



Regular City Council Meeting

Monday, August 19, 2024, at 5:30 PM

City Council Chambers, City Hall (10 3rd Ave SW)

Any person needing special accommodation for the meeting is requested to notify the City Clerk's office at 857-4752.

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MAYOR'S REPORT

4. REPORTS

4.1. CITY MANAGER'S REPORT

5. PLANNING COMMISSION

5.1. AUGUST 2024 PLANNING COMMISSION MEETING MINUTES

5.2. PUBLIC HEARING: PRELIMINARY PLAT - COPACETIC ADDITION

RECOMMENDED ACTION

It is recommended City Council approve the Major Subdivision Preliminary Plat for Copacetic Addition with the condition that the right-of-way along the section line and required utilities easements be dedicated on the final plat.

5.3. PUBLIC HEARING - PUBLIC ZONE PLAN REVIEW - PUBLIC WORKS SALT AND SAND BUILDING

RECOMMENDED ACTION

It is recommended City Council approve the Public Land Development Master Plan.

5.4. PUBLIC HEARING: PRELIMINARY PLAT & ZONING MAP AMENDMENT

RECOMMENDED ACTION

It is recommended City Council approve a Preliminary Plat for Great Plains Addition subject to the following conditions :

- **Traffic impact study is required and must be approved by the city**

and NDDOT.

- Access locations must be approved by NDDOT. A frontage road may be required.
- Sewer connection fees apply.
- Storm water management plan required.
- Developer's agreement required for any public street and utility improvements associated with the development.

It is recommended City Council approve the Zoning Map Amendment on first reading not based on staff conditions or findings of fact as outlined in the staff report to City Council on the basis that within the LDO that #1 is satisfied it upholds the spirit of C2 but aligns with the M1 zoning conditions and #4 fulfills and is consistent with the plans, policies and purpose of the ordinance as was initiated by Planning Commission.

6. PUBLIC HEARING

6.1. PUBLIC HEARING - ENGLE COURT AFFORDABLE HOUSING COMPLEX

RECOMMENDED ACTION

It is recommended City Council authorize staff to proceed with the submission of the CDBG application to the State of North Dakota.

6.2. PUBLIC HEARING: DEMOLITION OF DANGEROUS BUILDING, LOCATED AT 112 8TH AVE NW

RECOMMENDED ACTION

1. It is recommended City Council find that the damaged residence located at 112 8th Ave NW, Minot, ND 58703 is a dangerous building as defined by City Ordinance Sec. 9-2 (11) and 9-11(1) - (8); and
2. Direct City staff to collect three bids to demolish the building(s) and select the best and most cost-effective bid.

6.3. PUBLIC HEARING: DEMOLITION OF DANGEROUS BUILDING, LOCATED AT 101 & 103 8TH AVE SE

RECOMMENDED ACTION

1. It is recommended City Council find that the damaged residence located at 101 & 103 8th Ave SE, Minot, ND 58701 is a dangerous building as defined by City Ordinance Sec. 9-2 (11) and 9-11(1) - (8); and
2. Direct City staff to collect three bids to demolish the building(s)

and select the best and most cost-effective bid.

7. CONSENT ITEMS

7.1. CITY COUNCIL MINUTES

RECOMMENDED ACTION

It is recommended City Council approve the minutes of the July 30, 2024, Budget Q & A meeting and the August 5, 2024, Regular City Council meeting.

7.2. ORDINANCES

RECOMMENDED ACTION

It is recommended City Council approve the following ordinances on second reading:

- 1. Ordinance No 5986 - 2024 BA - PD Cordico App**
- 2. Ordinance No 5987 - 2024 BA - Donation for Library Digitization**
- 3. Ordinance No 5988 - 2024 BA - Airport Fire Panel Replacement**
- 4. Ordinance No 5989 - 2024 BA - (6) Street Graders Lease Buyout**
- 5. Ordinance No 5990 - 2024 BA - Regional Carbon Dioxide Facility**
- 6. Ordinance No 5991 - 2024 BA - CRISI Grant Amendment #2**

7.3. ADMINISTRATIVE APPROVALS

RECOMMENDED ACTION

It is recommended City Council ratify the following administratively approved requests:

- 1. Special Event Permit for The Ranger Lounge (1218 S Broadway).**
- 2. Special Event Permit for the Blue Rider (118 1st Ave SE).**
- 3. Two Special Event Permits for Sports on Tap (220 S Broadway).**
- 4. Special Event Permit for The Landing Bar and Bottleshop (2015 N Broadway).**
- 5. Community Rocks, Inc. to conduct a raffle on August 24, 2024 at MSU Summer Theater (1357-1573 7th St NW).**
- 6. Minot High School Trap Team to conduct raffle November 1-30, 2024 at Minot North High School (2000 21st Ave NW).**
- 7. Minot State University to conduct raffles from August 23, 2024 through February 26, 2025 at MSU (500 University Ave W).**
- 8. Minot Indoor Rodeo, Inc to conduct a raffle on October 26, 2024 at Minot Auditorium (420 3rd Ave SW).**

9. Operation Warm Heart to conduct a raffle on August 3, 2024 at Corbett Field (1124 E Burdick Exwy).
10. Souris Valley Animal Shelter to conduct a raffle on August 6, 2024 at Corbett Field (1124 E Burdick Exwy).

7.4. MAYORAL APPOINTMENTS

RECOMMENDED ACTION

It is recommended City Council confirm the following Mayoral Appointments:

- **Becky Bertsch to replace Mitch Kraft on the Special Assessment Committee, with a term to expire August 2030.**
- **Scott Collins to replace Dean Lenertz on the Special Assessment Committee, with a term to expire August 2030.**
- **Braxton Heupel to replace Jason Zimmerman on the Special Assessment Committee, with a term to expire August 2030.**
- **Alderman Pitner to replace former Alderwoman Carrie Evans as an alternate on the MPO Policy Board.**

7.5. ALCOHOLIC BEVERAGE LICENSE - BASECAMP INDIAN KITCHEN

RECOMMENDED ACTION

It is recommended City Council approve a Supper Club license for the Basecamp Indian Kitchen at 1425 24th Ave SW for the period of August 19, 2024 through December 31, 2024.

7.6. CITY ASSESSOR'S PROPERTY RECORD WEBSITE CONTRACT RENEWAL - VANGUARD APPRAISALS, INC.

RECOMMENDED ACTION

It is recommended City Council approve the website service contract between Vanguard Appraisals, Inc. and the City of Minot and authorize the Mayor to sign the contract.

7.7. APPROVAL OF ACCOUNTS RECEIVABLE WRITE-OFFS

RECOMMENDED ACTION

It is recommended City Council approve the July 2024 general accounts receivable write-offs.

7.8. ICMA AGREEMENT TO PARTICIPATE IN VETERANS LOCAL GOVERNMENT MANAGEMENT FELLOWSHIP

RECOMMENDED ACTION

It is recommended City Council approve the agreement to participate in the Veterans Local Government Fellowship; and authorize the Mayor sign the agreement on behalf of the City of Minot.

7.9. CONSENT TO THE CHANGE OF OWNERSHIP FROM OAKWELLS COMMUTER RAIL, LLC TO TAILWIND HOSPITALITY, INC.

RECOMMENDED ACTION

- 1. It is recommended City Council consent to the change of ownership from Oakwells Commuter Rail, LLC to Tailwind Hospitality, Inc. contingent on the closing occurring within 10 business-days of the anticipated transaction date, August 29, 2024;**
- 2. Direct staff to draft an amendment to the Concession Agreement to reflect the new owner's name and contact information following proof of sales documents is provided;**
- 3. Approve the Mayor to sign all applicable documents.**

7.10. SPECIAL ASSESSMENT APPROVAL; SIDEWALK REPAIR (4713)

RECOMMENDED ACTION

It is recommended City Council approve the assessment roll for Sidewalk Repair project 4713.

7.11. MREFPP MI-7E - CONCURRENCE OF BID AWARD

RECOMMENDED ACTION

It is recommended City Council concur with the award recommendation by the SRJB to Wagner Construction, Inc in the amount of \$35,177,052.12.

7.12. WASTEWATER MASTER SERVICE AGREEMENTS

RECOMMENDED ACTION

It is recommended City Council approve the Master Service Agreements with Ackerman Engineering and Apex Engineering.

7.13. BURDICK EXPRESSWAY VIADUCT IMPROVEMENTS - FINAL PAYMENT (4563)

RECOMMENDED ACTION

- 1. It is recommended City Council approve the final payment to the NDDOT in the amount of \$8,010.42; and**
- 2. Approve the budget amendment in the amount of \$3,224 on first**

- reading; and
3. **Authorize the Mayor and Finance Director to sign the final certification of local match.**

7.14. USE OF A CITY EMPLOYEE'S ONLINE AUCTION SERVICES FOR SURPLUS VEHICLES ONLINE AUCTION

RECOMMENDED ACTION

1. **It is recommended City Council approve the utilization of the City of Minot employee for the online auction to dispose of the surplus equipment in accordance with Sec 2-4 of the Minot Municipal code; and**
2. **Authorize the Mayor to sign the Auction Services auction agreement.**

7.15. AMENDMENT: MYLA PROPERTY LLC. IRREVOCABLE LETTER OF CREDIT

RECOMMENDED ACTION

It is recommended the City Council approve the amendment to Myla Property, LLC. Irrevocable Letter of Credit and authorize the Mayor to sign the document extending the term of the Letter of Credit.

7.16. CONSENT TO ASSIGN AIRPORT LEASE FROM PERRY WEISBERG TO KP STUNT PRODUCTIONS

RECOMMENDED ACTION

It is recommended City Council approve the consent to assign lease to Kent Pietsch from Perry Weisberg and authorize the Mayor to sign consent to assign lease.

7.17. SPECIAL ASSISTANT CITY ATTORNEY APPOINTMENT - JOHN WARCUP

RECOMMENDED ACTION

1. **It is recommended City Council appoint John Warcup as a special city attorney to represent the City and respond to the attached foreclosure complaint; and**
2. **Appoint John Warcup as a special city attorney to assist with any similar federal grant compliance matters.**

8. ACTION ITEMS

8.1. DRIVEWAY APPEAL AND REQUEST FOR SPECIAL PERMIT - 1109
HIAWATHA ST SE

RECOMMENDED ACTION

City Council may choose from the options below:

1. Approve the special permit for 1109 Hiawatha St SE and allow a driveway width to a maximum of 51 feet at the curb line to be constructed in conformance with Chapter 28 of the Code of Ordinances.
2. Deny the special permit

8.2. STORM SEWER DISTRICT 124 CONTRACT AMENDMENT AND PROJECT
UPDATE

RECOMMENDED ACTION

1. It is recommended City Council approve the contract amendment with Ackerman Estvold and authorize the Mayor to sign the amendment; and
2. Approve the attached reimbursement resolution.

8.3. NW AREA WATERMAIN REPLACEMENT - CONTRACT AMENDMENT
(4656)

RECOMMENDED ACTION

1. It is recommended City Council approve the contract amendment in the amount of \$76,890.35 for Houston Engineering for additional services performed during the NW Area Watermain Replacement Project; and
2. Approve a budget amendment to allocate funds from cash reserves on first reading.

8.4. TRANSIT CENTER - 1ST ST SW PARKING REVISION (4741)

RECOMMENDED ACTION

It is recommended that Council pass the following parking related ordinances for the Transit Center relocation:

- A. Remove the parking restriction on the west side of 1st Street SW between Burdick Expwy W and 3rd Avenue SW.
- B. Restrict parking on the west side of 1st Street SW for 170-feet

south of the center of 3rd Avenue SW.

8.5. STAFF DIRECTION ON ORNAMENTAL LIGHTING ORDINANCE

RECOMMENDED ACTION

It is recommended City Council adopt Alternative #2: "Ornamental lighting that interferes with local aviation operations is not permitted and must be removed. The Minot International Airport Director will provide direction to citizens and staff regarding whether or not ornamental lighting will interfere with local aviation operations."

8.6. 2024 WATERMAIN REPLACEMENT - BUDGET AMENDMENT (4816/4817)

RECOMMENDED ACTION

It is recommended City Council approve a budget amendment on first reading to appropriate funds for the two projects that were awarded in May.

9. PERSONAL APPEARANCES

10. MISCELLANEOUS AND DISCUSSION ITEMS

10.1. BROWN & BROWN PRESENTATION

10.2. COUNCIL PRESIDENT'S LETTER OF RECOMMENDATION ON 2025 BUDGET

11. LIAISON REPORTS

12. ADJOURNMENT



TO: Mayor Tom Ross
Members of the City Council

FROM: Harold Stewart, City Manager

DATE: August 19, 2024

City Manager:

The City Manager and several city staff have been involved in department tours for the newly elected Council members. These have been more in-depth tours than the budget tours focused on what services are provided, how, and the role of staff.

City staff conducted three FY25 Budget Question and Answer meetings to provide the public opportunities to ask any questions related to the proposed budget.

Meetings attended included: communication meeting with Trinity CEO; monthly Community Leader and Development communication meeting; monthly communication meeting with MACEDC President/CEO; meeting with MPS Superintendent; meeting with Senator Cramer's staff liaison; meeting with Retail Coach; and various staff and project meetings.

**Public Works
Utilities Director, Jason Sorenson**

PUBLIC WORKS ADMIN:

The Utilities Director attended the weekly design and construction meeting for the various phases of flood control and NAWS that are under design and construction and provide input for the overall design and operation and long-term maintenance.

Water Treatment Department:

- Minot Water plant fully staffed.
- Biota Plant 2 of 15 positions are staffed.
- Received 11 applications for Biota Instrumentation Technician
 - 6 of 11 applications approved for panel interviews
 - 5 of 7 persons scheduled for panel interviews. (HR added one of the rejected applicants to the interview list)
- Advertised for 8 positions as Biota Water Plant Operator I, application period ends August 22nd. 14 applications received as of August 8.
 - 3 Lead Operator and 1 Foreman positions have not been advertised yet.
- Because of decreasing Aquifer levels, we have had to reduce the pumping rates from the City Wells
- Because of reduced pump efficiency at the Sundre Booster Pump Station we are experiencing reduced pumping rate to Minot Water Plant from Sundre wellfield.
- Available raw water supply is approximately 12 MGD. This is down 2 MGD since the beginning of 2024
- Sundre Booster Pumps are being sent to a pump repair shop for inspection and possible rebuild.

Monthly Water Report For July 2024

River Water Treated	0 gallons
Well Water Treated	293,262,000 gallons
Recycle Water	9,726 gallons
Facility Water	7,468 gallons
Total Water Treated	293,279,194 gallons
Pumped to City	120,977,000 gallons
Pumped to NAWS	166,636,000 gallons
Pumped Total	287,613,000 gallons

AMMONIUM SULFATE	8,399 pounds
CARBON DIOXIDE	69,954 pounds
CHLORINE	30,896 pounds
COAGULANT	17,197 gallons
FLOURIDE	9,403 gallons
LIME RECEIVED	1,219,366 pounds
PHOSPHATE	8,323 pounds

Waste Sludge	245 loads
	2493.30 tons

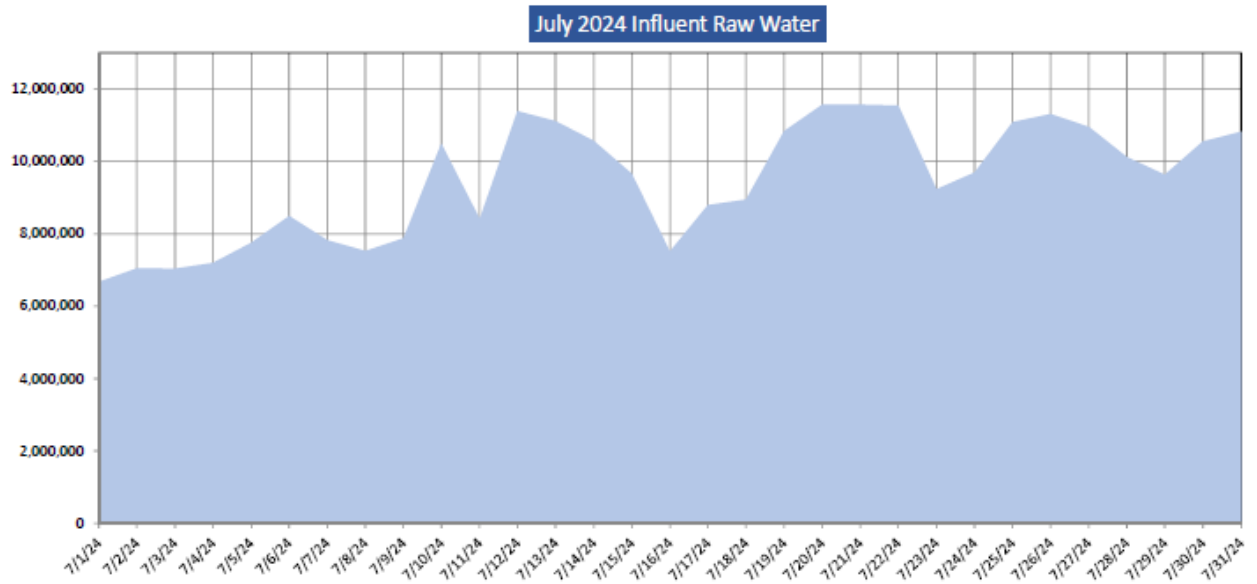
Bacteria Samples Taken 50 total

Finish Water Turbidity 0.095 NTU

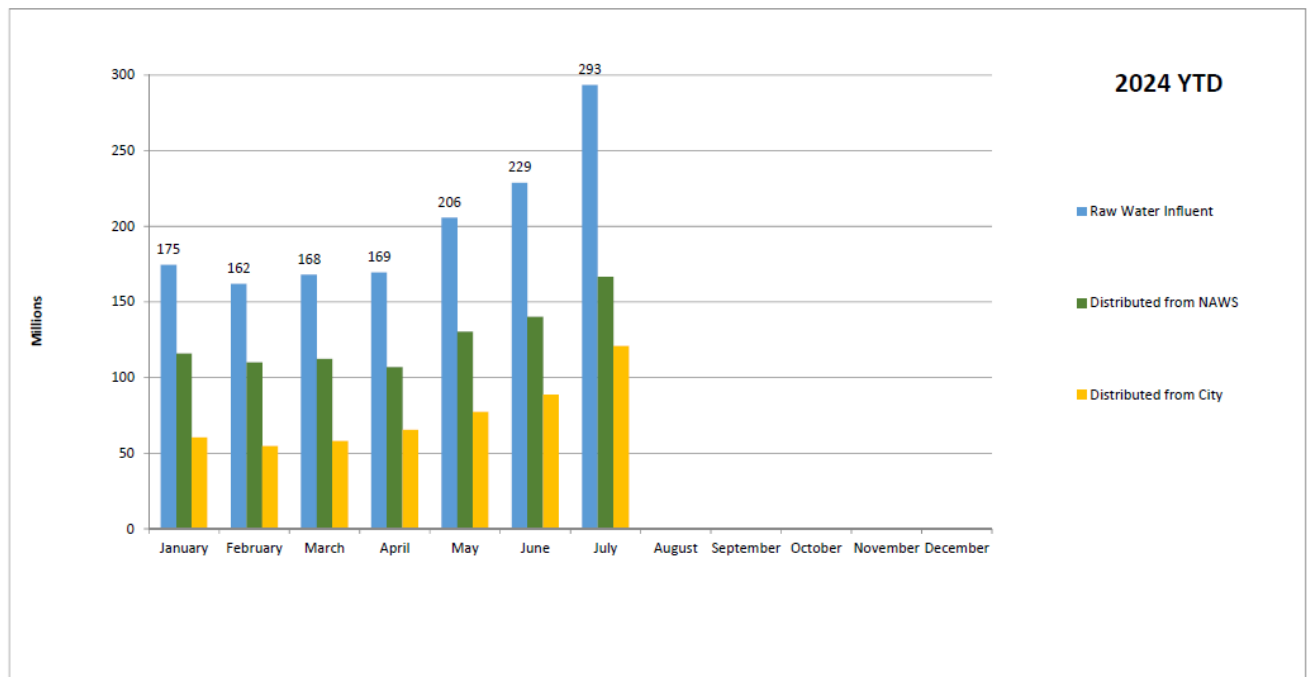
WELL FIELD INFORMATION

WELL #	Hours Run	Gallons per Minute	Gallons Pumped
5	519.0	965	30,050,000
6	736.7	535	23,648,000
8	744.0	310	13,838,000
11	593.7	280	9,974,000
12A&12B	538.2	174	5,619,000
13	0.0		0
14	708.2	840	35,693,000
15	0.0		0
16	736.7	180	7,956,000
A	737.5	387	17,125,000
B	730.7	387	16,967,000
C	482.4	1603	46,397,000
D	426.0	1532	39,158,000
E	223.3	452	6,056,000
F	174.9	2300	24,136,000

