions you have. Upon your approval of the scope of work and agreement, please return one signed copy of the agreement to our office.

Sincerely,

A handwritten signature in cursive script that reads "Cassie McNames".

Cassie McNames, PE
Project Manager

Professional Services Agreement

between

Ulteig Engineers, Inc.

and

City of Fargo

This **PROFESSIONAL SERVICES AGREEMENT** (the "Agreement") is made and entered into as of the latter of the two dates set forth below (the "Effective Date"), by and between City of Fargo, 200 3rd Street North, Fargo, ND 58102 (the "Client") and Ulteig Engineers, Inc., a North Dakota corporation with offices located at 3350 38th Avenue South, Fargo, ND 58104 ("Ulteig") (and, collectively herein, the "Parties").

Whereas Client desires Ulteig provide, and Ulteig desire to provide, professional services to Client relating to the project described in Exhibit A (the "Project"). Now therefore, in consideration of the mutual promises set forth herein, the Parties intend to be legally bound and agree as follows:

1. ULTEIG'S RESPONSIBILITIES

1.01 SCOPE. Ulteig shall provide the Services set forth herein and in Exhibit A (the "Services"). Ulteig is authorized to begin the Services upon written notice to proceed. Ulteig's Services under this Agreement are undertaken and performed in the sole interest of Client.

1.02 STANDARD OF CARE. Ulteig agrees that the Services performed under the terms of this Agreement will meet the standard of care and skill exercised by reputable members of its profession practicing under similar conditions at the same time and in a similar locale. Ulteig makes no warranties, express or implied, under this Agreement or otherwise, in connection with Ulteig's Services.

1.03 RESPONSIBILITY FOR CORRECTIONS. Ulteig shall be responsible for the technical accuracy of the Services and related work product. Ulteig shall correct any material technical inaccuracies in its Services or related work product without additional compensation, except to the extent such inaccuracies are attributable to deficiencies in Client-furnished information or otherwise the fault of client.

1.04 LIMITATION OF RESPONSIBILITY. Ulteig shall not supervise, direct, or have control over or responsibility for the means, methods, techniques, sequences, or procedures of construction used or selected on the Project. Furthermore, Ulteig shall not be responsible for the acts or omissions of any contractor, their subcontractors, or suppliers or for any of their agents or employees or any other persons furnishing or performing service related to the Project, or for any decision made on interpretations or clarifications of the documents created by Ulteig hereunder given by Client or any contractor, their subcontractors, or suppliers or for any of their agents or employees without the consultation and advice of Ulteig.

2. CLIENT'S RESPONSIBILITIES

2.01 DUTY TO COOPERATE. Client acknowledges Ulteig's legal and ethical obligations with respect to public health and safety and will cooperate with Ulteig to help comply with these obligations. Moreover, Client shall not require Ulteig to sign any documents that would result in Ulteig having to certify, guarantee or warrant existence of conditions the existence of which Ulteig cannot or is not required to ascertain. Client agrees

not to resolve or attempt to resolve any dispute with Ulteig or to make payment of any amount due to Ulteig in any way contingent upon any such certification.

2.02 DUTY TO PROVIDE ACCURATE, COMPLETE, AND TIMELY INFORMATION. Client agrees to provide Ulteig with any and all documents, including but not limited to, structural documents, geotechnical reports and other technical information regarding the Services, Additional Services, and/or the location where any Services are to be performed (the "Site"), if any, which are available to Client. Client shall be responsible for, and Ulteig may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, documents and other information furnished by Client to Ulteig pursuant to this Agreement. Ulteig may use such requirements, reports, data, documents and information in performing or furnishing Services under this Agreement. Client shall make decisions and carry out its other responsibilities in a timely manner under this Agreement so as not to delay Ulteig's Services.

3. SCHEDULE

3.01 TIME. Ulteig's Services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Specific periods of time for rendering Services or specific dates by which the Services are to be completed are set forth in the attached Scope of Services, at Exhibit A which is incorporated by reference herein.

3.02 SUSPENSION. If Client fails to give prompt written authorization to proceed with any phase of Services after completion of the immediately preceding phase, or if the Services are delayed through no fault of Ulteig, Ulteig may, after giving seven (7) days' written notice to Client, suspend Services under this Agreement.

If the Services are delayed or suspended in whole or in part by Client for more than sixty (60) days through no fault of Ulteig, Ulteig shall be entitled to an equitable adjustment of compensation and schedule, to reflect the reasonable costs incurred by Ulteig in connection with, among other things, such delay or suspension and reactivation.

4. ULTEIG'S COMPENSATION

4.01 Client shall compensate Ulteig for Services performed pursuant to this



Agreement as set forth in Exhibit A.

4.02 REIMBURSABLE EXPENSES. In addition to the compensation provided for in Paragraph 4.01, Client shall pay Ulteig for reasonable and necessary business expenses (the "Reimbursable Expenses") incurred by Ulteig and Ulteig's consultants (the "Consultants") as set forth in Exhibit A.

4.03 INVOICES. Invoices will be prepared in accordance with Ulteig's standard invoicing practices and be submitted to Client by Ulteig on a monthly basis. Invoices are due and payable upon receipt. If Client fails to make such payment, Ulteig will charge interest at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from the date the invoice was received. In addition, Ulteig may, after giving seven (7) days' written notice to Client, suspend Services under this Agreement until Ulteig has been paid in full all amounts due. Payments will be credited first to interest and then to principal.

4.04 DISPUTED INVOICES. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion shall be paid.

4.05 PAYMENTS UPON TERMINATION. In the event of any termination under Article 5, Ulteig will be entitled to invoice Client and will be paid for Services performed and all Reimbursable Expenses incurred through the effective date of termination.

4.06 RECORDS OF ULTEIG'S COSTS. Records of Ulteig's costs pertinent to Ulteig's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify Ulteig's charges and upon Client's reasonable request, copies of such records will be made available to Client at Client's cost.

4.07 CHANGES IN LAWS OR REGULATIONS. In the event of changes in applicable laws or regulations after the Effective Date of the Agreement that impose taxes, fees, or costs on Ulteig's Services or other costs in connection with this Project or compensation therefore, such new taxes, fees, or costs shall be invoiced to and paid by Client as a Reimbursable Expense. Should such taxes, fees, or costs be imposed, they shall be in addition to Ulteig's estimated total compensation.

5. TERMINATION

5.01 TERMINATION FOR CAUSE. The obligation to provide further services under this Agreement may be terminated for cause by either party upon seven (7) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. However, this Agreement will not terminate as a result of such substantial

failure if the party receiving such notice begins, within seven (7) days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days of receipt thereof (unless cure is impossible); provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such thirty (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, sixty (60) days after the date of receipt of the notice. Where Services have been so terminated by either party, the termination will not affect any rights or remedies of either party against the other then existing or which may thereafter accrue.