276,617,000



Minot Water Plant
2024 Water Use



Water & Sewer Department:

CITY OF MINOT

2024 Water & Sewer Monthly Report/Task vs. Objectives

TASK	OBJECTIVE	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	TOTALS
Meetings		14	21	23	23	24	24	25						154
Service Calls	6,750	597	694	658	844	608	574	652						4,627
Inspections	150					22								22
After hours Calls (Foremen)		30	7	17	12	14	10	5						95
Lab Tests	6,500	101	100	125	400	501	700	770						2,697
Meters														
Install New Meters	100	6	9	5	6	16	12	12						66
Meter Changes	100	28	16	36	14	13	17	21						145
Delinquent Water Accounts		206	99	173	189	94	75	140						976
MXU Installations	100	17	13	8	14	19	10	15						96
Locates: water/sewer/storm	4,000	111	74	107	900	501	801	940						3,434
Hydrants														
Hydrant Inspections	1,150	0	0	0	0	120	78	222						420
Flow Hydrants(for sewer lines)		50	78	87	88	76	105	88						572
Install Hydrants	15	0	0	0	0	0	1	1						2
Hydrant Repair	180	4	2	3	6	4	3	6						28
Hydrant Flow Testing		0	0	0	1	3	1	1						6
Hydrant Meter Set		0	0	0	17	7	0	8						32
Hydrants Painted		0	0	0	0	15	25	0						40
Water														
Curb Stop Maintenance	40	5	5	6	10	5	10	12						53
Curb Box (riser repair)	100	4	6	8	123	10	18	22						191
GV exercising/inspections	2,000	0	10	65	45	48	41	23						232
Gate Valve Maintenance	24	0	1	0	3	3	2	3						12
Gate Valve (riser repair)	50	0	1	6	8	7	5	4						31
Gate Valves ON/OFF		10	23	19	46	16	41	47						202
Repair Water Main Breaks	40	3	2	2	1	0	3	3						14
Service Taps		0	0	0	0	2	2	1						5
Service Leaks		1	0	3	3	1	0	1						9
Hydrastopping	1	0	0	0	0	0	0	0						0
Haul Clay/dirt/gravel/snow	Days	0	0	6	5	2	1	2						16
PRV Maintenance	5	0	0	0	0	0	0	0						0
Install Insta-Valve	1	0	0	0	0	0	0	0						0
Sewer														
Televising (feet)	60,500	200	100	150	1,668	300	435	3,225						6,078
Clean Sanitary Sewer (feet)	140,000	4,367	4,990	4,457	5,959	5,856	17,550	12,598						55,777
Check/Flush Manholes	5,000	236	424	557	582	705	596	653						3,753
Inspect Sewer Lift Stations	2,080	612	609	617	615	620	622	620						4,315
Sewer Calls		5	2	0	2	5	3	4						21
Manhole Repair	50	3	1	0	1	1	2	1						9
Repair Sewers (feet)	30	0	0	0	0	0	0	0						0
Mowing/Snow Removal Hours	6,000	8	10	8	0	87	172	180						465

Landfill/Sanitation/Recycling:

We have received all of the totals back from Clean Harbors.

2022-2024 HHW/E-WASTE COLLECTION PARTICIPATION					
	May 2022	September 2022	May 2023	September 2023	May 2024
Total Number of Cars	409	368	379	400	421

2022-2024 HHW/E-WASTE COLLECTION TOTALS- PER INDIVIDUAL EVENT					
	May 2022	September 2022	May 2023	September 2023	May 2024
E-Waste (Lbs.)	14,680	11,523	9,859	7,721	18,917
Latex Paint (Lbs.)	16,320	12,200	10,200	12,940	10,580
Oil-Based Paint (Lbs.)	4,832	6,735	5,600	7,200	5,700
Mixed Aerosols (Lbs.)	600	642	700	600	500
Pesticides (Lbs.)	1,500	1,672	1,200	3,200	1,500
Misc. Cleaning Supplies (Lbs.)	288	136	121	380	148
Fluorescent Light Bulbs (Lbs.)	303	408	408	270	345
Misc. Corrosive Liquids- Battery Acid, Etc. (lbs.)	155	57	89	138	55
Flammable Liquids- Gas, Mineral Spirits, Etc. (lbs.)	110	366	700	610	1,390
Used Motor Oil (Gallons)	420	400	375	360	340
Antifreeze (Gallons)	28	155	207	128	243
Batteries (Lbs.)	215	194	250	350	300
Grand Totals (Lbs. and Gallons)	39,451	34,488	29,709	33,897	40,018

As a reminder, we will not be hosting an HHW/E-Waste collection event at Public Works during Fall Cleanup Week. These items, along with everything else, will be free of charge to drop off for the week with a City of Minot utility bill.

MSW Cell 7 is currently substantially complete, we are awaiting approval from the NDDEQ to begin placing waste.

Landfill staff has been busy working on the final closure of MSW Cell 4.

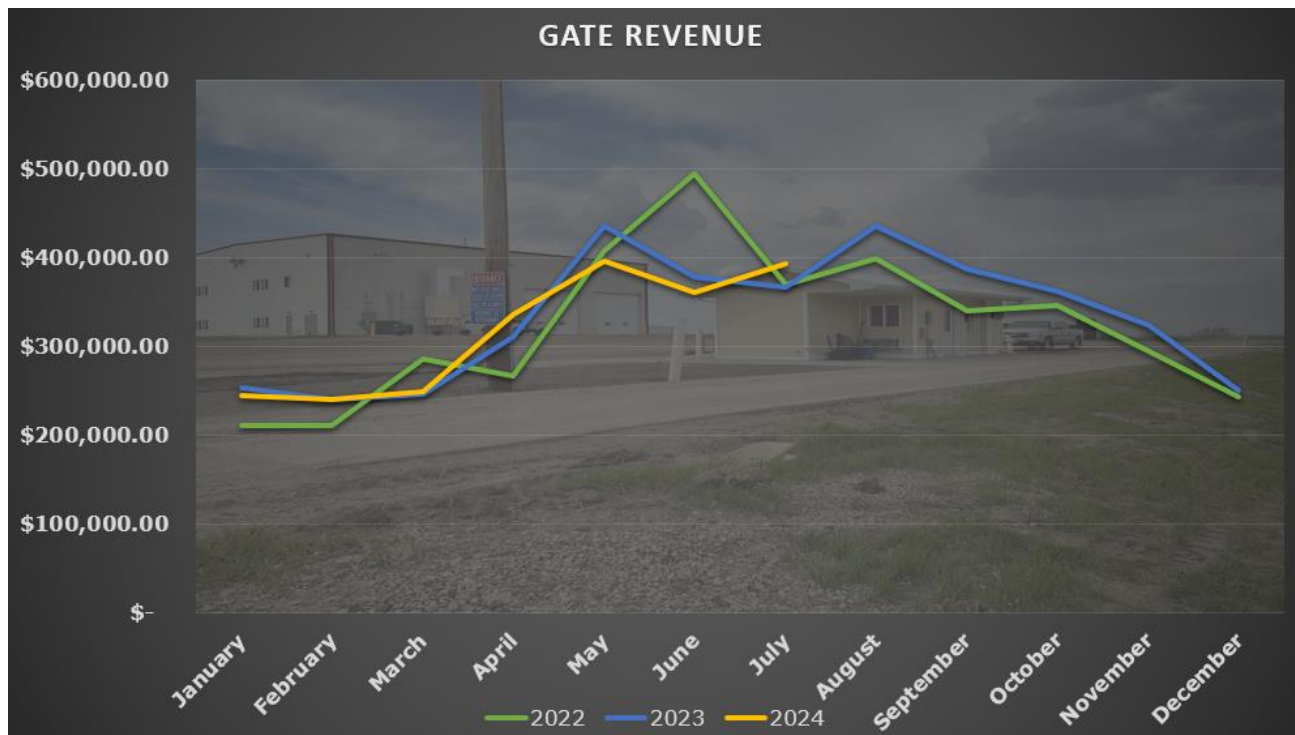
During the month of July, the landfill accepted the following quantities of waste:

- Single Stream Recycling – 136.58 Tons
- Previously Tagged Recycling Carts Audited – 67, Recycling Carts in Compliance – 62
- MSW – 7,457.46 Tons; MSW City Collection – 927.92 Tons; Inert – 1,895.46 Tons; Lime – 2,598.30 Tons; Trees – 473.21 Tons
- Trees Given Away for Firewood – 13.25 Tons
- Recycled oil for use in Asphalt Plants – 1,500 Gallons
- Total number of landfill tickets generated – 6,355 Tickets

July gate collections were \$393,153.87 compared to \$366,668.96 in 2023. Year to date gate collections at the landfill is \$2,220,212.91 compared to \$2,232,123.19 from last year at this time.

There was a total of 67 roll-off tanks hauled from the ten compost sites.

There was a total of 875 tree piles picked up on the collection routes for no additional charge.



**Public Works
Operations Director, Bryan Banfill**

ROSEHILL CEMETERY:

Rosehill Cemetery continues to work towards making more sections available to address depleting plot and columbarium niches. Currently sitting at 95.92% burial plot capacity with only 1,166 plots available in developed sections. The cemetery is focused on developing additional sections which will make 15,283 additional plots available for future needs. Additionally, with columbarium niche availability dwindling to 36 niches (columbarium reaching 75% capacity) the effort to integrate additional columbaria sections will greatly support the growing demand. Additional columbaria sections are being researched for 2025 integration. Sales of each have contributed greatly to the Cemeteries' July Revenue of \$28,695.

Work orders are a focus for staff as mowing takes less time later in the summer. Staff have started spraying weeds in the various sections. It is worth noting that summer staff will begin leaving in mid-August.

The following is a compilation of open and closed work orders:

- 3 New Vase, Ground, Monument Work Orders Added
- 27 Work Orders of various types closed out.
- 25 Total Open Work Orders Still in Queue
- 8 Traditional Burials Completed
- 13 Cremations Completed
- 1 Columbaria Interments Completed
- 1 Disinterment Completed.
- 41 Marker Installations Completed

PROPERTY MAINTENANCE DEPARTMENT:

The Property Maintenance department successfully completed 229 preventative maintenance work orders, and 11 non-preventative maintenance work orders throughout the month of July. All actions ranged from either inspecting or repairing lighting issues, handicap door entrances, a leaking roof, to air conditioner filter replacement and HVAC repairs.

The *Asset Essential* software system updates are still underway. The system is currently at 40% and has a late September deadline for completion. By adding each facility with equipment to the system, the Property Maintenance department will have the capability to track work orders, develop reports that capture manpower, consumables usage, and equipment usage by work order which will provide better analytical data to determine where more efficiencies could exist.

STREET & STORM SEWER MAINTENANCE DEPARTMENTS:

The Street department is now fully staffed with the 4 new Light Equipment Operators accepting their positions in late July. All new employees will start in the next few weeks in both the sweeping crew and in the Storm Sewer department.

As for the monthly work orders, the Street department successfully cleared 27 work orders that were submitted through *Rock Solid* and *City Works* (via call-in request from the community). The workorders consisted of graffiti removal, filling potholes, patching street defects, and adding gravel to various alleyways. There are still 23 open work orders in the queue which should be completed in the coming weeks. The sweeping crew is also hard at work and is currently sweeping in all 4 quadrants of the City of Minot while working through some equipment malfunctions which are being worked by the City Shop. As for the patching crews, they are currently working in Southeast Minot completing numerous work orders and assisting with patching Water Department requests. Next, with the growing season for grass approaching a steady state, crews are getting caught up on City owned lots and green spaces. The crew is spraying broadleaf pesticides to try to get a grip on weeds in City of Minot lots and green spaces. Additionally, the spraying crew is currently respraying rip rap areas along the river to help maintain that area. Next, the storm sewer crew recently completed maintenance of the 6th street underpass pumphouse. Numerous loads of sediment and debris were removed from the wet pit at this site. Third party contractors recently completed the installation of new pipe on the frontage road of North Broadway replacing a failing culvert. Lastly, the second mosquito spray mission was scheduled for August 5th through the 9th due to a steady increase in Mosquito numbers.

As for the team's "above and beyond" mentality, several Street department employees participated in a "Touch a Truck" event last week for daycare students. The event itself was a huge success. As for other well-deserved accolades, due to his continuous professionalism, Mr. Matthew Oswalt was submitted for the Minot Area Chamber EDC's "Eagle Award."

TRANSIT DEPARTMENT:

Transit Transfer Center's construction is progressing well with roughly \$289,874.55 of the \$700,000 budget expended. The center's construction is currently projected for completion on August 16th, 2024. July's ridership is up ~47% from this time last year and is the highest ridership we have seen in July since pre-covid. We currently show a ~3% decrease compared to the same period in 2023 ridership numbers, but we expect to start showing an increase within the next two months. The two new routes were put into service on July 8th and accounted for 341 rides this month. We also expect those numbers to increase as the community becomes more aware of the routes and school begins in August.

Our annual free ride week is scheduled for August 12th through the 16th, and we are expecting ridership during that week to exceed that of previous years.

FLEET DEPARTMENT (CT SHOP):

Throughout the month of July, the 10-person staff completed 197 work orders (Parts and Labor Costs: (\$136,513.72). Of which 95 (48%) were unscheduled maintenance repairs to ensure the aging fleet continues to accomplish the necessary tasks contributing to each City department's successful utilization of their required equipment. Additionally, the staff completed 102 (52%)

preventative maintenance work orders to add to the service life expectancy of both the Cities equipment and vehicle fleet. Work order turnaround time composition was as follows:

- 64% of Work Orders Completed within 24 hours
- 72% of Work Orders Completed within 72 hours

**City Assessor
Ryan Kamrowski**

The following represents the City of Minot's real estate market based on a monthly and year to date basis. The numbers listed below are based on Normal Arm's Length Transactions as determined by extensive review by the City of Minot Assessor's office.

	July			Year to Date 2024		
	Sales	Median	Average	Sales	Median	Average
Residential	73	\$ 294,390	\$ 296,381	446	\$ 251,073	\$ 269,650
Residential Vacant Land	0	\$ 0	\$ 0	40	\$ 35,000	\$ 45,742
Commercial	3	\$ 2,499,000	\$ 4,586,333	32	\$ 571,250	\$ 1,198,065
Commercial Vacant Land	0	\$ 0	\$ 0	0	\$ 0	\$ 0

**Community Development Department
Director, Brian Billingsley**

INSPECTIONS DIVISION:

July 2024 Permit Information (July 2023):

- Total Permits Issued: 246 (181)
- Single-Family Homes: 7 (2)
- Multi-Family Permits: 4 (4)
- New Residential Permit: \$1,410,006 (\$614,000)
- Residential Remodels: \$240,494 (\$1,276,400)
- New Commercial: \$54,300 (\$271,000)
- Commercial Remodels: \$188,700 (\$887,000)
- Valuations of all Permits: \$1,893,500 (\$2,986,000)

Notable Building Permits:

- None

Update on The Spot:

Staff has not received any plans from The Spot for the second floor of the building. As far as we are aware, the second floor is not being used.

PLANNING DIVISION:

Planning Commission:

The Planning Commission held a meeting on July 2nd. A variance request for Popeye's was denied because the applicant didn't have a hardship. Staff is working with the applicant to bring the property into compliance.

Development Review Team Meetings:

The Minot Development Review Team (DRT) held five (5) DRT meetings during the month of July:

- Clauson Butcher Shop – Sec. 30, T. 155N. R 83W
- Rossco Relocation – 6405 Hwy. 2 E.
- Automotive Sales – 1115 16th St. SW
- Masquerades Family Entertainment – 4224 4th St. NW
- Providence House (Office) – 423 S. Main

Outdoor Dining Permits:

None.

Other Projects/Meetings:

- Director participated in two CDBG-DR/NDR meetings.
- Director attended multiple budget meetings.
- Director attended a Mobile Home Park policy meeting with the State of North Dakota.
- Director met with the new management team at the Grand Hotel to talk about future plans.

ECONOMIC DEVELOPMENT DIVISION:

Façade Improvement Program:

The owner for 221 Main Street S. filed an application that will be heard at the August Renaissance Zone Review Board meeting.

Renaissance Zone Program:

No new applications.

**Police Department
Chief John Klug**

The police department is currently at 77% effective strength for sworn officers with 19 of the 85 sworn positions not fully effective or vacant. The current effective strength of sworn staff is due to the following:

- 1 – Injury/Medical
- 2 – New Officers in Training
- 16 – Vacant Positions

We have made offers to 3 police officer candidates and they will start employment on August 26th. This will be our first batch of new officers since implementing the \$5,000 hiring bonus. It is also the first time since implementing the \$5,000 recruitment bonus that we have 2 employees receiving the bonus for their work to recruit officers for our department.