5.02 CLIENT'S TERMINATION FOR CONVENIENCE. The obligation to provide further Services under this Agreement may be terminated for convenience by Client effective upon the receipt of notice by Ulteig.

5.03 TERMINATION BY ULTEIG. In addition to the rights set forth in Paragraph 5.01 above, the obligation to provide further Services under this Agreement may be terminated by Ulteig upon seven (7) days' written notice if (a) Ulteig believes that Ulteig is being requested by Client to furnish or perform Services contrary to Ulteig's responsibilities as a licensed professional; (b) Client files a voluntary petition seeking relief under the United States Bankruptcy Code or there is an involuntary bankruptcy petition filed against Client in the United States Bankruptcy Court; or (c) upon seven (7) days' written notice if Ulteig's services are delayed or suspended for more than sixty (60) days for reasons beyond Ulteig's control. Ulteig shall have no liability to Client on account of a termination under this Paragraph 5.03.

6. DOCUMENTATION

6.01 OWNERSHIP, PUBLICATION, REPRODUCTION AND USE OF MATERIALS. All work products of the contractor which result from this contract are the exclusive property of City, and its federal/state grantor agencies.

No material produced in whole or part under this agreement shall, during the life of this agreement, be subject to copyright in the United States or in any other country. Permission and approval must be obtained from the City before any report, handbook, cassettes, manual, interim data, or results are published. Draft copies of all deliverables must be prepared by the consultant and reviewed and approved by the City before publication. The consultant, subject to the approval by the City, shall have the authority to publish, disclose, distribute, distribute, and otherwise use in whole and part, any reports, data, or other materials prepared under this agreement.

Ulteig

6.02 DRAFTS. Client agrees not to use or permit any other person to use plans, drawings, or other work product prepared by Ulteig, which plans, drawings or other work product are not final and which are not signed and stamped or sealed by Ulteig. Client agrees it shall be liable and responsible for any such use of non-final plans, drawings or other work product not signed and stamped or sealed by Ulteig and waives liability against Ulteig for its use.

6.03 ELECTRONIC MEDIA. Copies of data furnished by Client to Ulteig or by Ulteig to Client that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or of other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring Documents in electronic media format, no representations are made by either party as to long term compatibility, usability, or readability of Documents resulting from the use of software application packages, operating systems, or computer hardware differing from those agreed to by the Parties at the beginning of this Project. Ulteig shall not be responsible to maintain Documents stored in electronic media format after acceptance by Client.

7. INSURANCE AND RELATED ISSUES

7.01 INSURANCE. Ulteig will purchase and maintain such insurance as is reasonable and necessary for the Services being performed. The insurance required by this Section 7 shall include the specific coverage and be written for not less than the limits of liability and coverage as hereinafter provided, or as required by law, whichever is greater.

| | |
|-----------------------------|---|
| Workers Compensation: | Statutory Limits in state where Project is located. |
| Commercial Gen. Liability: | \$1,000,000 per occurrence \$1,000,000 general aggregate |
| Prof. Errors and Omissions: | \$1,000,000 per claim \$1,000,000 general aggregate |

7.02 CERTIFICATES OF INSURANCE. Upon Client's request, Ulteig shall deliver to Client certificates of insurance evidencing the coverage indicated in Paragraph 7.01.

7.03 COMPARATIVE NEGLIGENCE. To the fullest extent permitted by law, Ulteig's total liability to Client and anyone claiming by, through, or under Client for any cost, loss, or damages caused in part by Ulteig's negligence and in part by the negligence of Client or any other negligent entity or individual, shall not exceed the percentage share that Ulteig's negligence bears to the total negligence of Client, Ulteig, and all other negligent entities and individuals.

7.04 COOPERATION REGARDING COVERED CHANGES. Client recognizes that certain minor changes

may be required to be made as a result of, in whole or part, ambiguities, inconsistencies, incompleteness, and/or slight or minor inaccuracies in the drawings, specifications, and other design documentation furnished by Ulteig or other Services performed or furnished under the Agreement (the "Covered Changes"). Client agrees to promptly notify Ulteig and the Parties agree to cooperate in good faith to determine whether such Covered Changes shall be made by Ulteig. Client shall not make a claim directly or indirectly against Ulteig with respect to the costs of Covered Changes of five thousand dollars (\$5,000) or less, unless Client has promptly informed Ulteig of the Covered Changes, including a detailed description thereof, and has attempted in good faith to reach an agreement with Ulteig regarding same. Nothing in this provision changes the professional liability standard for determining if Ulteig is liable for the cost of such Covered Changes.

7.05 MUTUAL EXCLUSION OF SPECIAL, INCIDENTAL, INDIRECT AND CONSEQUENTIAL DAMAGES. To the fullest extent permitted by law, and notwithstanding any other provision in this Agreement, the Parties and their officers, directors, employees, agents, and Consultants shall not be liable for any special, incidental, indirect, or consequential damages whatsoever arising out of or resulting from the Project, the Services or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied.

7.06 INDEMNIFICATION.

(1) To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER'S officers, directors, partners and employees from and against any and all costs, losses and damages (including, but not limited to, all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER'S officers, directors, partners, employees, or ENGINEER'S Consultants in the performance and furnishing of ENGINEER'S services under this Agreement.

(2) To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER'S officers, directors, partners, employees, and ENGINEER'S Consultants from and against any and all costs, losses and damages (including, but not limited to, all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER'S officers, directors, partners, employees, and OWNER'S Consultants with respect to this Agreement or the Project.

(3) To the fullest extent permitted by law, ENGINEER'S total liability to OWNER and anyone claiming by, through, or under OWNER for any cost, loss of damages caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other

negligent entity or individual, shall not exceed the percentage share that ENGINEER'S negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.

(4) In addition to the indemnity provided under paragraph 7.06.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER'S Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 7.06.4 shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

8. SITE CONDITIONS

8.01 REPRESENTATION OF CLIENT. Client represents and warrants to Ulteig that, to the best of its knowledge, a Hazardous Environmental Condition does not exist at or near the Site. A "Hazardous Environmental Condition" hereunder shall mean the existence of any substance, product, waste, or other material of any nature (including, but not limited to asbestos, petroleum, radioactive material, and PCBs), which is or becomes listed, regulated, or addressed under: (a) the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 ("CERCLA"), (b) the Hazardous Materials Transportation Act, (c) the Resource Conservation and Property Recovery Act, (d) the Toxic Substances Control Act, (e) the Clean Water Act, (f) the Clean Air Act, and (g) any other federal, state, or local statute, law, rule, regulation, order, or decree relating to or imposing liability or standards concerning any hazardous, toxic, or dangerous waste, substance or material. Client represents and warrants that it has disclosed to the best of its knowledge to Ulteig the existence of any and all Hazardous Environmental Conditions at or near the Site, including type, quantity and location.