Central Dispatch remains at 47% effective strength with 9 of the 17 positions not fully effective or vacant. The current effective strength is due to the following:

- 3 – New Dispatchers in Training
- 4 – Vacant Positions
- 2 – Medical/Family Medical

We made 3 offers to dispatcher candidates and they will start the beginning of September.

Police Department – Calls for Service

Totals

- 2023 = 41,103
- 2022 = 39,181

Year to Date (July 31st)

- 2024 = 22,713
- 2023 = 24,297
- 2022 = 23,284

**Minot Public Library Director,
Zhaina Moya**

MINOT PUBLIC LIBRARY

Director's Report



Building & Grounds

- Moya will meet with the City Attorney's office, and Ackerman Estevold staff to review the original Children's Library Remodel contract and discuss options moving forward.
- Ackerman Estevold has reached out wanting to put together a proposal for the Library Space Needs Assessment



Personnel

- A new children's library assistant was hired and started training in early June. They have since announced their departure in late August. A previous MPL Children's assistant has expressed interest in returning to staff. The children's Librarian will extend a hiring offer in August.
- Adult services department has filled its two vacant positions.



2025 Budget

- The library board approved a preliminary budget at their special meeting on May 31, 2024.
- Moya submitted the 2025 budget to the City Manager's and Finance Departments.
- Moya has met with various departments to discuss the 2025 budget and potential cuts, as requested by City Management and the City Council.



Meetings & Events

Moya attended the following meetings throughout the month:

- 7/18- Library Board Meeting
- 7/22- Meeting with Finance Staff
- 7/29- 1 on 1 with City Manager
- 7/29- 1 on 1 with Library Board President
- 7/30- Department Head Meeting
- 7/30- Special City Council Meeting
- 8/5- Regular City Council Meeting
- 8/9- 1 on 1 with Library Board President
- 8/13- Department Head Meeting
- 8/15- League of Cities Virtual Webinar
- 8/15- Library Board Meeting



Behavior Concerns

- 6/25— A patron came to the adult circulation desk and told staff they were triggered by a male patron in their military service uniform. The patron went on to loudly discuss their personal trauma with staff in detail. Including showing them pictures and asking sensitive questions. The reference librarian on duty explained that we are not trained social workers but could provide her with some local counseling resources. The patron went on to loudly state that all police and service workers are abusers. At this point staff were extremely uncomfortable and so were the two airmen present in the library. The reference supervisor again offered resources and explain that the patron was making staff uncomfortable. The patron apologized but continued to loudly complain. Finally staff asked her to leave. The patron left with no additional issues.

**NDR Program Manager
Chris Plank**

Broadway Circle:

Construction continues on Buildings B and C. Grading and pavement of the east parking lot has started. Lord's Cupboard adjusting hours of operation as to not interfere with Oishii Ramen's business. RFP will be released the week of August 15, 2024.

Staff reached out to Project BEE regarding any updates on the insurance claim files. No word has been received at the time of this memo. There have been no updates regarding the investigation of the misappropriation of funds from the Office of Inspector General (OIG) or the State Bureau of Investigations (BCI).

Parkview Mobile Home Park:

City Council approved a proclamation to pursue eminent domain at the August 5, 2024 meeting. This will allow staff to proceed with acquiring the property for flood protection.

Staff continue to work with residents who are eligible for relocation expenses. To date:

- 39 residents have been contacted or contacted the Disaster Recovery Office
- 26 Notice of Eligibility (NOE) have been completed
- 10 residents have been relocated to date
- 8 residents have become non-responsive

Staff is currently trying to locate residents who previously resided in the mobile home park on or after January 9, 2024. There are approximately 90 lot numbers where residents have currently or previously resided in the mobile home park. Staff will attempt to reach these individuals by:

- Place a Public Notice in the Minot Daily News for 30 days
- Create a link on the City of Minot's website with contact information
- Post a link and information on social media platforms

Engle Court Affordable Housing Complex

The City of Minot is a pass-through grantee for land acquisition to support two (2) thirty-six (36) unit complexes for Low to Moderate Income individuals. Minot Housing Authority (MHA) along with Beyond Shelter will be completing this project.

There is NO city money being utilized to support this project. MHA will be disposing of 40 units to raise capital for this project. Beyond Shelter and MHA will be applying for HOME and ND Housing Finance Funds for this project.

Beyond Shelter has secured Terracon, Inc to complete the required environmental review and to provide guidance on the state CDBG application.

Entitlement Update:

City Council approved the Consolidated Plan at the August 5, 2024 meeting. Staff completed final edits and the plan was submitted to HUD on Wednesday, August 14, 2024. HUD has 90 days to approve the plan. Staff is working to identify eligible activities that align with the submitted plan.

MINOT MUNICIPAL COURT
MONTHLY REPORT COMPARISONS FOR July 2023/2024

To: City Manager, Harold Stewart
From: Minot Municipal Court

	<u>JULY 2023</u>	<u>JULY 2024</u>
<u>MUNICIPAL COURT CASES</u>		
Filed	574	392
Disposed	416	385
<u>PARKING TICKETS</u>		
Written	68	92
Paid	92	100
<u>REVENUE</u>		
Fines & Forfeitures Cash	\$ 27,085.79	\$ 25,277.38
Suspended for Jail or CS	\$ 0.00	\$ 150.00
Waived	\$ 12,577.00	\$ 3,264.00
District Court Transfers	\$ 48.00	\$ 0.00
Parking Tickets	\$ 1,440.00	\$ 2,080.00
Copy Fund	\$ 0.00	\$ 30.00
From Posted Bond	\$ 23,176.55	\$ 17,651.48
Accounts Receivable Balance	\$ 698,927.80	\$ 723,559.01**

Rec. Balance Last Month: \$721,488.16 (An Increase of \$ 2,071.01)

<u>COLLECTION AGENCY</u>		
Turned Over for Collection	\$ 13,110.00	\$ 2,664.00
Collected	\$ 4,370.00	\$ 0.00
Uncollectable	\$ 175.00	\$ 2,866.00

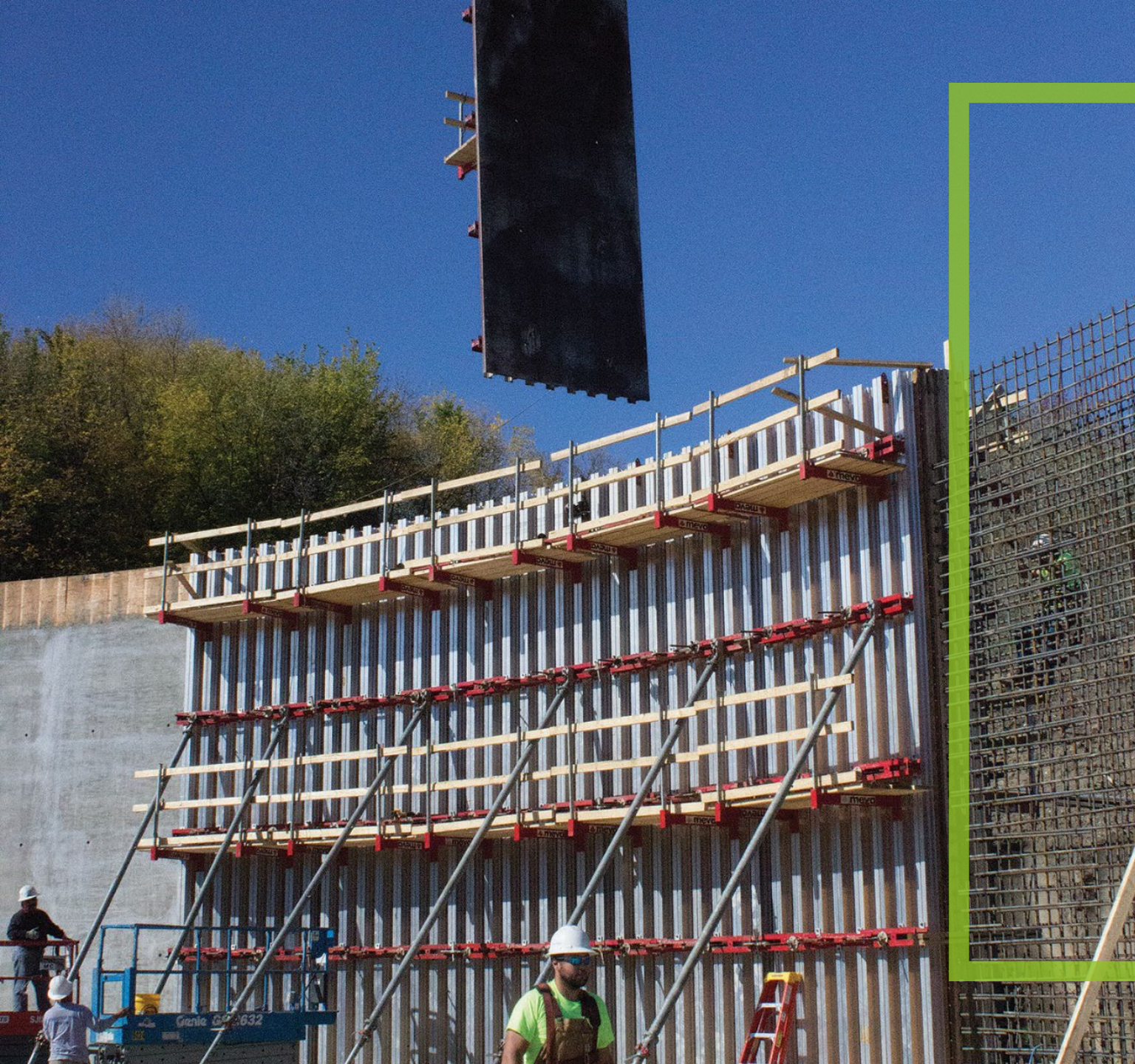
<u>Admin. Fee to Domestic Violence Fund</u>		
Paid	\$ 1,373.13	\$ 1,414.83

**Reflects total fees receivables less 80% of total restitution, which is not owed to the City of Minot (80% = \$ 205,730.28)



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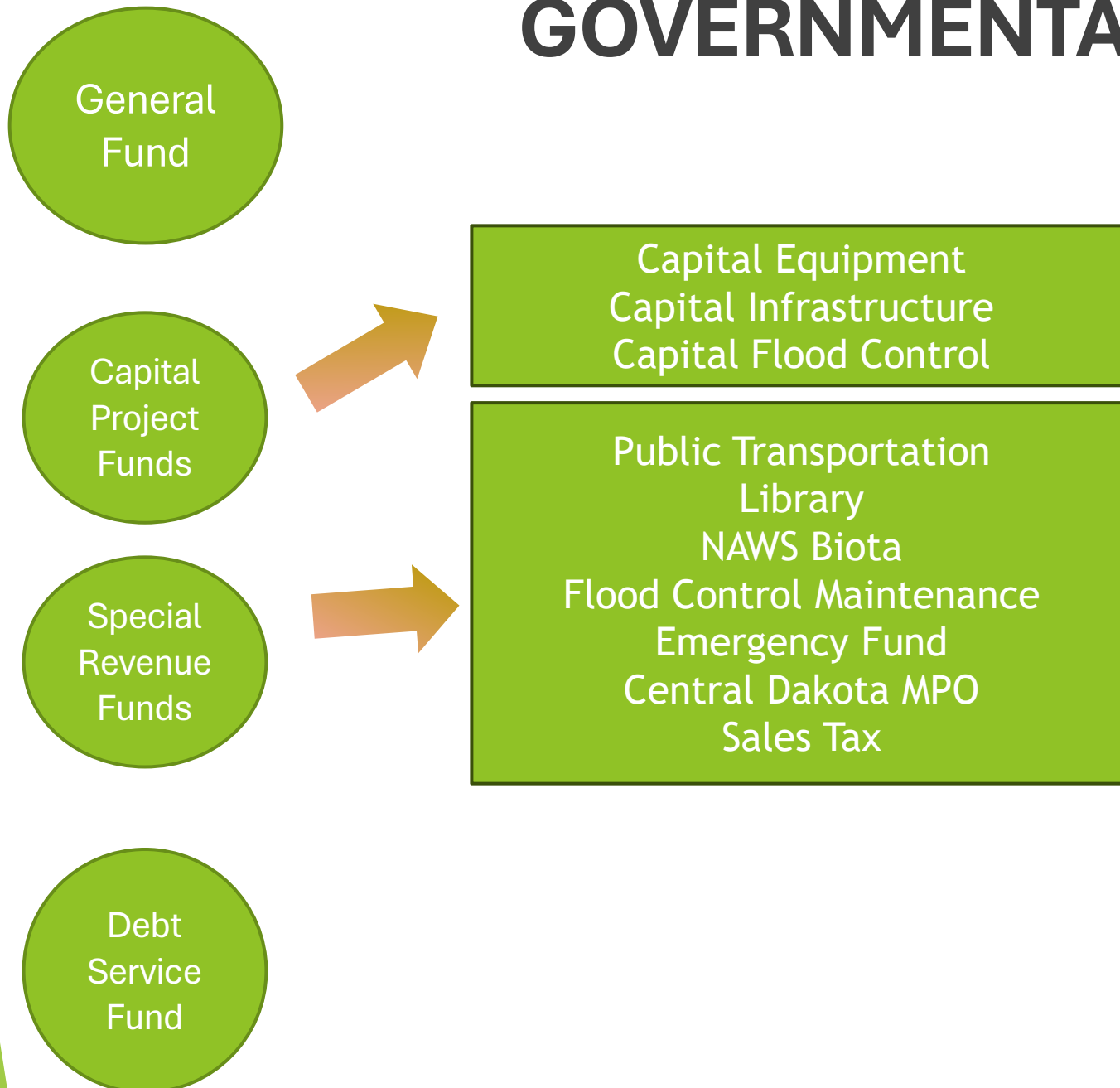
FINANCE 2024 AUGUST UPDATE



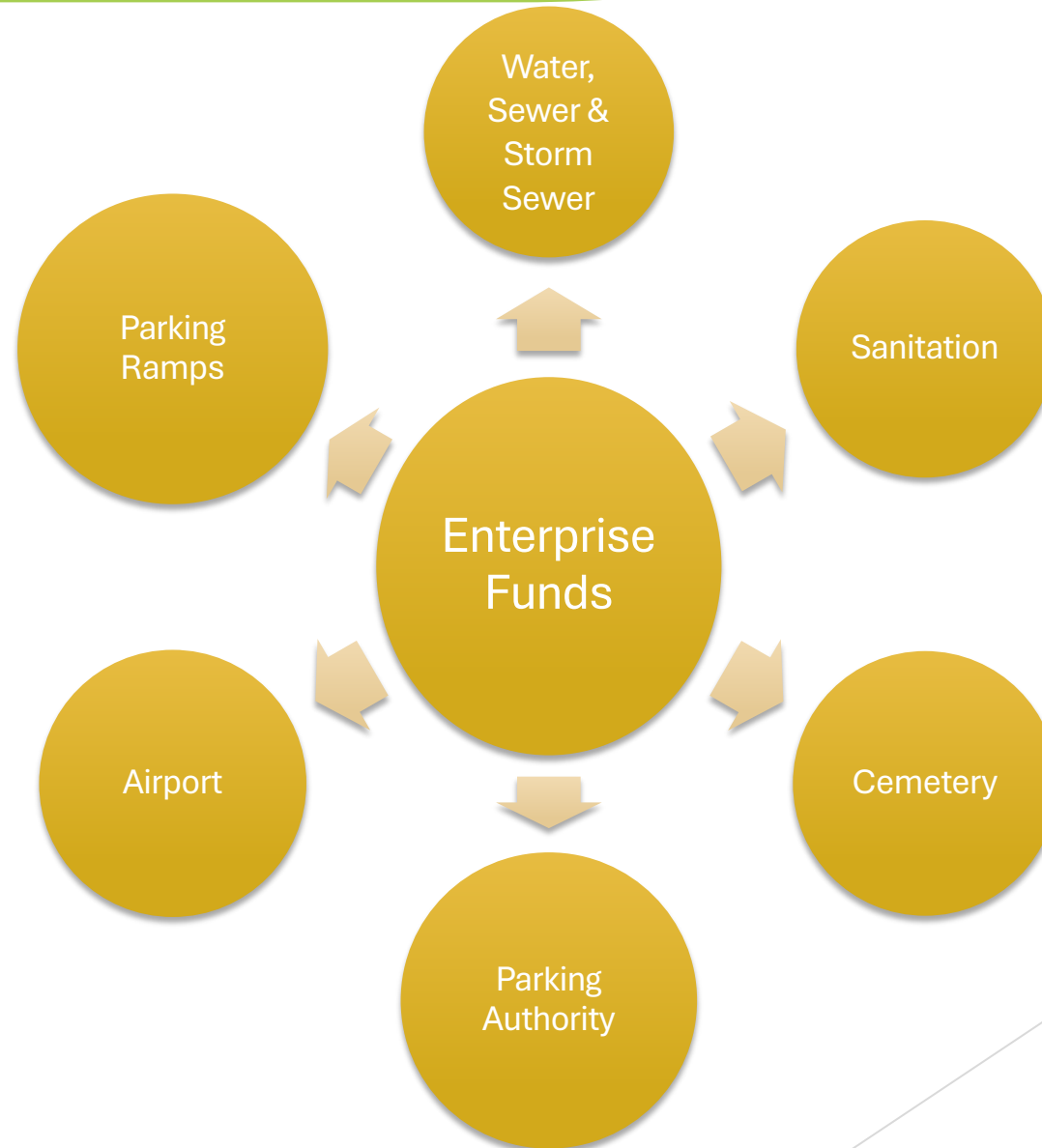
RESERVES 101

How do we accumulate reserves and what is their purpose

GOVERNMENTAL FUNDS



ENTERPRISE FUNDS



Governmental Funds

Fund Revenues

- Property Taxes
- State Aid Distribution
- Sales Tax
- Fees - (Assessments, Franchise)
- Licenses/Permits
- Grants
- Fines
- Interest Earnings

Use

- Public Safety
- Library
- Assessors
- Legal, Human Resources, Finance, IT
- Traffic & Street
- Community Development/Engineering
- Property Maintenance
- City Council/City Manager's Office
- City Infrastructure/Capital Purchases

Enterprise Funds

Fund Revenues

- User Fees – Water/Sewer/Storm Sewer
- Airport Revenue
- Sanitation
- Cemetery Fees
- Parking Revenue
- Special Assessments
- Interest Earnings

Use

- Personnel:
 - Airport, Water, Sewer, Storm Sewer, Sanitation, Cemetery, Parking Ramps
- Maintenance & Operations:
 - Airport, Water, Sewer, Storm, Sanitation, Cemetery, Parking Authority, & Parking Ramps
- New Infrastructure
- Utility Billing
- Interfund Transfers

Municipal Budget Law

NDCC 40-40-21

►40-40-21. Balance at end of fiscal year to become part of unappropriated balance - When special appropriation to lapse. At the end of the fiscal year, the balance to the credit of each annual appropriation becomes a part of the general unappropriated balance in the municipal treasury, except that the unused balance to the credit of the equipment replacement fund provided for in section 40-40-05 does not become a part of the general unappropriated balance in the municipal treasury, but no special appropriation lapses until the work for which it was made has been completed, the bills paid, and the accounts closed. The governing body of a city may elect, at the end of the fiscal year, to carry over the unencumbered cash balance in the general fund or other budgeted funds and designate the balances for subsequent years.