Client further acknowledges that Ulteig is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the CERCLA which are or may be encountered at or near the Site in connection with Ulteig's activities or Services under the Agreement.

8.02 ULTEIG'S OBLIGATION TO NOTIFY. If a Hazardous Environmental Condition is encountered or alleged, Ulteig shall have the obligation to notify Client and, to the extent required by applicable laws or regulations, appropriate governmental officials.

8.03 ULTEIG'S RIGHT TO SUSPEND OR TERMINATE SERVICES. It is acknowledged by both Parties that Ulteig's Services hereunder do not include any Services related to a Hazardous Environmental Condition. In the event Ulteig or any other party encounters a Hazardous Environmental Condition, Ulteig may, at its option and without liability for damages, suspend performance of the Services on the portion of the Project affected thereby until Client: (i) identifies and, as appropriate, abates, remediates, or removes the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable laws or regulations. If Ulteig's Services cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify Ulteig terminating this Agreement for cause on thirty (30) days' notice.

9. GENERAL

9.01 AMENDMENT. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument signed by both parties.

9.02 ASSIGNMENT. Neither Client nor Ulteig may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies 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 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.

9.03 CONSULTANTS. Ulteig may employ any Consultants Ulteig deems necessary to assist in the performance or furnishing of Ulteig's services. Ulteig shall not be required to employ any Consultant unacceptable to Ulteig. Ulteig makes no warranties under this Agreement or otherwise, in connection with services provided by Ulteig's Consultants.

9.04 COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS. Ulteig and Client shall comply with all applicable laws or regulations. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date may be the basis for modifications to Client's responsibilities or to Ulteig's Services, times of performance, or compensation.

9.05 CONTROLLING LAW. This Agreement is to be governed by North Dakota law. Any dispute between the Parties that cannot be resolved through alternative dispute resolution shall be venued in a court of competent jurisdiction in Fargo, North Dakota.

9.06 ENTIRE AGREEMENT. This Agreement together with the Exhibits identified herein constitutes the entire



Agreement between Client and Ulteig and supersedes all prior written or oral understandings.

9.07 DISPUTE RESOLUTION. The Parties agree to mediate all disputes between them prior to exercising their rights under this Agreement or under law.

9.08 HEADINGS. The headings used in this Agreement are for general reference only and do not have special significance.

9.09 NOTICES. Any notice required under this Agreement shall be made in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

9.10 SEVERABILITY. Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the Parties, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.11 SUCCESSORS AND ASSIGNS. Client and Ulteig together with their respective partners, successors, executors, administrators and legal representatives 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.

9.12 SURVIVAL. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

9.13 THIRD PARTY OBLIGATIONS. Nothing contained herein shall create any obligation or contractual relationship with any third party or any third party beneficiary relationship.

9.14 WAIVER. Non-enforcement of any provision by either party shall not constitute a waiver of that

provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

9.15 ATTORNEYS' FEES. If any legal action or proceeding is brought by Ulteig to enforce this Agreement, Ulteig shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding (including, without limitation, expert witness fees), in addition to any other relief to which Ulteig may be entitled.

9.16 CERTIFICATION REGARDING LOBBYING. Ulteig certifies, to the best of its knowledge and belief that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of Ulteig, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering 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 influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Ulteig shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.

(3) Ulteig shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

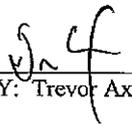
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Agreement to the terms of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to comply with the terms of this 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.

IN WITNESS WHEREOF, the Parties have signed this Agreement in duplicate. One counterpart each has been delivered to each party.

CLIENT

ULTEIG ENGINEERS, INC.

BY: Dennis R. Walaker



BY: Trevor Axner, PE

ITS: Mayor

ITS: AVP

DATE:

DATE: 5/20/2010

ADDRESS:

ADDRESS:

200 3rd Street North
Fargo, ND 58102

3350 38th Avenue South
Fargo, ND 58104

EXHIBIT A**1. SCOPE OF SERVICES**

- A. As detailed in the proposal letter addressed to Brenda Derrig on March 16, 2010.

2. ADDITIONAL SERVICES

All other Services not specifically detailed in Section 1 above shall be considered “Additional Services” and, unless otherwise agreed, shall entitle Ulteig to additional compensation calculated on an hourly basis under Ulteig’s current fee schedule as may be reasonably adjusted on an annual basis.

3. SCHEDULE

- A. Ulteig will complete the services within one month of the approval of Option #1 or Option #2 as detailed in the proposal letter addressed to Brenda Derrig on March 16, 2010.

4. COMPENSATION

- A. Ulteig’s Current Rate Sheet is attached. Ulteig’s hourly rates are subject to adjustment from time to time and may be affected by factors such as unusual time constraints and overall value of our Services.

5. REIMBURSABLE EXPENSES. Disbursements for certain items, such as travel expenses, GPS equipment, long distance calls, facsimile service, photocopying and computerized research are usually advanced by us, and then will be billed to Client at cost plus 15%.

6. OTHER CONSIDERATIONS



COVER SHEET
CITY OF FARGO PROJECTS

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of Project as it will appear in the Contract:

STS Lift Station & Incidentals

Project No. 5229-6

| | | |
|-------------------------------|--|---------------|
| Call for Bids | <u>June 1st</u> | <u>, 2010</u> |
| Advertise | <u>June 7th, 14th, 21st</u> | <u>, 2010</u> |
| Bid Opening Date | <u>July 7th</u> | <u>, 2010</u> |
| Completion Date (Substantial) | <u>October 31st</u> | <u>, 2010</u> |
| Completion Date (Final) | <u>June 15th</u> | <u>, 2011</u> |

X PWPEC Report (Attach Copy) **Part of 2010 CIP**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

N/A Notice to Property Owners (Dan Eberhardt)

Project Engineer Rob Hasey

Phone No. 476-4041

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

N/A Create District (Attach Copy of Legal Description)

N/A Order Plans & Specifications

N/A Approve Plans & Specifications

N/A Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

N/A Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT
STS LIFT STATION & INCIDENTALS
PROJECT NO. 5229-6

Nature & Scope

This project provides for the conversion of an existing gate well structure to a permanent storm sewer lift station.

Purpose

During periods of high river stage, runoff from snowmelt and rainfall must be pumped out of the city's storm sewer system into the Red River. Currently, a portable diesel-powered pump must be rented & installed near the intersection of 15th Avenue North & 2nd Street. The pump must be manually operated & supervised during flood events.

Under this project, two permanent electric powered storm water pumps will operate automatically through a dedicated control system. This will increase both the pumping capacity and reliability at this location while freeing up maintenance personnel during river flood events.

Feasibility

The costs of these improvements are estimated as follows:

| | |
|---|-------------------|
| Estimated Construction Cost: | \$ 478,700 |
| Plus 25% Engineering & Administration Fees: | \$ 119,675 |
| Total Estimated Cost: | \$ 598,375 |

Funding

| | | |
|-----|---|------------|
| 50% | City of Fargo Storm Sewer Utility - balance | \$ 296,875 |
| 6% | State of North Dakota | \$ 35,250 |
| 44% | FEMA HMGP grant | \$ 266,250 |

We believe this project to be cost effective.



Mark H. Bittner
Mark Bittner
City Engineer

May 2010



ENGINEERING DEPARTMENT

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

May 26, 2010

41

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Improvement District No. 5916

Dear Commissioners:

Bids were opened at 11:30 AM on Wednesday, May 26, 2010, for Asphalt Wear Course, Mill & Overlay & Incidentals, Improvement District No. 5916, located at 43rd Street South between 15th Avenue South and 17th Avenue South, Woodhaven 4th Addition, 18th Street South between 25th Street and 25th Avenue South.

The bids were as follows:

| | |
|----------------------------|--------------|
| Border States Paving, Inc. | \$504,190.64 |
| Aggregate Industries | \$512,697.00 |
| Northern Improvement Co. | \$516,632.00 |
| Central Specialties, Inc. | \$608,343.90 |
| Engineer's Estimate | \$568,000.00 |

The special assessment escrow is not required.

This office recommends award of the contract to Border States Paving, Inc., in the amount of \$504,190.64 as the lowest and best bid.

Sincerely,

Mark H. Bittner
City Engineer

MHB/jmg

Street Lighting
Sidewalks

Design & Construction
Traffic Engineering

Truck Regulatory
Flood Plain Mgmt.

Mapping & GIS
Utility Locations

ENGINEER'S STATEMENT OF ESTIMATED COST

Asphalt Wear Course, Mill & Overlay & Incidentals

IMPROVEMENT DISTRICT # 5916 Addendum Number: 2

43 St. S. between 15th Ave. S and 17th Ave. S, Woodhaven 4th Addition, 18th St. S. between 25th St. and 25th Ave. S.

WHEREAS, bids have been opened and filed for the above described Improvement District of the City of Fargo, North Dakota; and

WHEREAS, an estimate of the cost of the work is required by the engineer for the City of Fargo, North Dakota;

NOW THEREFORE Mark H. Bittner, do hereby certify as follows:

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

That the following is a detailed statement of the estimated cost of the job described as Asphalt Wear Course, Mill & Overlay & Incidentals Improvement District # 5916 of the City of Fargo, North Dakota.

Section 1

| | | | |
|---|-----------------------------|----------|--------------------|
| 1000 Mobilization | 1.00 LS | 2,040.00 | 2,040.00 |
| 3654 Remove & Replace Curb & Gutter | 200.00 LF | 18.00 | 3,600.00 |
| 4202 Aggregate for Asphalt Wearing Course | 550.00 TON | 30.00 | 16,500.00 |
| 4221 Asphalt Cement | 7,627.00 GAL | 2.00 | 15,254.00 |
| 4345 Furnish Manhole Casting & Cover | 1.00 EA | 300.00 | 300.00 |
| 4352 Milling along Curb | 2,212.00 LF | 0.77 | 1,703.24 |
| 4490 Castings to Grade | 1.00 EA | 470.00 | 470.00 |
| 4492 Gate Valve Boxes to Grade | 1.00 EA | 315.00 | 315.00 |
| 4514 Traffic Control (Minor) | 1.00 LS | 345.00 | 345.00 |
| 4604 Sodding | 50.00 SY | 9.00 | 450.00 |
| | Section 1 Sub Total: | | \$40,977.24 |

Section 2

| | | | |
|---|-----------------------------|----------|---------------------|
| 1000 Mobilization | 1.00 LS | 3,120.00 | 3,120.00 |
| 3654 Remove & Replace Curb & Gutter | 500.00 LF | 18.00 | 9,000.00 |
| 4202 Aggregate for Asphalt Wearing Course | 4,580.00 TON | 31.00 | 141,980.00 |
| 4221 Asphalt Cement | 66,983.00 GAL | 2.00 | 133,966.00 |
| 4316 Detectable Warning Panels | 32.00 SF | 37.00 | 1,184.00 |
| 4318 Remove & Replace ADA Ramp | 17.00 SY | 85.00 | 1,445.00 |
| 4345 Furnish Manhole Casting & Cover | 1.00 EA | 300.00 | 300.00 |
| 4352 Milling along Curb | 22,606.00 LF | 0.91 | 20,571.46 |
| 4490 Castings to Grade | 35.00 EA | 470.00 | 16,450.00 |
| 4492 Gate Valve Boxes to Grade | 7.00 EA | 315.00 | 2,205.00 |
| 4514 Traffic Control (Minor) | 1.00 LS | 970.00 | 970.00 |
| 4604 Sodding | 100.00 SY | 9.00 | 900.00 |
| 7544 Paint 4" Epoxy | 540.00 LF | 3.85 | 2,079.00 |
| | Section 2 Sub Total: | | \$334,170.46 |

Section 3

| | | | |
|--|-----------|----------|-----------|
| 1000 Mobilization | 1.00 LS | 6,180.00 | 6,180.00 |
| 3654 Remove & Replace Curb & Gutter | 500.00 LF | 18.00 | 9,000.00 |
| 3664 Remove & Replace Asphalt Pavement | 300.00 SY | 60.00 | 18,000.00 |