Reserves

Cash Reserves (as of 12/31/2023)					2024									
	Total Cash & Investments	Committed	3/12 Reserves	Bond Covenants	Budgeted Reserves	30% Operating Reserve	Earmarked for Future Projects	Available	Projected 2024 YE Balance	Projected 2025 YE Balance				
General Fund	44,587,522	3,385,758	15,112,315	-	3,000,000	12,592,691	-	10,496,759	42,301,764	43,000,000	- whatever is allocated for Legacy City Hall			
Airport	9,872,209	3,794,951	3,654,574	2,569,583	-	-	-	(146,898)	6,163,258	6,200,000				
Cemetery	444,861	48,094	169,182	-	150,000	-	48,750	28,835	246,767	198,017				
Parking Authority	431,805	-	8,385	-	-	-	-	423,420	458,805	489,000				
Sanitation	6,475,019	2,845,570	1,888,687	-	-	-	-	1,740,762	3,629,449	3,700,000				
Water-Sewer-Storm	34,515,551	3,975,442	11,113,501	4,136,729	2,483,413	-	7,000,000	5,806,466	28,056,696	21,056,696				
Parking Ramps	657,660	-	49,110	-	109,632	-	-	498,919	475,000	475,000				
Public Transportation	838,896	23,187	433,832	-	97,834	-	-	284,043	725,709	750,000				
Library	550,877	252,796	468,151	-	-	-	-	(170,070)	550,877	550,000				
Emergency Fund	1,440,804	-	-	-	-	-	-	1,440,804	1,440,804	1,440,804				
ST - Tax Relief (1st)	701,025	-	-	-	-	-	-	701,025	701,000	201,000				
ST - Econ Dev	8,765,342	1,293,971	-	-	-	-	-	7,471,371	7,471,371	7,471,371				
ST - Improvement	4,192,184	-	-	-	141,435	-	-	4,050,749	4,050,749	3,980,114				
ST - Flood Control	10,689,296	1,255,245	-	-	-	-	-	9,434,051	5,724,296	5,200,000				
ST - NAWS	18,346,299	-	-	-	10,851,244	-	7,495,055	(0)	-	-				
ST - Tax Relief (2nd)	1,150,174	-	-	-	-	-	-	1,150,174	1,200,000	450,000				
ST - Infrastructure	4,559,412	-	-	-	-	-	-	4,559,412	4,734,412	2,444,712				
ST - Flood Control (2nd)	2,264,859	-	-	-	-	-	-	2,264,859	4,334,859	3,681,859				
Debt	6,674,875	1,665,900	-	-	151,082	-	-	4,857,893	6,523,793	5,824,906				
Capital Infrastructure	18,348,661	4,480,768	-	-	-	-	13,867,893	0	13,867,893	8,289,687				
Capital Equipment	1,857,571	1,178,646	-	-	306,214	-	-	372,711	372,711	252,711				
Capital Flood Control	27,480,305	10,657,632	-	-	-	-	16,822,673	0	16,822,673	7,522,673				

Cash Reserves by Fund (as of 12/31/2023)

CIP

2025-2

Engineering	Project No.	2025	2026	2027	2028	2029
Traffic Signal Highway Safety Improvement	E-1	\$ -	\$ 1,608,603	\$ -	\$ -	\$ -
16th St SW Reconstruction Phase 1	E-2	\$ 14,655,256	\$ -	\$ -	\$ -	\$ -
Traffic Signal Replacements	E-3	\$ 775,000	\$ 805,000	\$ 841,000	\$ 867,000	\$ 898,000
16th St SW Interchange Rehabilitation	E-4	\$ -	\$ 6,151,694	\$ -	\$ -	\$ -
2028 Highway Safety Improvement	E-5	\$ -	\$ -	\$ -	\$ 83,600	\$ -
16th St SW Reconstruction Phase 2	E-6	\$ -	\$ 1,800,000	\$ -	\$ 10,800,000	\$ -
2025 Washington Safe Routes to School	E-7	\$ 790,604	\$ -	\$ -	\$ -	\$ -
South Broadway Reconstruction	E-8	\$ -	\$ -	\$ -	\$ 41,339,115	\$ -
3rd Street NE Bridge Rehabilitation	E-9	\$ 350,000	\$ -	\$ 2,000,000	\$ -	\$ -
North Broadway near Airport Street Lighting District	E-10	\$ -	\$ -	\$ -	\$ 40,000	\$ 310,000
16th Avenue SE Sidewalk	E-11	\$ -	\$ -	\$ 41,000	\$ 318,000	\$ -
11th Avenue SE Sidewalk	E-12	\$ -	\$ -	\$ -	\$ 118,000	\$ 920,000
21st Avenue NW Sidewalk Phase 1	E-13	\$ 75,000	\$ 392,000	\$ -	\$ -	\$ -
Lewis & Clark/Bel Air SRTS	E-14	\$ 75,000	\$ 1,816,000	\$ -	\$ -	\$ -
3rd St E and Central Ave Reconstruction	E-15	\$ 1,750,000	\$ -	\$ 9,056,000	\$ 7,040,000	\$ -
Hiawatha Street Slope Stability	E-16	\$ -	\$ -	\$ -	\$ 738,000	\$ 1,821,000
Street Light Feed Point Replacement	E-17	\$ 40,000	\$ 40,000	\$ 40,000	\$ 40,000	\$ 40,000
Anne Street Bridge	E-18	\$ -	\$ 950,000	\$ -	\$ -	\$ 7,500,000
Shirley Court Street Lighting District	E-19	\$ 110,000	\$ -	\$ -	\$ -	\$ -
Eastwood Park Bridge Rehabilitation	E-20	\$ -	\$ 100,000	\$ 660,000	\$ -	\$ -
Street Light LED Conversion	E-21	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000
17th and 18th Ave SE Extensions	E-22	\$ -	\$ 100,000	\$ 800,000	\$ -	\$ -
City Hall Site Improvements	E-23	\$ -	\$ -	\$ -	\$ 145,000	\$ 973,000
2nd Avenue and Main Street Pocket Park	E-24	\$ -	\$ -	\$ -	\$ 73,000	\$ 566,000
Citywide Wayfinding Signage	E-25	\$ 398,000	\$ -	\$ -	\$ -	\$ -
Engineering Yearly Total		\$ 19,143,860	\$ 13,888,297	\$ 13,563,000	\$ 61,726,715	\$ 13,153,000

Public Works	Project No.	2025	2026	2027	2028	2029
Maple Diversion (Phase MI-4)	PW-1	\$ 4,000,000	\$ 11,000,000	\$ 30,000,000	\$ 30,000,000	\$ 30,000,000
Northeast Tieback Floodwall (MI-5)	PW-2	\$ 5,000,000	\$ -	\$ -	\$ -	\$ -
Downtown Minot Levee/Floodwall (MI-6)	PW-3	\$ 20,000,000	\$ 20,000,000	\$ 3,000,000	\$ -	\$ -
Roosevelt Park Levee /Floodwall (West) (MI-7)	PW-4	\$ 15,000,000	\$ 15,000,000	\$ 2,000,000	\$ -	\$ -
Burdick Expressway Bridge (MI-8)	PW-5	\$ 2,000,000	\$ 1,000,000	\$ 7,000,000	\$ 8,000,000	\$ -
Valker Road Levee (West) (MI-9)	PW-6	\$ 2,500,000	\$ 1,500,000	\$ -	\$ 10,000,000	\$ 5,000,000
Roosevelt Park (East) (MI-10)	PW-7	\$ -	\$ -	\$ 3,000,000	\$ 3,000,000	\$ 20,000,000
Valker Road Levee (East) (MI-11)	PW-8	\$ -	\$ -	\$ 3,000,000	\$ 3,000,000	\$ 20,000,000
27th Street Diversion (MI-12)	PW-9	\$ -	\$ -	\$ -	\$ -	\$ 4,000,000
Public Works Yearly Total		\$ 48,500,000	\$ 48,500,000	\$ 48,000,000	\$ 54,000,000	\$ 79,000,000

Sewer	Project No.	2025	2026	2027	2028	2029
Puppydog VII - Lift Station Improvements	SS-1	\$ -	\$ -	\$ -	\$ -	\$ 6,200,000
Wastewater Treatment Facility	SS-2	\$ -	\$ -	\$ -	\$ -	\$ 94,500,000
Sewer Yearly Total		\$ -	\$ -	\$ -	\$ -	\$ 100,700,000

Storm Sewer	Project No.	2025	2026	2027	2028	2029
Storm District 121 Puppy Dog Coulee	ST-1	\$ 21,800,000	\$ -	\$ -	\$ -	\$ -
11th Ave SW Watershed Storm Sewer District	ST-2	\$ -	\$ -	\$ 1,665,000	\$ -	\$ 13,300,000
Storm Sewer Yearly Total		\$ 21,800,000	\$ -	\$ 1,665,000	\$ -	\$ 13,300,000

Water	Project No.	2025	2026	2027	2028	2029
11th Ave NW & Lincoln Ave Watermain Replacement	W-1	\$ 7,120,000	\$ -	\$ -	\$ -	\$ -
Dakotah Homes 2nd Addition Watermain Replacement	W-2	\$ 3,460,000	\$ -	\$ -	\$ -	\$ -
2nd Ave SW (16th St SW-30th St SW) Watermain Replacement	W-3	\$ 350,000	\$ 3,150,000	\$ -	\$ -	\$ -
Edison Area Watermain Replacement	W-4	\$ -	\$ 400,000	\$ 3,206,000	\$ -	\$ -
South Hill Complex Area Watermain Replacement	W-5	\$ -	\$ 400,000	\$ 3,440,000	\$ -	\$ -
Eastwood Park Watermain Replacement	W-6	\$ -	\$ -	\$ 450,000	\$ 4,475,000	\$ -
BelAir Area Watermain Replacement	W-7	\$ -	\$ -	\$ 425,000	\$ 3,475,000	\$ -
Area West of NDSF Watermain Replacement	W-8	\$ -	\$ -	\$ -	\$ 450,000	\$ 3,680,000
SE Area Utility Rehabilitation	W-9	\$ -	\$ -	\$ -	\$ 480,000	\$ 4,500,000
Area East of Corbett Field Watermain Replacement	W-10	\$ -	\$ -	\$ -	\$ -	\$ 525,000
Roosevelt School Area Watermain Replacement	W-11	\$ -	\$ -	\$ -	\$ -	\$ 500,000
Water Yearly Total		\$ 10,930,000	\$ 3,950,000	\$ 7,521,000	\$ 8,880,000	\$ 9,205,000

CIP 2025-2029

The City is relying heavily on Federal and State funds to fund the CIP. In total, \$370,313,557 is coming from Federal and State funds.

Department	Costs
Airport	\$ 35,560,000
Engineering	121,474,872
Public Works	278,000,000
Sanitary Sewer	100,700,000
Storm Sewer	36,765,000
Water	40,486,000
Total CIP	<u>\$ 612,985,872</u>

Funding Sources	
Federal Funds	\$ 128,163,255
State Funds	242,150,302
Local: Sales Tax	83,543,926
Local: Tax Levy	-
Local: Special Assessments	4,944,000
Local: Sales Tax Bonds	-
Local: General Obligation Bonds	-
Local: Storm Sewer Development	18,053,489
Local: Revenue Bonds	100,700,000
Other	35,430,900
Total CIP	<u>\$ 612,985,872</u>



Additional Sources of Information

▶ <https://www.minotnd.gov/172/Finance>

▶ Resource Documents

▶ Please take the time to view some of the most important documentation regarding the Minot Finance Department:
[Adopted/Preliminary Budgets](#)

▶ [Annual Comprehensive Finance Reports](#)

▶ [MAGIC Fund Reports](#)

▶ [Monthly Budget and Revenue Reports](#)

▶ [Quarterly Finance Reports](#)

▶ [Year End Cash Balance](#)



Questions?

On August 6, 2024, a Regular Planning Commission Meeting of the Minot Planning Commission was held in the City Council Chambers, City Hall (10 3rd Ave SW). Chairman Offerdahl called the meeting to order at 05:25 PM.

1. ROLL CALL

Members Present: Tim Baumann, Annette Mennem, Serena Pontenila, Dustin Offerdahl, Kayla Johnson, Robert Kibler, Logan Longtin

Members Absent: Elisha Gates, Erin Iverson

City Staff Present: Nick Schmitz, Corbin Dickerson, Emily Huettl, Brian Billingsley, Hannah Hornberger, Doug Diedrichsen, Dan Falconer, Bryan Banfill, Kevin Braaten

Others Present: Kelly Dillon, Dan Stranberg, Jonathan Layne, Lyndsey Ledahl, Doug Bonsness, Brittany Shattuck, Travis Zabloutney, Brian Everson, Patrick Fisher

2. PLEDGE OF ALLEGIANCE

3. INTRODUCTIONS AND DECORUM

3.1. INTRODUCTIONS AND DECORUM HANDOUT

4. PLANNING COMMISSION

4.1. APPROVAL OF THE JULY 2024 REGULAR MEETING MINUTES

The motion to Approve July 2024 Planning Commission Meeting Minutes was initiated by Planning Commission Representative Baumann seconded by Planning Commission Representative Pontenila and carried by the following roll call vote: ayes: Tim Baumann, Kayla Johnson, Robert Kibler, Logan Longtin, Annette Mennem, Dustin Offerdahl, Serena Pontenila; nays: None.

Motion carried.

5. PUBLIC HEARING

5.1. CASE #2024-06-04 - COPACETIC ADDITION - PRELIM PLAT

Mr. Diedrichsen goes over staff findings.

The Commissioners had a discussion.

Chairman Offerdahl opened the public hearing to the public for testimony.

No one appeared to testify.

Chairman Offerdahl closed the public hearing.

The motion to Approve on staff findings of fact was initiated by Planning Commission Representative Kibler seconded by Planning Commission Representative Mennem and carried by the following roll call vote: ayes: Tim Baumann, Kayla Johnson, Robert Kibler, Logan Longtin, Annette Mennem, Dustin Offerdahl, Serena Pontenila; nays: None.

Motion Carried.

5.2. CASE #2024-06-05 - CITY OF MINOT - PUBLIC WORKS SALT & SAND
BUILDING - PUBLIC ZONE PLAN REVIEW

Mr. Diedrichsen goes over staff findings.

The Commissioners had a discussion.

Chairman Offerdahl opened the public hearing to the public for testimony.

No one appeared to testify.

Chairman Offerdahl closed the public hearing.

The motion to Approve on staff findings of fact was initiated by Planning Commission Representative Baumann seconded by Planning Commission Representative Pontenila and carried by the following roll call vote: ayes: Tim Baumann, Kayla Johnson, Robert Kibler, Logan Longtin, Annette Mennem, Dustin Offerdahl, Serena Pontenila; nays: None.

Motion Carried.

5.3. CASE #2024-06-06 - ENDEAVOR SOBER LIVING - CUP

Mr. Diedrichsen goes over the staff findings.

The Commissioners had a discussion.

Chairman Offerdahl opened the public hearing to the public for testimony.

Kelly Dillon - resident - discusses concerns.

Dan Stranberg - resident - discusses concerns.

Jonathan Layne - owner of Endeavor Sober Living - explains the purpose of the program.

Commissioners discuss questions with Mr. Layne.

Lynsey Ledahl - staff member Endeavor Sober Living - discusses the benefits of the program.

Doug Bonsness - resident - discusses concerns.

Brittany Shattuck - resident - discusses concerns.

Chairman Offerdahl closed the public hearing.

Commissioners have questions for staff.

City staff answers questions.

The motion to Approve based on staff conditions and findings of fact was initiated by Planning Commission Representative Kibler seconded by Planning Commission Representative Longtin and carried by the following roll call vote: ayes: Kayla Johnson, Robert Kibler, Logan Longtin, Annette Mennem, Dustin Offerdahl; nays: Tim Baumann, Serena Pontenila.

Motion Carried.

5.4. CASE #2024-07-01 - GREAT PLAINS ADDITION - PRELIM PLAT & ZONE
CHANGE

Mr. Diedrichsen goes over staff findings.

The Commissioners had a discussion.

Chairman Offerdahl opened the public hearing to the public for testimony.

Travis Zabloutney - applicant - discusses application.

Patrick Fisher & Brian Everson - Northern Plains Ag - present the future facility.

Chairman Offerdahl closed the public hearing.

Commissioners have questions for staff.

Staff answers questions.

Commissioners have further discussion.

The motion to Recommend Approval of Prelim Plat to City Council was initiated by Planning Commission Representative Kibler seconded by Planning Commission Representative Longtin and carried by the following roll call vote: ayes: Tim Baumann, Kayla Johnson, Robert Kibler, Logan Longtin, Annette Mennem, Dustin Offerdahl, Serena Pontenila; nays: None.

Motion Carried.

The motion to Recommend Denial of Zone Change to City Council was initiated by Planning Commission Representative Baumann seconded by Planning Commission Representative Kibler and carried by the following roll call vote: ayes: Tim Baumann, Robert Kibler, Annette Mennem; nays: Kayla Johnson, Logan Longtin, Dustin Offerdahl, Serena Pontenila.

Motion Failed.

The motion to Recommend Approval of Zone Change not based on staff conditions or findings of fact as outlined in the staff report to City Council on the basis that within the LDO that #1 is satisfied it upholds the spirit of C2 but aligns with the M1 zoning conditions and #4 fulfills and is consistent with the plans, policies and purpose of the ordinance as was initiated by Planning Commission Representative Longtin seconded by Planning Commission Representative Pontenila and carried by the following roll call vote: ayes: Kayla Johnson, Logan Longtin, Dustin Offerdahl, Serena Pontenila; nays: Tim Baumann, Robert Kibler, Annette Mennem.

Motion Carried.

6. MISCELLANEOUS AND DISCUSSION ITEMS

6.1. ACCESSORY BUILDINGS

Mr. Falconer discusses presentation of accessory buildings and goes over changes that could be made if the Planning Commissioners see fit in the future.