ENGINEER'S STATEMENT OF ESTIMATED COST

Asphalt Wear Course, Mill & Overlay & Incidentals

IMPROVEMENT DISTRICT # 5916

43 St. S. between 15th Ave. S and 17th Ave. S, Woodhaven 4th Addition, 18th St. S. between 25th St. and 25th Ave. S.

| | <u>QUANTITY</u> | <u>UNIT</u> | <u>UNIT COST</u> | <u>EXTENDED PRICE</u> |
|--|-----------------|-------------|-----------------------------|-----------------------|
| 4202 Aggregate for Asphalt Wearing Course | 1,024.00 | TON | 31.00 | 31,744.00 |
| 4221 Asphalt Cement | 14,280.00 | GAL | 2.00 | 28,560.00 |
| 4316 Detectable Warning Panels | 112.00 | SF | 37.00 | 4,144.00 |
| 4318 Remove & Replace ADA Ramp | 45.50 | SY | 85.00 | 3,867.50 |
| 4325 Remove & Replace 6" Concrete Driveway | 100.00 | SY | 60.00 | 6,000.00 |
| 4345 Furnish Manhole Casting & Cover | 1.00 | EA | 300.00 | 300.00 |
| 4352 Milling along Curb | 4,569.00 | LF | 0.91 | 4,157.79 |
| 4354 Milling 1-2" | 189.00 | SY | 2.95 | 557.55 |
| 4485 Casting to Grade (Over Depth) | 5.00 | EA | 600.00 | 3,000.00 |
| 4490 Castings to Grade | 9.00 | EA | 470.00 | 4,230.00 |
| 4492 Gate Valve Boxes to Grade | 7.00 | EA | 315.00 | 2,205.00 |
| 4514 Traffic Control (Minor) | 1.00 | LS | 690.00 | 690.00 |
| 4604 Sodding | 100.00 | SY | 9.00 | 900.00 |
| 7544 Paint 4" Epoxy | 984.00 | LF | 3.85 | 3,788.40 |
| 7546 Paint 8" Epoxy | 256.00 | LF | 5.20 | 1,331.20 |
| 7549 Paint Epoxy Messages | 31.00 | SF | 12.50 | 387.50 |
| | | | Section 3 Sub Total: | \$129,042.94 |
| | | | Construction Total: | \$504,190.64 |

ENGINEER'S STATEMENT OF ESTIMATED COST

Asphalt Wear Course, Mill & Overlay & Incidentals

IMPROVEMENT DISTRICT # 5916

43 St. S. between 15th Ave. S and 17th Ave. S, Woodhaven 4th Addition, 18th St. S. between 25th St. and 25th Ave. S.

| | | |
|---------------------|------------------------------|------------|
| Construction Total: | | 504,190.64 |
| Engineering: | 11.00 % | 55,460.97 |
| Legal: | 7.00 % | 35,293.34 |
| Contingencies: | 10.00 % | 50,419.06 |
| Administration: | 6.00 % | 30,251.44 |
| Interest: | 8.00 % | 40,335.25 |
| | Sub-Total: | 715,950.71 |
| | Less Street Rehab Funds: | 0.00 |
| | Less Water Department Funds: | 0.00 |
| | Less Street Sales Tax Funds: | 183,240.37 |

TOTAL ESTIMATED ASSESSED COSTS: 532,710.34

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

Date: 5/27/2010

Mark H. Bittner
Mark H. Bittner
City Engineer





ENGINEERING DEPARTMENT

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

May 26, 2010

42

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Improvement District No. 5931

Dear Commissioners:

Bids were opened at 11:30 AM on Wednesday, May 26, 2010, for Sanitary Sewer, Water Main, Storm Sewer and Incidentals, Improvement District No. 5931, located at 47th, 48th, 49th Avenue South between 53rd and 57th Street South, 54th, 55th, & 56th Street South between 47th and 49th Avenue South.

The bids were as follows:

| | |
|--------------------------------|----------------|
| Dakota Underground | \$ 734,473.60 |
| Master Construction Co., Inc. | \$ 762,638.45 |
| Northdale Construction | \$ 868,821.34 |
| Kindred Plbg. & Htg., Inc. | \$ 878,289.25 |
| Rising Sun Constructions, Inc. | \$ 889,207.00 |
| Sellin Brothers, Inc. | \$ 973,486.00 |
| George E. Haggart, Inc. | \$1,015,943.50 |
| Riley Brothers Construction | \$1,159,458.00 |
| Engineer's Estimate | \$ 800,000.00 |

The special assessment escrow is in order.

This office recommends award of the contract to Dakota Underground, in the amount of \$734,473.60 as the lowest and best bid.

Sincerely,

Mark H. Bittner
City Engineer

MHB/pan

Street Lighting
Sidewalks

Design & Construction
Traffic Engineering

Truck Regulatory
Flood Plain Mgmt.

Mapping & GIS
Utility Locations

ENGINEER'S STATEMENT OF ESTIMATED COST

Sanitary Sewer, Water Main, Storm Sewer and Incidentals

IMPROVEMENT DISTRICT # 5931

47th, 48th, & 49th Avenue S between 53rd and 57th Street S. 54th, 55th, & 56th Street S between 47th and 49th Avenue S

WHEREAS, bids have been opened and filed for the above described Improvement District of the City of Fargo, North Dakota; and

WHEREAS, an estimate of the cost of the work is required by the engineer for the City of Fargo, North Dakota;

NOW THEREFORE Mark H. Bittner, do hereby certify as follows:

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

That the following is a detailed statement of the estimated cost of the job described as Sanitary Sewer, Water Main, Storm Sewer and Incidentals Improvement District # 5931 of the City of Fargo, North Dakota.

Sanitary Sewer

| | | | | |
|---|-----------|----|----------------------------------|---------------------|
| 1002 Standard Compaction Earth Backfill | 10,900.00 | LF | 0.10 | 1,090.00 |
| 1006 6" Sanitary Sewer | 7,023.00 | LF | 11.00 | 77,253.00 |
| 1008 8" Sanitary Sewer | 3,250.00 | LF | 16.00 | 52,000.00 |
| 1010 10" Sanitary Sewer | 339.00 | LF | 18.00 | 6,102.00 |
| 1012 12" Sanitary Sewer | 1,351.00 | LF | 23.00 | 31,073.00 |
| 1452 Connect 12" San Sewer to Existing San Manhole | 2.00 | EA | 500.00 | 1,000.00 |
| 1500 Standard Sanitary Sewer Manhole | 21.00 | EA | 1,700.00 | 35,700.00 |
| 1502 Sanitary Sewer Manhole w/Drop Connection | 1.00 | EA | 2,650.00 | 2,650.00 |
| 1610 Strip Black Dirt | 1.00 | LS | 5,000.00 | 5,000.00 |
| 1902 12" x 6" Saddle Wye | 14.00 | EA | 350.00 | 4,900.00 |
| 2612 Connect Sewer Service between 10 and 15 feet deep | 14.00 | EA | 900.00 | 12,600.00 |
| 3654 Remove & Replace Curb & Gutter | 1,000.00 | LF | 14.00 | 14,000.00 |
| 3664 Remove & Replace Asphalt Pavement | 60.00 | SY | 85.00 | 5,100.00 |
| | | | Sanitary Sewer Sub Total: | \$248,468.00 |

Water Main

| | | | | |
|---|----------|----|----------|-----------|
| 1002 Standard Compaction Earth Backfill | 5,766.00 | LF | 0.10 | 576.60 |
| 2006 6" Water Main | 150.00 | LF | 17.00 | 2,550.00 |
| 2008 8" Water Main | 3,730.00 | LF | 15.75 | 58,747.50 |
| 2012 12" Water Main | 2,005.00 | LF | 23.50 | 47,117.50 |
| 2041 1" Cu | 6,256.00 | LF | 11.70 | 73,195.20 |
| 2060 5" Hydrant | 10.00 | EA | 2,700.00 | 27,000.00 |
| 2106 6" Gate Valve | 10.00 | EA | 750.00 | 7,500.00 |
| 2108 8" Gate Valve | 8.00 | EA | 1,092.00 | 8,736.00 |
| 2112 12" Butterfly Valve | 4.00 | EA | 1,350.00 | 5,400.00 |
| 2153 12" x 8" Tapping Sleeve & Valve | 1.00 | EA | 2,400.00 | 2,400.00 |
| 2159 12" x 12" Tapping Sleeve & Valve | 2.00 | EA | 3,731.00 | 7,462.00 |
| 2250 Mechanical Joint Fittings | 9,760.00 | LB | 0.90 | 8,784.00 |
| 2361 Connect Water Service | 157.00 | EA | 300.00 | 47,100.00 |
| 2557 Bore 1" Water Service | 1,600.00 | LF | 10.00 | 16,000.00 |
| 2565 Bore 12" Water Main | 200.00 | LF | 58.00 | 11,600.00 |

ENGINEER'S STATEMENT OF ESTIMATED COST

Sanitary Sewer, Water Main, Storm Sewer and Incidentals

IMPROVEMENT DISTRICT # 5931

47th, 48th, & 49th Avenue S between 53rd and 57th Street S. 54th, 55th, & 56th Street S between 47th and 49th Avenue S

| | <u>QUANTITY</u> | <u>UNIT</u> | <u>UNIT COST</u> | <u>EXTENDED PRICE</u> |
|--|-------------------------------|-------------|------------------|-----------------------|
| 2566 Bore 8" Water Main | 100.00 | LF | 40.00 | 4,000.00 |
| | Water Main Sub Total: | | | \$328,168.80 |
| <u>Storm Sewer</u> | | | | |
| 1002 Standard Compaction Earth Backfill | 2,893.00 | LF | 0.10 | 289.30 |
| 3000 12" RCP Storm Sewer | 142.00 | LF | 18.00 | 2,556.00 |
| 3001 12" PVC Storm Sewer | 679.00 | LF | 16.50 | 11,203.50 |
| 3016 15" RCP Storm Sewer | 1,074.00 | LF | 20.00 | 21,480.00 |
| 3020 18" RCP Storm Sewer | 692.00 | LF | 21.00 | 14,532.00 |
| 3021 21" RCP Storm Sewer | 169.00 | LF | 28.00 | 4,732.00 |
| 3027 27" RCP Storm Sewer | 308.00 | LF | 37.00 | 11,396.00 |
| 3030 30" RCP Storm Sewer | 194.00 | LF | 38.00 | 7,372.00 |
| 3036 36" RCP Storm Sewer | 150.00 | LF | 57.00 | 8,550.00 |
| 3100 12" Storm Sewer w/Gravel Backfill | 440.00 | LF | 24.00 | 10,560.00 |
| 3107 33" Storm Sewer w/Gravel Backfill | 35.00 | LF | 56.00 | 1,960.00 |
| 3190 Remove Storm Sewer | 25.00 | LF | 10.00 | 250.00 |
| 3404 24" RCP Plug | 1.00 | EA | 50.00 | 50.00 |
| 3440 Remove Inlet | 2.00 | EA | 100.00 | 200.00 |
| 3441 Connect Existing Storm Sewer to Manhole | 1.00 | EA | 100.00 | 100.00 |
| 3443 Connect Storm Sewer to Existing Manhole | 1.00 | EA | 100.00 | 100.00 |
| 3450 A Inlet | 15.00 | EA | 665.00 | 9,975.00 |
| 3452 B Inlet | 1.00 | EA | 740.00 | 740.00 |
| 3454 C Inlet | 6.00 | EA | 660.00 | 3,960.00 |
| 3456 Special Inlet | 2.00 | EA | 1,250.00 | 2,500.00 |
| 3474 Inlet Type 2 Single | 2.00 | EA | 1,150.00 | 2,300.00 |
| 3500 Standard Storm Sewer Manhole | 19.00 | EA | 1,230.00 | 23,370.00 |
| 3502 Type B Standard Storm Sewer Manhole | 2.00 | EA | 2,400.00 | 4,800.00 |
| 3507 Pond Outlet Structure | 2.00 | EA | 2,300.00 | 4,600.00 |
| 3754 Seeding with Mulch | 20,000.00 | SY | 0.17 | 3,400.00 |
| 3894 Inlet Protection Type A1 | 24.00 | EA | 78.00 | 1,872.00 |
| 3897 Temporary Construction Entrance | 2.00 | EA | 300.00 | 600.00 |
| 3898 Inlet Protection Type A2 | 13.00 | Ea | 78.00 | 1,014.00 |
| 3991 Storm Water Management | 1.00 | LS | 400.00 | 400.00 |
| 3997 Silt Fence - Heavy Duty | 500.00 | LF | 2.95 | 1,475.00 |
| 4317 Remove & Replace Concete Biketrail | 30.00 | SY | 50.00 | 1,500.00 |
| | Storm Sewer Sub Total: | | | \$157,836.80 |
| | Construction Total: | | | \$734,473.60 |

ENGINEER'S STATEMENT OF ESTIMATED COST

Sanitary Sewer, Water Main, Storm Sewer and Incidentals

IMPROVEMENT DISTRICT # 5931

47th, 48th, & 49th Avenue S between 53rd and 57th Street S. 54th, 55th, & 56th Sreet S between 47th and 49th Avenue S

| | | |
|---------------------|------------------------------|--------------|
| Construction Total: | | 734,473.60 |
| Engineering: | 11.00 % | 80,792.10 |
| Legal: | 7.00 % | 51,413.15 |
| Contingencies: | 10.00 % | 73,447.36 |
| Administration: | 6.00 % | 44,068.42 |
| Interest: | 8.00 % | 58,757.89 |
| | Sub-Total: | 1,042,952.51 |
| | Less Street Rehab Funds: | 0.00 |
| | Less Water Department Funds: | 0.00 |