6.2 Chairman Offerdahl discusses with Planning Commissioners about making their emails and phone numbers available to the public if they want.

7. ADJOURNMENT

With no further business, Chairman Offerdahl adjourned the meeting at 8:20 pm.



TO: Mayor Ross
Members of the City Council

FROM: Doug Diedrichsen, Principal Planner

DATE: August 19, 2024

SUBJECT: PUBLIC HEARING: PRELIMINARY PLAT - COPACETIC ADDITION

I. RECOMMENDED ACTION

It is recommended City Council approve the Major Subdivision Preliminary Plat for Copacetic Addition with the condition that the right-of-way along the section line and required utilities easements be dedicated on the final plat.

II. DEPARTMENT CONTACT PERSONS

Brian Billingsley, Community Development Director, 701-857-4022
Doug Diedrichsen, Principal Planner, 701-857-4022

III. DESCRIPTION

A. Background
N/A

B. Proposed Project
Public hearing request by Rob Berard representing Jessie & Shanda Olson, owner for a request of a preliminary plat for a portion of unplatted land located in a "M2" Heavy Industrial District. The applicant is requesting a review and approval of a preliminary plat to create a single ten (10) acre lot. The legal description for the property is Government Lot 1, Section 5, Township 155 North, Range 82 West, Ward County, North Dakota.

The subject property is unaddressed.

C. Recommendation Detail
N/A

IV. IMPACT

A. Aspirations

B. Service/Delivery Impact:

C. Fiscal Impact

Project Costs

Project Funding

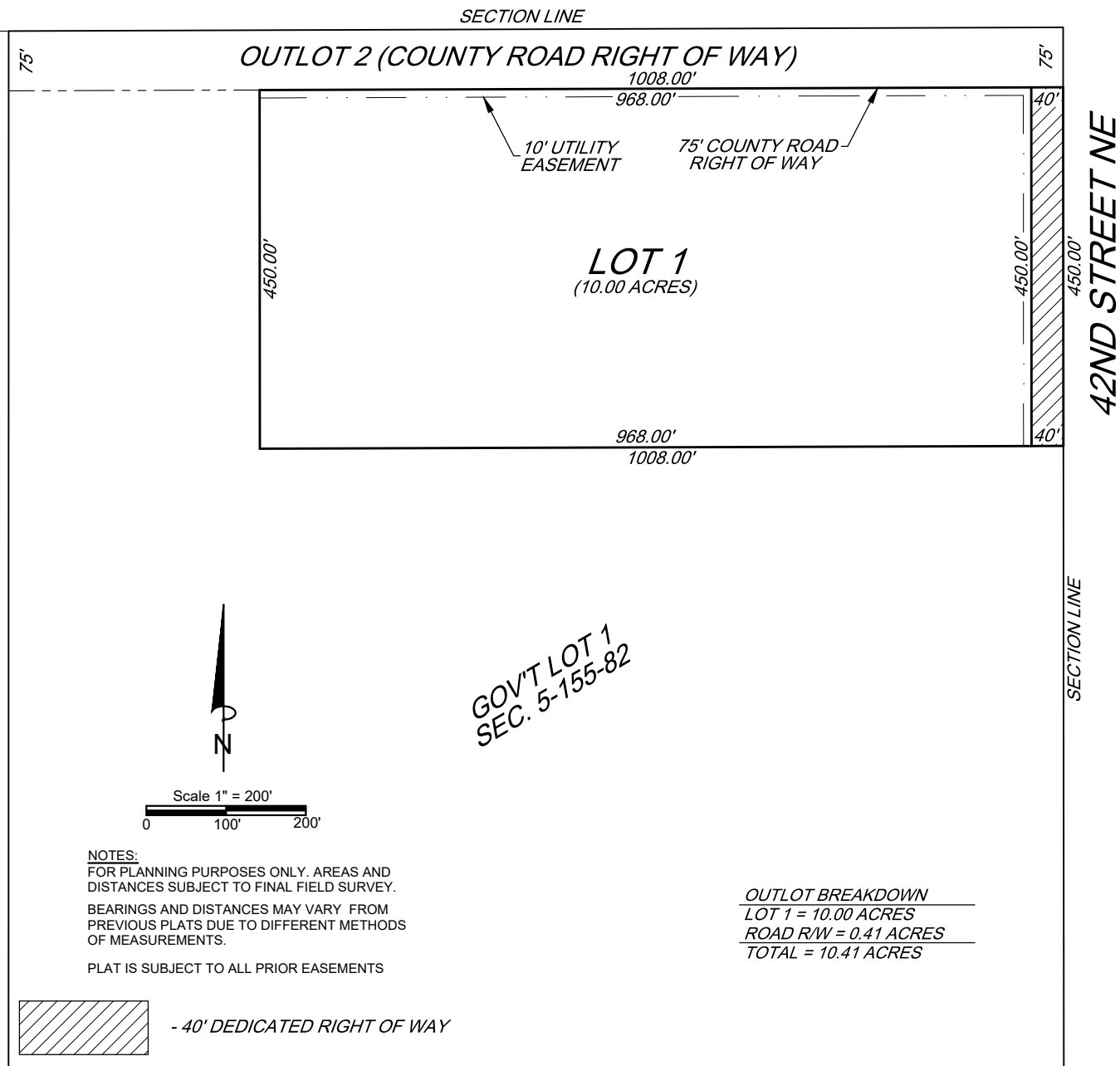
VI. ALTERNATIVES

N/A

PRELIMINARY PLAT OF COPACETIC ADDITION

TO THE CITY OF MINOT, NORTH DAKOTA
(BEING AN UNPLATTED PORTION OF GOV'T LOT 1, SECTION 5, TOWNSHIP 155 NORTH,
RANGE 82 WEST, WARD COUNTY, NORTH DAKOTA)

46TH AVENUE NE & COUNTY ROAD 10A



ACKERMAN SURVEYING
& ASSOCIATES
(701) 838-0786
1907 17TH ST SE, MINOT, N.D. 58701



TO: Mayor Ross
Members of the City Council

FROM: Doug Diedrichsen, Principal Planner

DATE: August 19, 2024

**SUBJECT: PUBLIC HEARING - PUBLIC ZONE PLAN REVIEW - PUBLIC WORKS
SALT AND SAND BUILDING**

I. RECOMMENDED ACTION

It is recommended City Council approve the Public Land Development Master Plan.

II. DEPARTMENT CONTACT PERSONS

Doug Diedrichsen, Principal Planner, 701-857-4022

Brian Billingsley, Community Development Director, 701-857-4022

III. DESCRIPTION

A. Background

N/A

B. Proposed Project

Public hearing request by Bryan Banfill, Public Works Operations Director representing the City of Minot, owner for a request of a public zone plan review on a "P" Public District property as a requirement of constructing a new salt & sand storage building. The legal description for the property is Lot 6 Kemper Addition to the City of Minot, North Dakota.

The subject property address is 1025 31st Street SE.

C. Recommendation Detail

N/A

IV. IMPACT

A. Aspirations

B. Service/Delivery Impact:

N/A

C. Fiscal Impact

N/A

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

N/A

P:\PROJECTS\4830 - Sand and Salt Building\Design\Plans\4830 - Sand and Salt Building.dwg Site Plan-6/14/2024 4:16 PM-(alida romann)



PRELIMINARY

This document is preliminary and not for construction or implementation purposes.

Scale 0 50 100 Feet

N

2024 STREET DEPARTMENT SALT & SAND BUILDING SITE PLAN				-	-	-	-
Surveyed by	AJC	Drawn by	AJC	-	-	-	-
Designed by	##	Date	06/14/2024	-	-	-	-
Project No.	4830	Revision		No.	Date	By	
SHEET		7 OF 9		City of Minot			



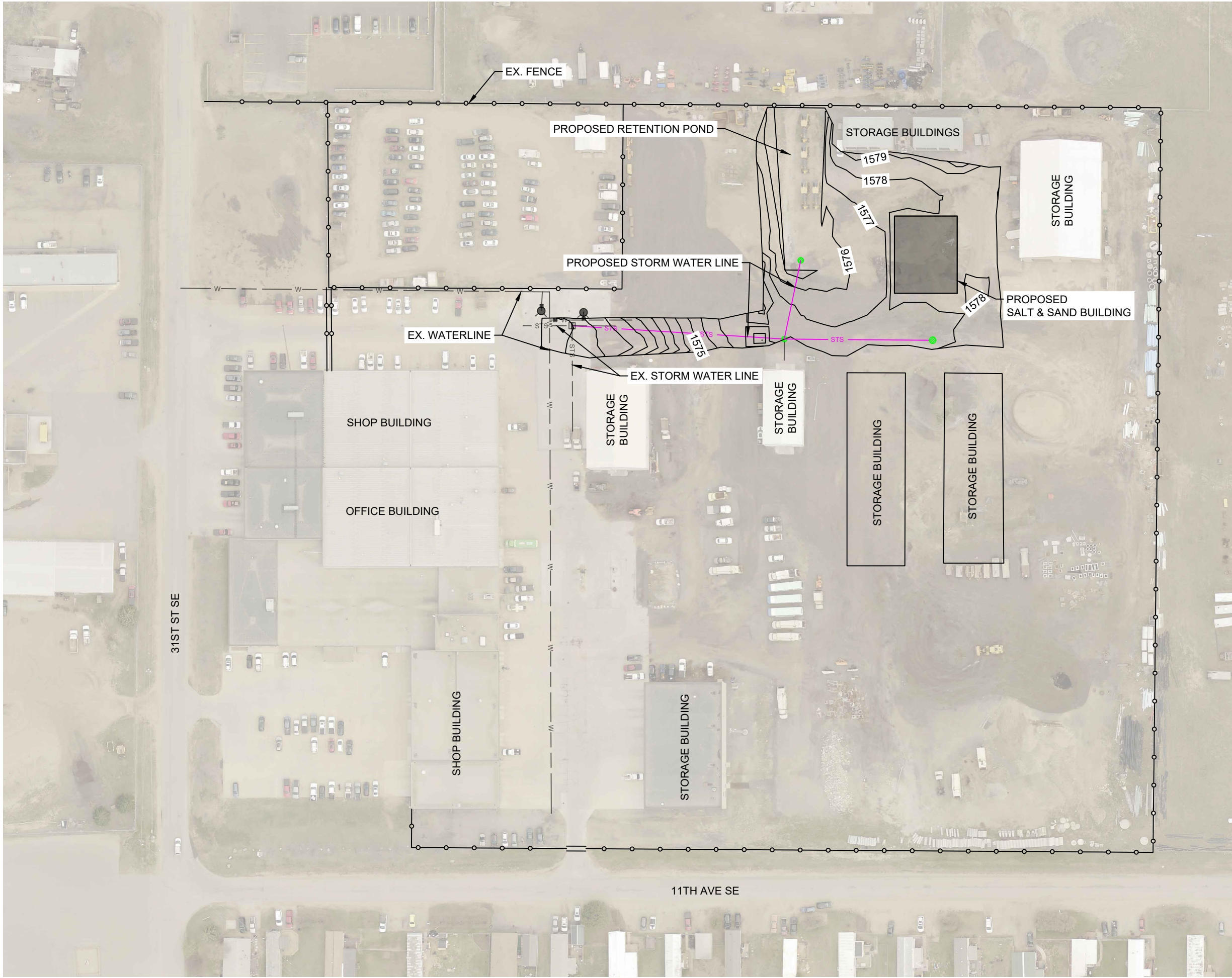
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Scale Feet

N

PRELIMINARY

This document is preliminary and not for construction or implementation purposes.

2024 STREET DEPARTMENT SALT & SAND BUILDING LANDSCAPING PLAN				-	-	-	-
Surveyed by	AJC	Drawn by	AJC	-	-	-	-
Designed by	##	Date	06/14/2024	-	-	-	-
Project No.	4830			No.	Revision	Date	By
SHEET				8 OF 9			



PRELIMINARY

This document is preliminary and not for construction or implementation purposes.

Scale: 0 50 100 Feet

North Arrow

2024 STREET DEPARTMENT SALT & SAND BUILDING STORMWATER PLAN					-	-	-	-	-
Surveyed by	AJC	Drawn by	AJC	Designed by	##	Date	06/14/2024	Project No.	4830
SHEET					9 OF 9				
City of Minot					No.	Revision	Date	By	



TO: Mayor Ross
Members of the City Council

FROM: Doug Diedrichsen, Principal Planner

DATE: August 19, 2024

**SUBJECT: PUBLIC HEARING: PRELIMINARY PLAT & ZONING MAP
AMENDMENT**

I. RECOMMENDED ACTION

It is recommended City Council approve a Preliminary Plat for Great Plains Addition subject to the following conditions :

- **Traffic impact study is required and must be approved by the city and NDDOT.**
- **Access locations must be approved by NDDOT. A frontage road may be required.**
- **Sewer connection fees apply.**
- **Storm water management plan required.**
- **Developer's agreement required for any public street and utility improvements associated with the development.**

It is recommended City Council approve the Zoning Map Amendment on first reading not based on staff conditions or findings of fact as outlined in the staff report to City Council on the basis that within the LDO that #1 is satisfied it upholds the spirit of C2 but aligns with the M1 zoning conditions and #4 fulfills and is consistent with the plans, policies and purpose of the ordinance as was initiated by Planning Commission.

II. DEPARTMENT CONTACT PERSONS

Brian Billingsley, Community Development Director, 701-857-4022
Doug Diedrichsen, Principal Planner, 701-857-4022

III. DESCRIPTION

A. Background
N/A

B. Proposed Project
Public hearing request by Travis Zablotney, representing Leann J Zablotney

Living Trust, owner for a request of a preliminary plat to create two (2) lots for an unplatted half section of land zoned as "C2" General Commercial District. The applicant also requests the property be rezoned to "M1" Light Industrial. The legal description for the property is the N1/2 SE1/4 Section 23, Township 155 North, Range 82 West, Ward County, North Dakota.

The subject property is unaddressed.

C. Recommendation Detail
N/A

IV. IMPACT

A. Aspirations

B. Service/Delivery Impact:

C. Fiscal Impact
Project Costs

Project Funding

VI. ALTERNATIVES

N/A

ORDINANCE NO. XXXX

**AN ORDINANCE REZONING LOTS 1 AND 2, GREAT PLAINS ADDITION FROM “C2”
GENERAL COMMERCIAL DISTRICT TO “M1” LIGHT INDUSTRIAL DISTRICT.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

Section 1. That the property described below is hereby zoned **“M1” Light Industrial District**:

LOTS 1 and 2, Great Plains Addition

Section 2. The **“M1” Light Industrial District** zoning of the above described property and any development thereof shall be in accordance with said zoning district’s provisions as set forth in the Land Development Ordinance of the City of Minot.

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

PASSED FIRST READING:

PASSED SECOND READING:

ATTEST:

APPROVED:

Mikayla McWilliams, City Clerk

Thomas Ross, Mayor

**GREAT PLAINS ADDITION
TO THE CITY OF MINOT, NORTH DAKOTA**

BEING THE N $\frac{1}{2}$ SE $\frac{1}{4}$
SECTION 23, TOWNSHIP 155 N, RANGE 82 W,
TO THE CITY OF MINOT

DESCRIPTION:

Know all men by these presents that LEANN J ZABLOTNEY LIVING TRUST, being Owner and Proprietor, of the N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 23, Township 155 N, Range 82 W, of the 5th Principal Meridian, to the City of Minot, North Dakota, being more particularly described as follows:
Beginning at the East Quarter Corner, of Section 23, Township 155 N, Range 82 W, of the 5th Principal Meridian; Thence S 0°47'20" W, on the East Line of the Southeast Quarter, of said Section 23, a distance of 1219.42 FT, to a Point being on the North Right of Way Line of U.S. Highway #2; Thence N 89°32'56" W, on the said North Right of Way Line, a distance of 2640.05 FT, to a Point being on the North-South Quarter Line, of said Section 23; Thence N 0°49'13" E, on the said North-South Quarter Line, a distance of 1222.46 FT, to the Center Quarter Corner, of said Section 23; Thence S 89°28'59" E, on the East-West Quarter Line, of said Section 23, a distance of 2639.37 FT, to the Point of Beginning.
Said described tract, of land contains 73.99 Acres more or less. Have caused the same to be surveyed and platted as shown hereon, to be known as Great Plains Addition, to the City of Minot, North Dakota, the owners hereunto affixed their signatures.

Leann J Zabolney
LEANN J ZABLOTNEY LIVING TRUST

On this 15 Day of July, 2024, before me, a Notary Public in and for said State, Appeared Leann J Zabolney, well known to be the person described in the foregoing description and acknowledged to me that she executed the same on her own free act and deed.

My commission expires

KIMBERLY J P FLATEN
Notary Public
State of North Dakota
My Commission Expires May 31, 2027

Kimberly J P Flaten
Notary Public, State of North Dakota

SURVEYOR'S CERTIFICATE

I, Thomas R. Leshovsky, a duly Registered Professional Land Surveyor, do hereby certify that I have Surveyed and Platted, the Foregoing described land. That Lots, Distances, Areas and Locations as shown on the foregoing Plat and in the Description Thereof, are true and correct to the best of my Knowledge and Belief.

Thomas R. Leshovsky
Thomas R. Leshovsky P.L.S. #6134

STATE OF NORTH DAKOTA, COUNTY OF Ward

On this 15 Day of July, 2024, before me, a Notary Public in and for said State, Appeared Thomas R. Leshovsky, Registered Professional Land Surveyor, well known to be such, and acknowledged to me that he executed the foregoing Surveyor's Certificate as his own free act and deed.