TOTAL ESTIMATED ASSESSED COSTS: 1,042,952.51

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

Date: 5/26/2010

Mark H. Bittner

Mark H. Bittner
City Engineer



21

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:

Sanitary Sewer, Water Main & Incidentals

Improvement District No. 5732

Call For Bids June 1, 2010

Bid Opening Date July 7, 2010

Completion Date October 15, 2010

- PWPEC Report (Attach Copy) **(Part of 2010 CIP)**
- Engineer's Report (Attach Copy)
- Direct City Auditor to Advertise for Bids (~~Sharon please see additional language~~)
- Bid Quantities (Attach Copy for Auditor's Office Only)
- Notice to Property Owners (Dan Eberhardt)

Project Engineer Kristy Schmidt

Phone No. 241-1571

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:

- Create District (Attach Copy of Legal Description)
- Order Plans & Specifications
- Approve Plans & Specifications
- Adopt Resolution of Necessity
- Approve Escrow Agreement (Attach Copy for Commission Office Only)
- Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT

SANITARY SEWER, WATER MAIN,
& INCIDENTALS

IMPROVEMENT DISTRICT NO. 5732

Nature & Scope

This project is for the installation of sanitary sewer, water transmission, a sanitary sewer lift station, at the location described as follows:

- On 63rd Street from 53rd Avenue to the new ground storage site.
- On the south side of the new ground storage site from 63rd Street to Veterans Boulevard.
- On Veterans Boulevard from the new ground storage site to 52nd Avenue South.
- On 52nd Avenue from Veterans Boulevard to 47th Street South.

Purpose

This project is for the completion of the sanitary sewer system including a sanitary sewer lift station; also included is a portion of the water transmission and distribution system necessary for the future water treatment plant and development.

Feasibility

The estimated construction and funding costs are as follows:

| | | |
|--|------------------|--------------------|
| Water Main Transmission | | \$2,131,000 |
| Plus 25% Engineering & Administration Fees | | <u>532,750</u> |
| Estimated Cost | | \$2,663,750 |
| Contributing to cost: | | |
| Assessment for Watermain Distribution | \$250,000 | |
| plus 32% Engineering & Administration Fees | <u>\$ 80,000</u> | |
| | \$330,000 | |
| Sanitary Sewer | | \$ 275,000 |
| Plus 32% Engineering & Administration Fees | | <u>\$ 88,000</u> |
| Estimated Cost | | \$ 363,000 |
| Sanitary Sewer Lift Station | | \$ 200,000 |
| Plus 25% Engineering & Administration Fees | | <u>\$ 50,000</u> |
| Estimated Cost | | \$ 250,000 |
| Total Estimated Cost | | <u>\$3,276,750</u> |
| <u>Summary</u> | | |
| SRF funding | | \$2,131,000 |
| Water Utility funding | | \$ 202,750 |
| Sewer Utility funding | | \$ 125,000 |
| Assessments | | \$ 818,000 |

We believe this project to be cost effective.



Mark H. Bittner

Mark H. Bittner
City Engineer

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

SANITARY SEWER, WATER MAIN
& INCIDENTALS

IMPROVEMENT DISTRICT NO. 5732

LOCATION:

On 63rd Street from the new ground storage site to 53rd Street, on Veteran's Boulevard from the new ground storage site to 52nd Avenue, and on 52nd Avenue from Veteran's Boulevard to 47th Street South.

COMPRISING:

Lot 1 through 3, inclusive, Block 1.
All in Dittmer Subdivision.

Lot 1, inclusive, Block 2.
All in Richard 2nd Subdivision.

Lots 1 through 4, inclusive, Block 1.
Lots 1 through 4, inclusive, Block 2.
All in Richard 3rd Subdivision.

Lots 1 through 4, inclusive, Block 1.
All in Ken's Subdivision.

Lots 1 through 2, inclusive, Block 1.
Carrier Trust Subdivision.

Lots 1 through 120, inclusive, Block 1.
Lots 1 through 24, inclusive, Block 2.
Lots 1 through 20, inclusive, Block 3.
Lots 1 through 48, inclusive, Block 4.
All in Osgood Townsite Seventh Addition.

Location & Comprising
Improvement District No.5732
Page 2

Lots 1-38, inclusive, Block 1.
Lots 1-34, inclusive, Block 2.
Lots 1-9, inclusive, Block 3.
All in South Forty at Osgood Second Addition.

Lots 1-31, inclusive, Block 1.
Lots 1-11, inclusive, Block 2.
Lots 1-15, inclusive, Block 3.
Lots 1-19, inclusive, Block 4.
Lots 1-14, inclusive, Block 5.
All in South Forty at Osgood.

Lots 1-19, inclusive, Block 1.
Lots 1-24, inclusive, Block 2.
Lots 1-34, inclusive, Block 3.
Lots 1-26, inclusive, Block 4.
Lots 1-59, inclusive, Block 5.
All in Veteran's Park First Addition.

Lots 1 through 11, Block 1.
Lots 1 through 5, Block 2.
All in Rocking Horse East First Subdivision.

Lots 2 through 8, inclusive, Block 1.
Lots 1 through 3, inclusive, Block 2.
All in Austin's Subdivision.

Lots 1 through 4, inclusive, Block 1.
Dakota Plaza Addition.

Lots 1-2, inclusive, Block 1.
L,L & L Addition.

Cass County Drain 27 ROW.

United States Department of the Interior Bureau of Reclamation - Electrical
Transmission Line, X-2 Page 224.

All of the unplatted land in Section 5 bound on the south and west by Fargo City limits,
bound on the east by Veteran's Boulevard, in Township 138 North, Range 49 West. All
of the unplatted land in the southeast quarter of Section 32, Township 139, Range 49
West.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.

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COVER SHEET
CITY OF FARGO PROJECTS

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of Improvement District as it will appear in the Contract:

Concrete Curb & Gutter, Asphalt Pavement, Street Lights & Incidentals

Improvement District No. 5878

| | |
|-------------------------------|--|
| Call For Bids | <u>June 1st</u> , <u>2010</u> |
| Advertise | <u>June 7th, 14th, 21st</u> , <u>2010</u> |
| Bid Opening Date | <u>July 7th</u> , <u>2010</u> |
| Completion Date (Substantial) | <u>September 30th</u> , <u>2010</u> |
| Completion Date (Final) | <u>October 31st</u> , <u>2010</u> |

- X PWPEC Report (Attach Copy) **Part of 2010 CIP**
- X Engineer's Report (Attach Copy)
- X Direct City Auditor to Advertise for Bids
- X Bid Quantities (Attach Copy for Auditor's Office Only)
- X Notice to Property Owners (Dan Eberhardt)

Project Engineer Rob Hasey

Phone No. 476-4041

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

CONCRETE CURB & GUTTER, ASPHALT PAVEMENT, STREET LIGHTS & INCIDENTALS

IMPROVEMENT DISTRICT NO. 5878

Nature & Scope

This project is for the replacement of pavement & street lights on Woodland Drive North & Plumtree Road North.

This project was approved by the Fargo City Commission under the 2010 Capital Improvements Program (CIP).

Purpose

The streets were installed in 1957, 53 years ago and was constructed of 2" of Asphalt over 2" of stabilized gravel over 8" of pit run gravel. In 1970 and again in 1988, the streets had an asphalt overlay and seal coat installed.

Both Woodland Drive & Plumtree Road have received numerous patches from water main repairs, miscellaneous street repairs and for the water main replacement project in 2008.

The streets are in fairly poor condition with poor drainage and poor ride quality. They continually got worse with the construction of temporary clay & sandbag levees through many flood events.

This project provides for complete street reconstruction from sidewalk line to sidewalk line, including new curb and gutter, driveway approaches, 7" gravel base, 7" asphalt pavement & decorative street lights.

Feasibility

The estimated cost of construction is approximately \$737,155. The cost breakdown is as follows:

| | | |
|--|-------------------|--------------|
| Street Reconstruction & Street lights | \$ 737,155 | |
| Plus 25% Engineering & Administration fees | \$ 184,289 | |
| Total Estimated Street Reconstruction | \$ 921,444 | |
| Special Assessments 2,542.16 FF @ \$40* = | \$ 101,690 | (11%) |
| Street Rehab Funds | \$ 819,754 | (89%) |

The unit assessed cost was reduced from the local street rate of \$60/FF to the collector reconstruction rate of \$40/FF based on the impacts to the street condition associated with the construction of Ridgewood flood protection improvements, including; temporary and permanent levee/floodwall construction, demolition and service line closures. The special assessment reduction was recommended by PWPEC on February 3, 2009 and the Finance Committee on May 27, 2010.

We believe this project to be cost effective.



Mark Bittner

 Mark Bittner
 City Engineer

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

CONCRETE CURB & GUTTER, ASPHALT
PAVEMENT, STREET LIGHTS & INCIDENTALS

IMPROVEMENT DISTRICT NO. 5878

LOCATION:

On Woodland Drive North.
On Plumtree Road North.

COMPRISING:

Lot 10 through 24, inclusive, Block 1.
Lots 1 through 13, inclusive, Block 2.
Lots 1, 11 through 25, inclusive, Block 3.
Lots 1 through 10, inclusive, Block 4.
All in Ridgewood Addition.

All of the foregoing located in the city of Fargo, Cass County, North Dakota.

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COVER SHEET
CITY OF FARGO PROJECTS

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of Improvement District as it will appear in the Contract:

P.C. Concrete Alley Paving & Incidentals

Improvement District No. 5941

Call For Bids June 1, 2010

Bid Opening Date July 7, 2010

Completion Date October 1, 2010

X PWPEC Report (Attach Copy)

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

X Notice to Property Owners (Dan Eberhardt)

Project Engineer Dave Johnson/Ray Giesinger

Phone No. 241-1548 or 241-1551

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

X Create District (Attach Copy of Legal Description)

X Order Plans & Specifications

X Approve Plans & Specifications

X Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

X Assessment Map (Attach Copy for Auditor's Office Only)

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

District No. 5941

Type: Concrete Alley Paving

Location: Block 10, Kirkham's 2nd Addition
between College and 14th Street North
from 10th to 11th Avenue North

Date of Hearing: 4/13/10

| | |
|------------------|--------------------------|
| <u>Routing</u> | <u>Date</u> |
| City Commission | <u>6/1/2010</u> |
| PWPEC File | <u>X</u> |
| Project File | <u></u> |
| Petitioners | <u>Jim Laschkewitsch</u> |
| David W. Johnson | <u>X</u> |

The Committee reviewed the accompanying petition for alley paving in Block 10 of Kirkham's 2nd Addition.

On a motion by Bruce Hoover, seconded by Bruce Grubb, the Committee voted to recommend approval of the requested improvements.

RECOMMENDED MOTION

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: 100% Special Assessment

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

COMMITTEE

| | | | | |
|--|----------------|------------|-----------|------------------|
| | <u>Present</u> | <u>Yes</u> | <u>No</u> | <u>Unanimous</u> |
| | | | | <u>X</u> |
| Pat Zavoral, City Administrator | <u>X</u> | <u>X</u> | | |
| Jim Gilmour, Planning Director | <u>X</u> | <u>X</u> | | |
| Bruce Hoover, Fire Chief | <u>X</u> | <u>X</u> | | |
| Mark Bittner, City Engineer | <u>X</u> | <u>X</u> | | |
| Bruce Grubb, Enterprise Director | <u>X</u> | <u>X</u> | | |
| Ben Dow, Acting Director of Operations | <u>X</u> | <u>X</u> | | |
| Steve Sprague, City Auditor | <u>X</u> | <u>X</u> | | |

ATTEST:

Mark H. Bittner
Mark H. Bittner
City Engineer

ENGINEER'S REPORT

P.C. CONCRETE ALLEY PAVING & INCIDENTALS

IMPROVEMENT DISTRICT NO. 5941

Nature & Scope

This project is for the installation of P.C. Concrete Paving in the alley from 10th to 11th Avenue North between College Street and 14th Street in Block 10 of Kirkham's 2nd Addition.

Purpose

The purpose of this project is to provide paving in the alley as requested by the majority of the property owners.

Feasibility

The estimated cost of construction is \$90,000. The project will be paid for entirely from special assessments. A breakdown of costs is as follows:

| | |
|---|---------------|
| Construction Cost: | \$ 90,000 |
| Plus 32% Engineering and Administration Fees: | <u>28,800</u> |
| Total Estimated Amount Assessed: | \$118,800 |

We believe this project to be cost effective.



Mark H. Bittner
Mark H. Bittner
City Engineer

June 2010

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

P.C. CONCRETE ALLEY PAVING
& INCIDENTALS

IMPROVEMENT DISTRICT NO. 5941

LOCATION:

From 10th to 11th Avenue North between College Street and 14th Street, in Block 10 of Kirkham's 2nd Addition.

COMPRISING:

North 40 feet of Lots 1 & 2 & 3.

South 100 feet of the east 30 feet of Lot 3 & the west 10' of Lot 4.

East 40 feet of Lot 4.

Lots 5 through 14, inclusive.

East one-half of Lots 15 & 16.

Lots 17 through 22, inclusive.

All in Block 10, Kirkham's 2nd Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.