My commission expires

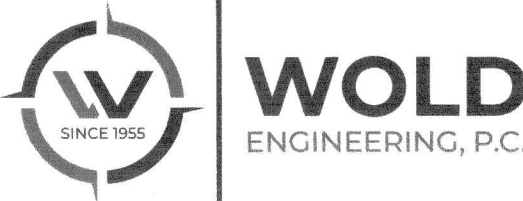
KIMBERLY J P FLATEN
Notary Public
State of North Dakota
My Commission Expires May 31, 2027

Kimberly J P Flaten
Notary Public, State of North Dakota

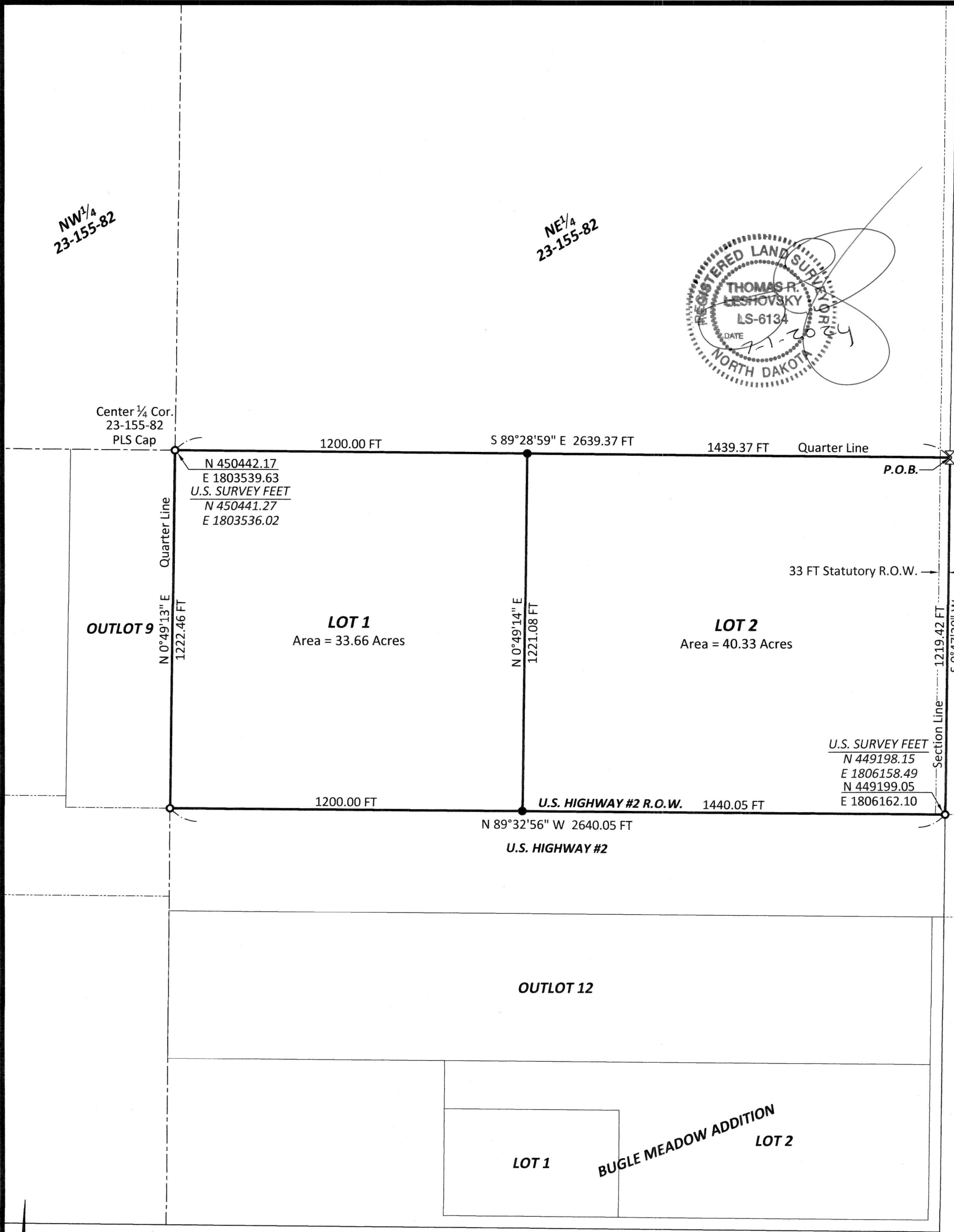
APPROVAL

I hereby certify that the Plat shown hereon has been approved by the Minot Planning Commission and the Minot City Council.

Approved: _____, 2024
Minot City Engineer

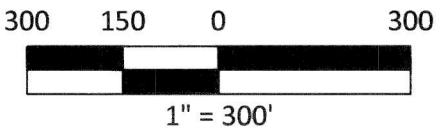


915 East 11th Street - PO Box 237 - Bottineau, ND 58318
110 8th Avenue Southwest - Minot, ND 58701
316 Eastdale Drive - PO Box 1277 - Bismarck, ND 58502



NOTES:

- Plat is subject to all prior Easements of Record.
- Bearings and Distances may vary from previous plats due to different methods of measurement.
- A 10' Utility Easement is on the streetside of every Lot.
- State Plane Coordinates shown are North Dakota (North Zone) NAD83 Int. Feet (Unless Otherwise Noted). NG5 OPUS Solution was used to establish coordinates.



- - Denotes Property Corner Set 18" - #5 Rebar w/ RLS Cap #6134
- - Denotes Property Corner Found
- × - Denotes Property Corner Offsets



Planning Commission/City Council Staff Report

Application Date: 07/01/2024

Date of Staff Report: Updated 08/15/2024

Date of Planning Commission Meeting: 08/06/2024

Staff Contact: Doug Diedrichsen, Principal Planner

Staff Recommendation: Approval/Denial

Case Number: 2024-07-01

Project Name: Great Plains Addition - Zone Change, Prelim Plat

Current Legal Description: N1/2 SE1/4 Section 23, Township 155 North, Range 82 West, Ward County, North Dakota.

Proposed Legal Description: Great Plains Addition

Present Address: See Project Description

Owners: Leann J Zablotney Living Trust

Representative: Travis Zablotney

Entitlements Requested: See Project Description

Present Zone(s): "C2" General Commercial District

Present Use(s): Vacant/Agricultural Land

Uses Allowed in Present Zone(s): See Chapter 2.2 for allowed and conditionally permitted uses within each district.

Present Future Land Use Map Designation: Gateway Commercial

Proposed Zone(s): "M1" Light Industrial District

Proposed Use(s): Sales or service of industrial, agricultural, and construction equipment and semi-trucks & Unspecified Commercial/Industrial

Uses Allowed in Proposed Zone(s): See Chapter 2.2 for allowed and conditionally permitted uses within each district

Proposed Future Land Use Map Designation: No Change Requested

PROJECT DESCRIPTION:

Public hearing request by Travis Zablotney, representing Leann J Zablotney Living Trust, owner for a request of a preliminary plat to create two (2) lots for an unplatted half section of land zoned as "C2" General Commercial District. The applicant also requests the property be rezoned to "M1" Light Industrial. The legal description for the property is the N1/2 SE1/4 Section 23, Township 155 North, Range 82 West, Ward County, North Dakota.

An aerial, including the notification boundary, is provided in **Exhibit 1**.

BACKGROUND INFORMATION:

This is the first phase of development and entitlements for this property. There was an application submitted in 2013 for a zone change, however this zoning map amendment was never brought to the City Council for second reading and the final plat was not submitted or recorded.

The application includes platting two lots from unplatted property. The requested zone changes allow for the intended development by right, however the intended use could be developed under the current zoning classification with a conditional use permit. The requested zoning change to “M1” would allow for the development intent of lot one by right (Sales or service of industrial, agricultural, and construction equipment and semi-trucks). No specific uses have been divulged at the time of writing this staff report for lot 2.

The application does not include a future land use map amendment; however, this could be requested as a condition of the proposed rezoning.

The preliminary plat is provided in **Exhibit 2**.

The zoning and future land use map of the subject property provided in **Exhibit 3**.

Site photos are provided in **Exhibit 4**.

A subject property history and Planning Commission Finding of Fact can be found in **Exhibit 5**.

STAFF ANALYSIS:

Zoning Map Amendment Analysis:

Section 9.1-7 of the Minot Land Development Code provides the procedures for amending the official zoning map of the City of Minot. Section 9.2 provides the noticing requirements for public hearings held by the Planning Commission. Section 9.1-7 D. recognizes that the future land use map may need to be amended to support any rezoning request. The applicant has submitted the necessary application documents required per Section 9.1-7 C. and noticing has been conducted as required per Section 9.2.

The subject property maintains the future land use designation of Gateway Commercial on the 2040 Future Land Use Map (2040 FLU Map).

Proposed Lot 1 of Great Plains Addition would become a light industrial property. This lot is directly west of a property with a residential zoning district classification of “MH” Mobile Home District, with a Gateway Commercial designation on the 2040 FLU Map. Both lots would be directly south of a property zoned “M2”

Heavy Industrial adjacent to the BNSF rail line and right-of-way with a Light Industrial designation on the 2040 Future Land Use Map the eastern property line is the ETJ boundary.

Section 9.1-7 E. 2. requires the Planning Commission to provide findings of fact to ensure the criteria included in Section 9.1-7 H. has been satisfied in order to support any recommendation regarding any proposed changes to the zoning map or Future Land Use Map. Staff provides the following guidance:

Section 9.1-7 H. relates to whether or not the proposed zoning map amendment is justified due to a change in conditions, error in the zoning map, or in order to fulfill the future land use map of the Comprehensive Plan. The request does not reflect any change in conditions as the land remains undeveloped, an error on the official zoning map or fulfill the objectives of the Future Land Use Map. There are no errors in the official zoning map as the property was zoned commercial C-2 by Ward County in 1962 and was taken into the City of Minot's ETJ with a "C2" designation. The request for "M1" classification does not fall under the complementary zoning districts for Gateway Commercial as outlined in Chapter 3 of the 2040 Comprehensive Plan. Section 9.1-7 H. 1 is not satisfied.

The City and other agencies will be able to provide necessary public services and facilities to serve the proposed development. All expansions of service would be completed at the expense of the developer. Section 9.1-7 H. 2 is satisfied.

Section 9.1-7 H. 3 requires that the proposed zoning map amendment will not substantially diminish the condition or value of property in the vicinity. Staff finds evidence that the amendment to "M1" Light Industrial District could diminish the condition or value of property within the vicinity. That adjacent residentially zoned property would be surrounded by industrial zoned properties while maintaining a future land use map designation that restricts its ability to rezone to an industrial district without additional application burdens placed on the adjacent property owner. Section 9.1-7. H. 3. is not satisfied.

Section 9.1-7. H. 4. requires the zoning change to be consistent with the purpose of the Land Development Ordinance of the City of Minot, the Comprehensive Plan, and other adopted plans and policies of the City. The proposed development must comply with all development standards within the Land Development Ordinance of the City of Minot and the zoning map amendment will align with the future land use designations of Gateway Commercial within the 2040 Comprehensive Plan. Therefore, Section 9.1-7. 4. is not satisfied.

Subdivision Design Standards:

Section 10.2-7 C. of the Land Development Ordinance of the City of Minot (LDO) covers the process of application and submittal for a major subdivision preliminary plat. The applicant has submitted the necessary application documents required per Section 10.2-7 C. 2. and noticing has been conducted as required per 9.2-1 (B) and (C).

Section 10.2-7. D. requires that staff's report consider the nature of the proposed development as prescribed within Section 10.2-5 relating to whether or not it meets the technical requirements of Article 10, and if not, whether any such requirements should be waived. To that end, staff provides the following guidance based on the various requirements of Chapter 10.3 – Design Standards:

Section 10.3-1, requiring the proposed subdivision to be designed in accordance with the standards of Chapter 10.3, the Land Development Ordinance as a whole, and a list of various other plans and codes, is satisfied with conditions as further elaborated within this section of the written report.

Section 10.3-2 prohibits the approval of the subdivision of land that is unsuitable for development due to a variety of reasons. Staff finds the proposed preliminary layout will not create a lot that is unsuitable for development. Therefore, Section 10.3-2 is satisfied.

Section 10.3-3. requires that a subdivision name not already be utilized elsewhere and spelled correctly. The name Great Plains Addition has not yet been taken and is spelled correctly. Section 10.3-3 is satisfied.

Section 10.3-4. A-F. relating to Street Names and Numbering is applicable and satisfied, as there are no additional streets proposed via this subdivision. Addressing will be assigned to each lot following completion of the final plat process, if approved.

The requirements of Section 10.3-11. relating to the design of the individual lots has been satisfied as the proposed properties to be created will meet the minimum lot sizes of the respective district for which they will be zoned, if approved. In short, the lots meet the dimensional standards per Section 10.3-11.

Section 10.3-12 relating to block design is satisfied.

The requirements of Section 10.3-13 relating to the dedication of right-of-way, easements, and street widths is satisfied with conditions. Per the recommendations of the Engineering Department a frontage road may be required if the need is identified by the traffic impact study that will be required prior to development of the property.

Sections 10.3-14 related to sidewalks is not applicable.

Section 10.3-15 related to public utilities is satisfied with conditions. The Engineering Department has provided comments surrounding the necessary public utilities that must accompany this development. The following are identified as related to the necessary public utilities for the development and are recommended to be included in a development agreement:

- Traffic impact study required and must be approved by the city and NDDOT
- Access locations must be approved by NDDOT. A frontage road may be required.

Section 10.3-21 relates to financial security provided to the City when infrastructure is being installed. This helps ensure that infrastructure is not left in a half-constructed state by requiring proof the costs associated with construction are available prior to beginning work. Section 10.3-21 is satisfied with the following condition:

- A financial security shall be provided to the City meeting the requirements of Section 10.3-21.

Section 10.3-22 is satisfied, as the applicant is required to follow all City permitting processes for construction. This includes a storm water master plan (SWMP), payment of sewer connection fees, and meeting all floodplain development requirements.

- Sewer connection fees apply
- Storm water management plan required

The comments from Engineering and Ward County WRD have been incorporated into the recommended conditions of approval and are further outlined in the staff analysis section surrounding compliance with Chapter 10.3 of the Land Development Ordinance.

FINDINGS OF FACT: See Planning Commission Finding of Fact in Appendix 5

The Minot Planning Commission should accept the following findings of facts:

- 1) The applicants have submitted a complete application.
- 2) The present zoning is “C2” General Commercial District and the 2040 Comprehensive Plan Future Land Use Map designates this area as Gateway Commercial.
- 3) The proposed zoning amendment fails to satisfy the evaluative criteria of Section 9.1-7. H. 1. thru 4. of the Land Development Ordinance as explained in the Staff’s Analysis section of the written report.
- 4) The proposed preliminary plat meets the subdivision design requirements of Chapter 10.3, as applicable, subject to conditions as explained in the Staff Analysis section of the written report.
- 5) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether the zoning amendment, and preliminary plat be approved, with or without conditions, or denied. The public notice requirements were met, the hearing was legally noticed and posted, and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

RECOMMENDATION:

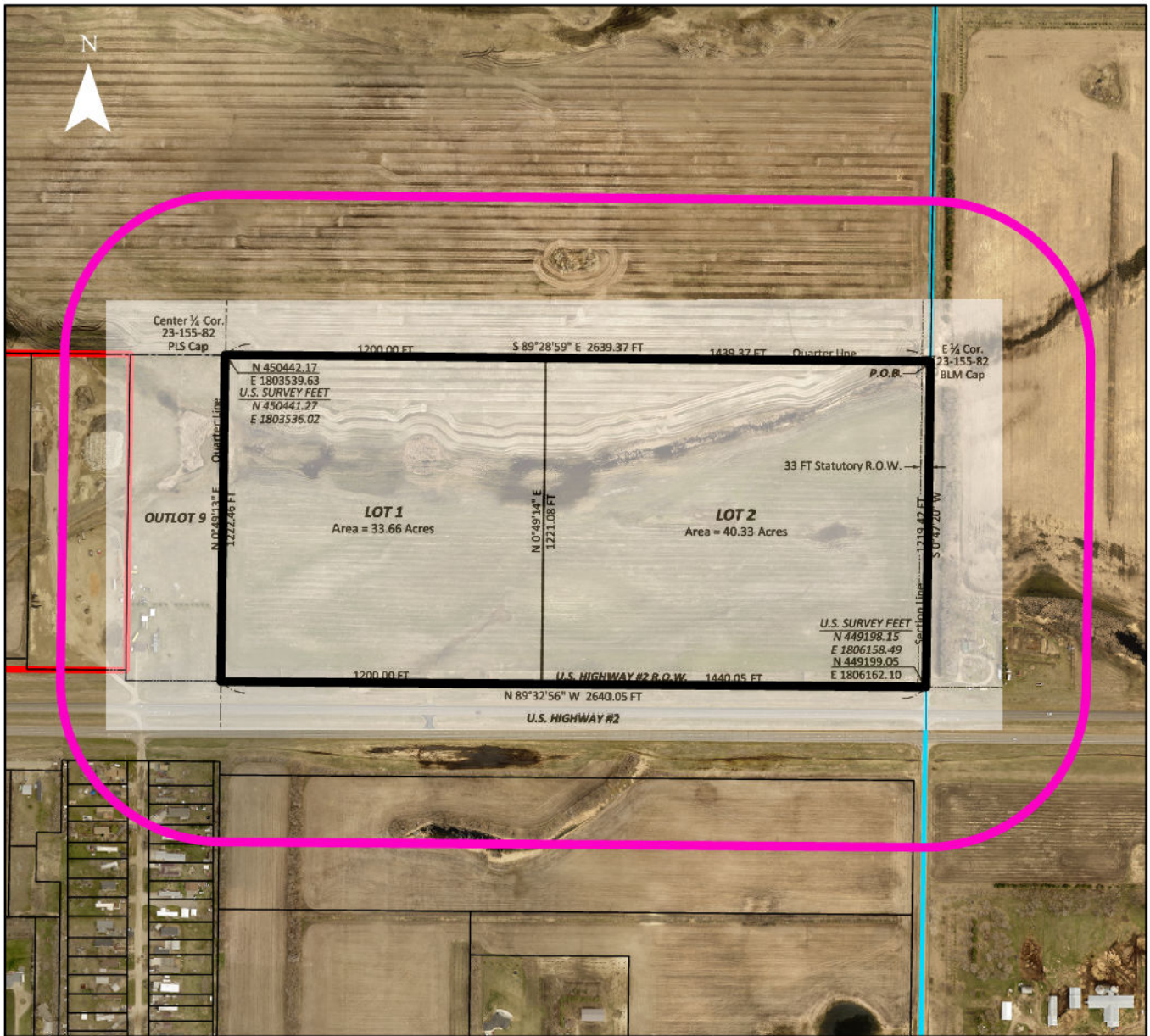
Staff recommends the Planning Commission adopt staff's findings of fact and recommend approval to City Council for:

1) A preliminary plat for Great Plains Addition subject to the following conditions:

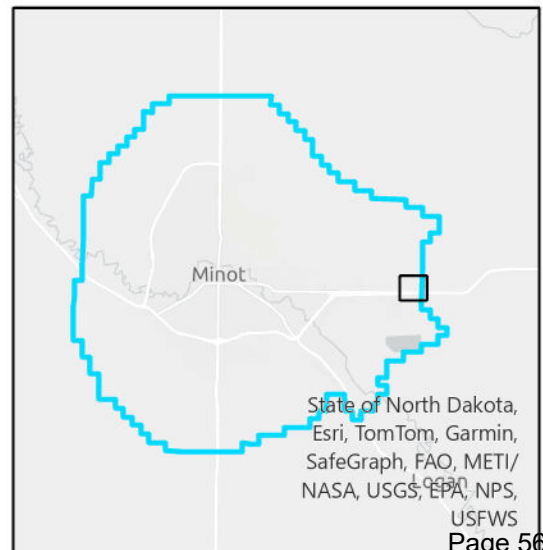
- Traffic impact study required and must be approved by the city and NDDOT
- Access locations must be approved by NDDOT. A frontage road may be required.
- Sewer connection fees apply
- Storm water management plan required
- Developer's agreement required for any public street and utility improvements associated with the development

Staff recommends the Planning Commission adopt staff's findings of fact and recommend denial to City Council for:

1) A zoning map amendment from "C2" General Commercial District to "M1" Light Industrial District based on the applications failure to satisfy all evaluative criteria as required by the City of Minot Land Development Ordinance.



- Two Mile Boundary
- City Limits
- Case # 2024-07-01
- Case # 2024-07-01 Notification Area



**GREAT PLAINS ADDITION
TO THE CITY OF MINOT, NORTH DAKOTA**

BEING THE N½SE¼
SECTION 23, TOWNSHIP 155 N, RANGE 82 W,
TO THE CITY OF MINOT

DESCRIPTION:

Know all men by these presents that LEANN J ZABLOTNEY LIVING TRUST, being Owner and Proprietor, of the N½SE¼, Section 23, Township 155 N, Range 82 W, of the 5th Principal Meridian, to the City of Minot, North Dakota, being more particularly described as follows:

Beginning at the East Quarter Corner, of Section 23, Township 155 N, Range 82 W, of the 5th Principal Meridian; Thence S 0°47'20" W, on the East Line of the Southeast Quarter, of said Section 23, a distance of 1219.42 FT, to a Point being on the North Right of Way Line of U.S. Highway #2; Thence N 89°32'56" W, on the said North Right of Way Line, a distance of 2640.05 FT, to a Point being on the North-South Quarter Line, of said Section 23; Thence N 0°49'13" E, on the said North-South Quarter Line, a distance of 1222.46 FT, to the Center Quarter Corner, of said Section 23; Thence S 89°28'59" E, on the East-West Quarter Line, of said Section 23, a distance of 2639.37 FT, to the Point of Beginning.

Said described tract, of land contains 73.99 Acres more or less. Have caused the same to be surveyed and platted as shown hereon, to be known as Great Plains Addition, to the City of Minot, North Dakota, the owners hereunto affixed their signatures.

Leann J Zabolney
LEANN J ZABLOTNEY LIVING TRUST

On this 15 Day of July, 2024, before me, a Notary Public in and for said State, Appeared Leann J Zabolney, well known to be the person described in the foregoing description and acknowledged to me that she executed the same on her own free act and deed.

My commission expires

KIMBERLY J P FLATEN
Notary Public
State of North Dakota
My Commission Expires May 31, 2027

Kimberly J P Flaten
Notary Public, State of North Dakota

SURVEYOR'S CERTIFICATE

I, Thomas R. Leshovsky, a duly Registered Professional Land Surveyor, do hereby certify that I have Surveyed and Platted, the Foregoing described land. That Lots, Distances, Areas and Locations as shown on the foregoing Plat and in the Description Thereof, are true and correct to the best of my Knowledge and Belief.

Thomas R. Leshovsky
Thomas R. Leshovsky P.L.S. #6134

STATE OF NORTH DAKOTA, COUNTY OF Ward

On this 15 Day of July, 2024, before me, a Notary Public in and for said State, Appeared Thomas R. Leshovsky, Registered Professional Land Surveyor, well known to be such, and acknowledged to me that he executed the foregoing Surveyor's Certificate as his own free act and deed.

My commission expires

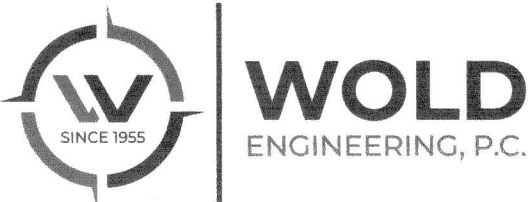
KIMBERLY J P FLATEN
Notary Public
State of North Dakota
My Commission Expires May 31, 2027

Kimberly J P Flaten
Notary Public, State of North Dakota

APPROVAL

I hereby certify that the Plat shown hereon has been approved by the Minot Planning Commission and the Minot City Council.

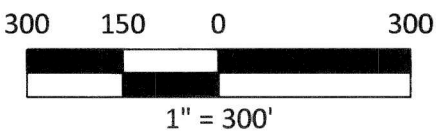
Approved: _____, 2024
Minot City Engineer



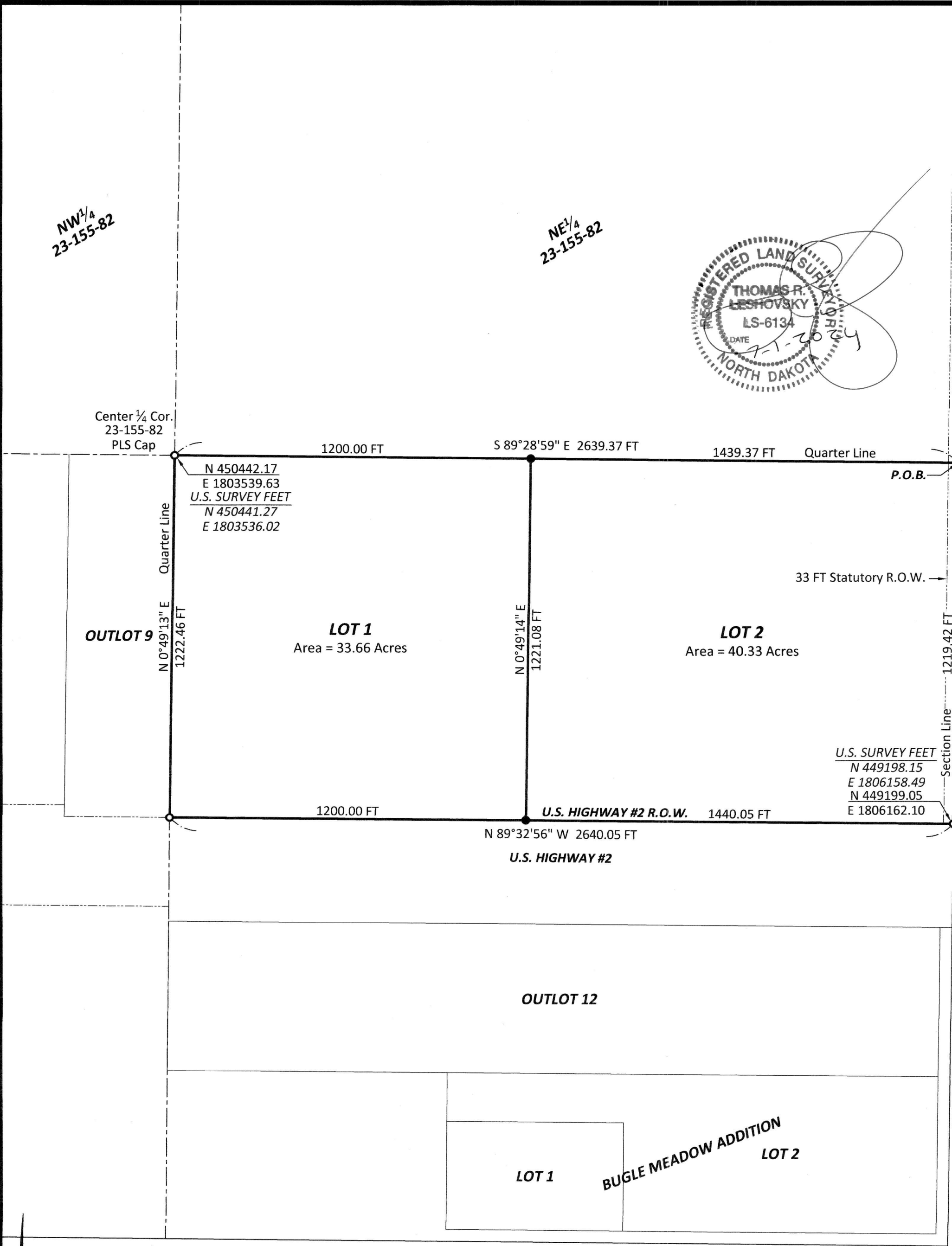
915 East 11th Street - PO Box 237 - Bottineau, ND 58318
110 8th Avenue Southwest - Minot, ND 58701
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NOTES:

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- A 10' Utility Easement is on the streetside of every Lot.
- State Plane Coordinates shown are North Dakota (North Zone) NAD83 Int. Feet (Unless Otherwise Noted). NG5 OPUS Solution was used to establish coordinates.



- - Denotes Property Corner Set 18" - #5 Rebar w/ RLS Cap #6134
- - Denotes Property Corner Found
- × - Denotes Property Corner Offsets



ZONING



FUTURE LAND USE



0 500 1,000 2,000 Feet

Zoning

Zoning	
	AG
	C2
	M1
	M2
	MH
	R1
	RR

Both Maps

	Case # 2024-07-01
	Case # 2024-07-01 Notification Area

Land Use Type

	Light Industrial
	Agricultural and Open Space
	Rural Residential
	Gateway Commercial
	Light Industrial

Exhibit 4 – Site Photos



Facing Northwest



Facing North



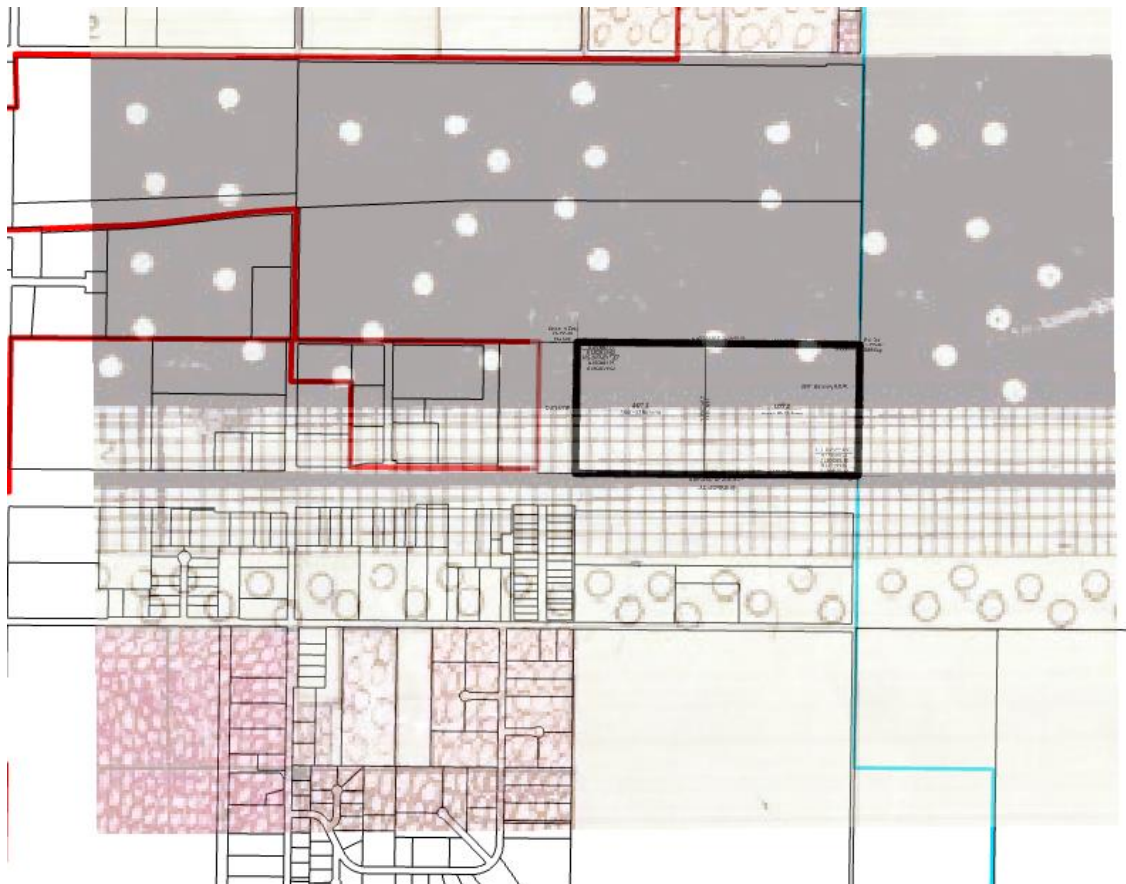
Facing East



Facing South

(Case # 2024-07-01 Great Plains Addition Preliminary Plat and Zoning Map Amendment)

Overlay of 1962 Ward County Zoning Map, Current Parcels and Proposed Plat
(Ward County Zoning of C-2 and M-2)



May 7th, 2012: Ordinance NO. 4528 – Expand Extraterritorial Jurisdiction Approved on 2nd Reading

Expanded to cover all of Section 23, Township 155 North, Range 82 West (Nedrose Township)

“Properties affected by this current Ordinance and the added extra-territorial zoning areas will be zoned as close as possible to existing zoning in Minot to ensure that existing uses can remain conforming under the City of Minot zoning authority. These existing zoning classifications, if authorized, would remain in place until such time as future or possible development or annexation occurred pursuant to City approval. At that time, rezoning would occur consistent with the City of Minot zoning ordinances.”

2012: Property was assigned the city zoning district “C2” General Commercial District to align with the County “C-2” district.

- This action was taken under guidance from the May 12, 2004 Zoning Supplement to the City of Minot Code of Ordinances and amendments thereto.

July 1st, 2013: City Council adopts new Zoning Supplement to the City of Minot Code of Ordinances

November 25th, 2013: Application for preliminary plat, annexation & zone change Project # 8013-11.8

Project was reviewed by staff and 2013 zoning codes applied. There is an error on the staff report and the property is designated as “AG” Agricultural district, the subject properties for this application are zoned “C2” General Commercial and “M2” Heavy industrial according the official Zoning Map adopted at that time. This error doesn’t affect the determination of staff to recommend approval under the current zoning codes and comprehensive plan since at that time the Comprehensive Plan gave no guidance on future land use for the subject property so that criterion was not applied. Staff therefor recommended approval of the application for map amendment and preliminary subdivision plat.

- It is important to note the subject property for the Project # 8013-11.8 application included but was not limited to the subject property for Case # 2024-07-01.

When assessing an application for a Zoning Map Amendment one of the evaluative criteria the subject property must satisfy is the requested zone be a “complimentary zone” for the future land use designation, as outlined in the City’s Comprehensive Plan.

- The 2013 application for Project # 8013-11.8 was able to satisfy this criterion as N/A.

December 2, 2013

Alderman Krabseth moved the City Council pass Ordinance No. 4781 on first reading, motion seconded by Alderman Hatlelid and carried by the following roll call votes: ayes: Connole, Frantsvog, Frey, Hatlelid, Jantzer, Knudsvig, Lehner, B. Miller, M. Miller, Moen, Olson, Seymour. nays: none.

SUBDIVISION OF GREAT PLAINS ENERGY PARK 2 AT HEARTLAND HILLS, BLOCK 1, LOTS 1-14; BLOCK 2, LOTS 1-8; BLOCK 3, LOTS 1-18 –APPROVED

Alderman Krabseth moved the City Council approve the request by Prolific Initiatives, Travis Zabloney & Jerry Chavez to subdivide an unplatted portion of Section 23-155-82 into 40 lots to be known as Great Plains Energy Park 2 at Heartland Hills, Block 1, Lots 1-14; Block 2, Lots 1-8; Block 3, Lots 1-18.

Motion seconded by Alderman Hatlelid and carried by the following roll call vote: ayes: Connole, Frantsvog, Frey, Hatlelid, Jantzer, Knudsvig, Lehner, B. Miller, M. Miller, Moen, Olson, Seymour. nays: none.

ORDINANCE NO. 4782 - REZONING –GREAT PLAINS ENERGY PARK 2 AT HEARTLAND HILLS, BLOCK 1, LOTS 1-14; BLOCK 2, LOTS 1-8; BLOCK 3, LOTS 1-18 - FIRST READING - APPROVED

Alderman Krabseth moved the City Council place Ordinance No. 4782 on first reading, rezoning from AG (Agricultural District) to M1 (Light Industrial District) on proposed Great Plains Energy Park 2 at Heartland Hills, Block 1, Lots 1-14; Block 2, Lots 1-8; Block 3, Lots 1-18. Motion seconded by Alderman Hatlelid and carried unanimously.

Alderman Krabseth moved the City Council pass Ordinance No. 4782 on first reading, motion seconded by Alderman Hatlelid and carried by the following roll call votes: ayes: Connole, Frantsvog, Frey, Hatlelid, Jantzer, Knudsvig, Lehner, B. Miller, M. Miller, Moen, Olson, Seymour. nays: none.

ORDINANCE NO. 4783 – TO ANNEX INTO CITY LIMITS GREAT PLAINS ENERGY PARK 2 AT HEARTLAND HILLS, BLOCK 1, LOTS 1-14; BLOCK 2, LOTS 1-8; BLOCK 3, LOTS 1-18 – APPROVED

Alderman Krabseth moved the City Council place Ordinance No. 4783 on first reading, annexing into City limits Great Plains Energy Park 2 at Heartland Hills, Block 1, Lots 1-14; Block 2, Lots 1-8; Block 3, Lots 1-18. Motion seconded by Alderman Hatlelid and carried unanimously.

Alderman Krabseth moved the City Council pass Ordinance No. 4783 on first reading, motion seconded by Alderman Hatlelid and carried by the following roll call votes: ayes: Connole, Frantsvog, Frey, Hatlelid, Jantzer, Knudsvig, Lehner, B. Miller, M. Miller, Moen, Olson, Seymour. nays: none.

December 2nd, 2013: All elements of the Project # 8013-11.8 application were approved by City Council.

- Zoning Map Amendment and Annexation were approved on 1st Reading
- Preliminary Plat was approved with no conditions

No final Plat applications was submitted for Great Plains Energy Park 2 at Heartland Hills

Ordinance No. 4782 (Zoning Map Amendment) and Ordinance No. 4783 (Annexation) were never brought back to Council for 2nd Reading

April 5th, 2021: City of Minot Adopts current Land Development Ordinance

May 2023: City of Minot adopts 2040 Comprehensive Plan

- This plan includes a Future Land Use Map that covers the subject property

2024 Case # 2024-07-01 Great Plains Addition Preliminary Plat and Zoning Map Amendment Application

- See staff report for detail on Application request.
- Current Zoning: “C2” General Commercial District
- Proposed Zoning: “M1” Light industrial
- Future Land Use Designation: Gateway Commercial (*Complementary Zones; C2, OP, GMU & P*)

Staff Finding of Fact

- 1) The applicants have submitted a complete application.
- 2) The present zoning is “C2” General Commercial District and the 2040 Comprehensive Plan Future Land Use Map designates this area as Gateway Commercial.
- 3) The proposed zoning amendment fails to satisfy the evaluative criteria of Section 9.1-7. H. 1. thru 4. of the Land Development Ordinance as explained in the Staff’s Analysis section of the written report.

Staff Analysis Added for context:

Section 9.1-7 H. 1. relates to whether or not the proposed zoning map amendment is justified due to a change in conditions, error in the zoning map, or in order to fulfill the future land use map of the Comprehensive Plan. The request does not reflect any change in conditions as the land remains undeveloped, an error on the official zoning map or fulfill the objectives of the Future Land Use Map. There are no errors in the official zoning map as the property was zoned commercial C-2 by Ward County in 1962 and was taken into the City of Minot’s ETJ with a “C2” designation. The request for “M1” classification does not fall under the complementary zoning districts for Gateway Commercial as outlined in Chapter 3 of the 2040 Comprehensive Plan. Section 9.1-7 H. 1 is not satisfied.

9.1-7 H. 2.: Satisfied

Section 9.1-7 H. 3 requires that the proposed zoning map amendment will not substantially diminish the condition or value of property in the vicinity. Staff finds evidence that the amendment to “M1” Light Industrial District could diminish the condition or value of property within the vicinity. That adjacent residentially zoned property would be surrounded by industrial zoned properties while maintaining a future land use map designation that restricts its ability to rezone to an industrial district without additional application burdens placed on the adjacent property owner. Section 9.1-7. H. 3. is not satisfied.

Section 9.1-7. H. 4. requires the zoning change to be consistent with the purpose of the Land Development Ordinance of the City of Minot, the Comprehensive Plan, and other adopted plans and policies of the City. The proposed development must comply with all development standards within the Land Development Ordinance of the City of Minot and the zoning map amendment will align with the future land use designations of Gateway Commercial within the 2040 Comprehensive Plan. Therefore, Section 9.1-7. 4. is not satisfied.

- 4) The proposed preliminary plat meets the subdivision design requirements of Chapter 10.3, as applicable, subject to conditions as explained in the Staff Analysis section of the written report.
- 5) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether the zoning amendment, and preliminary plat be approved, with or without conditions, or denied. The public notice requirements were met, the hearing was legally noticed and posted, and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

Planning Commission Finding of Fact:

- 1) The applicants have submitted a complete application.
- 2) The present zoning is “C2” General Commercial District and the 2040 Comprehensive Plan Future Land Use Map designates this area as Gateway Commercial.
- 3) The proposed zoning amendment satisfies the evaluative criteria of Section 9.1-7. H. 1. thru 4. of the Land Development Ordinance as explained by Planning Commission analysis as outlined in the

meeting minutes.

Planning Commission Analysis Added for context:

Section 9.1-7 H. 1. relates to whether or not the proposed zoning map amendment is justified due to a change in conditions, error in the zoning map, or in order to fulfill the future land use map of the Comprehensive Plan. The request upholds the spirit of C2 but aligns with the M1 zoning conditions. Section 9.1-7 H. 1 is satisfied.

9.1-7 H. 2.: Satisfied

Section 9.1-7 H. 3 requires that the proposed zoning map amendment will not substantially diminish the condition or value of property in the vicinity. Section 9.1-7. H. 3. is N/A.

Section 9.1-7. H. 4. requires the zoning change to be consistent with the purpose of the Land Development Ordinance of the City of Minot, the Comprehensive Plan, and other adopted plans and policies of the City. The proposed development is consistent with the plans, policies and purpose of the Planning Commission. Therefore, Section 9.1-7. 4. is satisfied.

- 4) The proposed preliminary plat meets the subdivision design requirements of Chapter 10.3, as applicable, subject to conditions as explained in the Staff Analysis section of the written report.
- 5) The Minot Planning Commission has the authority to hear this case and provide a recommendation to City Council whether the zoning amendment, and preliminary plat be approved, with or without conditions, or denied. The public notice requirements were met, the hearing was legally noticed and posted, and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

Recommendations and Alternatives:

Preliminary Plat Application: Staff continues to recommend approval subject to the conditions outlined in the staff report and Planning Commission recommendations of Preliminary plat as it satisfies all evaluative criteria as outlined in Section 10.2-7. C. Subdivision Design Standards of the Land Development Ordinance.

Zoning Map Amendment:

1st Option would be to follow Planning Commission recommendation and adopt the Planning Commission's finding of fact and approve the ordinance for a zoning map amendment on 1st reading.

If Council chooses this option staff requests direction on amending the Future Land Use map for the north side of the Hwy 2 gateway corridor.

2nd Option is to adopt staff finding of fact and deny requested ordinance for a zoning map amendment.

If Council chooses this option the developer still has the option to seek land entitlements through the Conditional Use Permit process. Staff would recommend approval of a Conditional Use Permit as it would satisfy all evaluative criteria outlined in the Land Development Ordinance.



TO: Mayor Ross
Members of the City Council

FROM: Chris Plank, NDR Program Administrator

DATE: August 19, 2024

**SUBJECT: PUBLIC HEARING - ENGLE COURT AFFORDABLE HOUSING
COMPLEX**

I. RECOMMENDED ACTION

It is recommended City Council authorize staff to proceed with the submission of the CDBG application to the State of North Dakota.

II DEPARTMENT CONTACT PERSONS

·
Chris Plank, NDR Program Administrator, 701-857-1553

II DESCRIPTION

I.

A. Background

The City of Minot plans to submit a Community Development Block Grant (CDBG) application to the State of North Dakota, Division of Community Services (DCS). This City will be a pass-through entity for the grant. The anticipated purchase of the land is located in the northwest part of the City limits at the following physical address:

TOLLBERG SHORES SECOND ADDITION LOT 2 BLOCK 1

B. Proposed Project

The application being considered would request \$410,000 for the acquisition of land for a two-phase development of 72 affordable multifamily units that will go by the name Engle Court. It is estimated that approximately 100% of the funds would benefit low and moderate income individuals. Permanent involuntary displacement of neighborhood people or businesses is not anticipated.

1. Phase I is anticipated to start construction in the Spring of 2025 with construction completion in the Fall of 2026.

2. Phase II is anticipated to start construction in the Spring of 2026 with construction completion in the Fall of 2027.

C. Recommendation Detail

Staff recommend the Council to authorize staff to proceed with the housing complex after any feedback from residents is received.

I IMPACT

V

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A. Aspirations

Assisting in the creation of additional affordable housing in the City of Minot fits the Council's aspiration of being resilient and prepared.

B. Service/Delivery Impact:

The **purpose of the Community Development Block Grant (CDBG)** is to:

1. **Develop viable urban communities** by providing decent housing and a suitable living environment.
2. **Expand economic opportunities**, primarily for low- and moderate-income persons.
3. **Improve the quality of life for people with low or moderate incomes** by funding projects that align with national goals, such as preventing urban blight and eliminating slums.
4. **Provide affordable housing, anti-poverty programs, and infrastructure development.**

C. Fiscal Impact

Project Costs

This project will not cost the City any money. The \$400,000 will be used to purchase land and the \$10,000 will be used to complete the required Environmental Reviews.

Project Funding

Beyond Shelter and Minot Housing Authority are applying for HOME funds as well as ND Housing Trust funds. In addition, the Minot Housing Authority will be disposing of 40 properties throughout the City to raise additional funds for this project.

V ALTERNATIVES

I.

1. Council could not authorize the submission of the application. This would require Beyond Shelter and the Minot Housing Authority to search for alternative sources of funding for the land.



Engle Court proposed site



TO: Mayor Ross
Members of the City Council

FROM: Luke Tillema, Building Official

DATE: August 19, 2024

**SUBJECT: PUBLIC HEARING: DEMOLITION OF DANGEROUS BUILDING,
LOCATED AT 112 8TH AVE NW**

I. RECOMMENDED ACTION

- 1. It is recommended City Council find that the damaged residence located at 112 8th Ave NW, Minot, ND 58703 is a dangerous building as defined by City Ordinance Sec. 9-2 (11) and 9-11(1) - (8); and**
- 2. Direct City staff to collect three bids to demolish the building(s) and select the best and most cost-effective bid.**

II. DEPARTMENT CONTACT PERSONS

Luke Tillema, Building Official, 701-857-4104
Brian Billingsley, Community Development Director, 701-857-4022

III. DESCRIPTION

A. Background

The single-family dwelling located at 112 8th Ave NW has been involved in multiple zoning violations and abatements over the last two years. A NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK was issued to the owner on 25 May 2024 specifying the lack of required facilities present to occupy the building. No response or action from the owner(s) was received by the City of Minot. An abatement of the unsecured building was conducted in conjunction with the zoning violation abatement on 24 June 2024. The cost of the before-mentioned work has been repeatedly assessed on the property's tax statement. An ORDER TO DEMOLISH ALL STRUCTURES was received by the City of Minot Building Official from the First District Health Unit on 24 July 2024 (attached). A NOTICE OF VIOLATION FOR DEMOLITION ORDER was issued to the owner by the building official on 25 July 2024. No response has been received from the owner(s).

An appeal was not received by the Inspection Department within the 10-day appeal window. There has been no action by the owner to remediate any of the dangerous conditions present within the dilapidated building, dating back to the

first order when it was known there was no running water or electrical service at this property.

B. Proposed Project

The property currently has numerous building code and City ordinance violations, in addition to annual nuisance complaints that the City staff has been engaged in with no response from the owner since 2021.

C. Recommendation Detail

It is expected that the current conditions will worsen quickly without water and electricity. Unmaintained buildings deteriorate quickly and become more dangerous over a short period of time.

IV. IMPACT

A. Aspirations

Safe and Welcoming

B. Service/Delivery Impact:

Removing the structure will relieve neighboring properties of blight conditions, health concerns and possible life safety consequences. This structure is dangerous in accordance with the City of Minot Code of Ordinances, Sec. 9-2 (11) and 9-11(1) - (8).

C. Fiscal Impact

The City of Minot will pay for the demolition out of the 10036000-44360 account. Once the demolition is complete, the costs will be assessed to the owner of the property. If the costs of the demolitions exceed the budgeted amount, a budget amendment will be presented for approval of two readings to the City Council.

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

There are no recommended alternatives.



BOTTINEAU COUNTY | 701.228.3101 MCLEAN COUNTY (GARRISON) | 701.463.2641 SHERIDAN COUNTY | 701.363.2506
BURKE COUNTY | 701.377.2316 MCLEAN COUNTY (WASHBURN) | 701.462.3330 WARD COUNTY (KENMARE) | 701.385.4328
MCHENRY COUNTY | 701.537.5732 RENVILLE COUNTY | 701.756.6383 WARD COUNTY (MINOT) | 701.852.1376

July 22, 2024

City of Minot
Attn: Luke Tillema
PO Box 5006
Minot ND 58701

Re: 112 8th Ave NW, Minot ND 58701

Deed holder of property:
McLean Kolobakken
413 23rd St. NW
Minot, ND 58703

In accordance with Section 23-35-09 and 23-35-13 of the State Century Code, this office directs the City of Minot to perform the following actions at 112 8th Ave NW, Minot, Ward County:

1. Demolish all structures on the above named property, including any foundations or footings.
2. Remove all debris from property to an approved dumpsite.
3. Fill in any basements or excavations.

This office issued a Notice to Remove on April 17th, 2024 to McLean Kolobakken in regards to property owned located at Lakeview Addition W80 Lot 3 Block 11 (112 8th Ave NW) in Minot, Ward County. The certified letter was not signed for and returned to our office. No hearing was requested.

It is the understanding of this office that there have been repeated attempts to the owner to resolve the nuisance with no action. During the abatement of the property on May 23, 2024 by the City of Minot this office entered the property to assess the property for possible health or safety risks.

A significant portion of the building is in a condition which harbors or promotes disease. The property is unsanitary, unsafe, and in a state unfit for human habitation. The property has attracted transient individuals leading to increased concerns about safety, hygiene, and general welfare of occupants. The deteriorating condition of the property has become a hazard to the community.

In Section 23-35-09 of the North Dakota Century Code it states that "If the owner or occupant fails to comply with the notice to remove or abate or if the nuisance, source of filth or cause of

sickness exists on property of nonresident owners or the board of health may remove or destroy the nuisance, source of filth, or cause of sickness at the expense of the appropriate city or county, which shall charge the expense against the lot, piece, or parcel of land on which the work is done."

This office may be contacted at any time with questions, 701-852-1376

Lisa Otto-Westman
Director of Environmental Health
First District Health Unit

NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK OR DEMOLITION

DATE OF NOTICE: 07/24/2024

ADDRESS OF PROPERTY IN VIOLATION: 112 8th AVE NW

LEGAL DESCRIPTION OF PROPERTY IN VIOLATION: LAKEVIEW ADDITION WEST 80' OF
LOT 3 BLOCK 11

OWNER OF RECORD: KOLOBAKKEN, MCLEAN

LAST KNOWN ADDRESS OF OWNER OR OTHER PERSON IN

CHARGE OF PROPERTY (if same as property address, enter "same"): 413 23 St. NW

Minot ND 58703-1855

A City Code Inspector has identified the following condition(s) on the above-described property which is a dangerous building or dangerous condition under City of Minot Code of Ordinances Chapter 9:

1. ☐ A substantial portion of the walls, whether exterior or interior, or other vertical structural members, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of the base. (9-11(1) dangerous building)
2. ☐ A substantial portion of the supporting elements or members show damage, destruction, or deterioration equal to one-third (1/3) or more of the material contained therein, or it otherwise reasonably appears that a substantial portion of the roof, floors, foundation or supporting members, or any combination thereof, are overloaded or insufficiently strong to be reasonably safe for the purpose to which it is put. (9-11(2) dangerous building)
3. ☐ A substantial portion of the exterior fabric of the building, exclusive of support members or elements, is damaged, destroyed or deteriorated to the extent of one-half (1/2) of the material contained therein. (9-11(3) dangerous building)
4. ☒ A substantial portion of the building is damaged, destroyed, or deteriorated to the extent that the health and safety of persons in or about the building may be imperiled. (9-11(4) dangerous building)
5. ☒ A significant portion of the building is in a condition which harbors or promotes disease (9-11(5) dangerous building)
6. ☐ The building has inadequate facilities for egress (9-11(6) dangerous building)
7. ☒ A condition exists which, if left unattended or uncorrected, will, to a reasonable degree of certainty, result in a building becoming a dangerous building within six months. (9-11 "dangerous condition")

Summary description (attach inspection report):

A significant portion of the building is in a condition which harbors or
promotes disease. The property is unsanitary, unsafe, and in a state unfit
for human habitation. The deteriorating condition of the property has
become a hazard to the community. By order of First District Health Unit,
in accordance with Section 23-35-09 of ND Century Code.

NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK OR DEMOLITION

VACATION OF BUILDING

☐ Immediate vacation of the building is **NOT REQUIRED**.

☒ **Immediate vacation of the building or part IS ORDERED** as follows and for the following reason(s):
Dwelling is unsafe for human habitation.

If immediate vacation of the building or any part of it is ordered, the order shall remain in effect until the required remedial work has been accomplished and a building official so certifies after an inspection of the building. It is unlawful for any person having knowledge of the vacancy order to knowingly disregard it except in the course of performing remedial work or enforcing the City Code.

REQUIRED REMEDIAL WORK OR DEMOLITION

☐ Repair by reconstruction or replacement, additional protective construction, fumigation or pest eradication, or other remedial work **IS ORDERED** as follows:

The owner has the right to demolish the building in lieu of completing the required remedial work, provided the demolition is accomplished in accordance with the building code within the time period specified for completion of the remedial work.

☒ **DEMOLITION** of the building **IS ORDERED** in accordance with the building code as follows and for the following reason(s):

By order of First District Health Unit. See attached demolition order, dated July 22, 2024.

DEADLINE TO COMPLETE REMEDIAL WORK OR DEMOLITION:

☐ The required remedial work or demolition must be completed within **NOT MORE THAN 10 DAYS** of service of this Notice of Violation and Order for Remedial Work.

☒ For the following reasons, the required remedial work or demolition, or specified part of the work, must be completed in less than 90 days, **NOT LATER THAN:** Friday, August 23, 2024. Demolish all structures, including foundations and/or footings. Remove debris from property to an approved dump-site. Fill in any basements and/or excavations.

NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK OR DEMOLITION

RIGHT TO APPEAL AND A HEARING:

An owner who receives this Notice of Violation and Order may file an appeal and, upon timely filing of an appeal, has a right to a hearing before the Minot City Council, as provided in Chapter 9 of the Minot code of Ordinances. The appeal must be in writing and filed within **ten (10) days of receipt**, with Luke Tillema, Inspections Department, City of Minot, 1025 31st Street SE, Minot, ND 58701-5253. Filing of an appeal automatically stays the Order for thirty (30) days. The appeal hearing must be held according to Chapter 9 within thirty (30) days of filing, subject to agreement of the parties postponing the hearing and staying the Order to a later date. For more information on the City of Minot’s ordinances or on your appeal rights, consult the City of Minot Code of Ordinances Chapter 9 (available at City of Minot City Hall and/or online at <https://library.municode.com/index.aspx?clientId=10154>).

CONSEQUENCES OF NON-COMPLIANCE:

If an owner fails to comply with the Order requiring remedial work or demolition, the City will take the necessary steps to enforce City of Minot Code of Ordinances as stated in Section 9-14 including, but not limited to:

- (1) **entering upon the property** for purposes of undertaking necessary remedial work or demolition, applying for and obtaining an administrative search warrant issued by a court with jurisdiction, soliciting bids for required remedial work or demolition, and certifying and assessing costs as a special assessment against the property;
- (2) **pursuing appropriate judicial remedies** by filing a civil action in a court of competent jurisdiction; and/or
- (3) **pursuing criminal charges against the property owner** for willful refusal to perform required remedial work, subjecting the property owner, upon conviction, to a penalty of up to thirty days in jail, up to a \$1,500 fine, and/or any sentencing alternatives provided in section 12.1-32-02 of the North Dakota Century Code for the violation of a city ordinance.

NAME OF BUILDING INSPECTION DEPARTMENT STAFF WHO OBSERVED CONDITIONS:

PRINTED: Luke Tillema **SIGNED:** _____

DATE VIOLATIONS OBSERVED BY BUILDING INSPECTION DEPARTMENT: 04.18.2024

PHOTOS: Yes ☒ No ☐ **ATTACHED:** Yes ☒ No ☐

If the owner in receipt of this Notice should have any questions concerning the matters specified in this Notice, please contact the City Building Official at (701) 857-4102 or the City Attorney’s Office at (701) 857-4755.

SERVICE:

- ☒ Certified Mail
- ☐ Personal Service
- ☐ Publication
- ☒ Other: Regular mail - USPS

Date of Service or Mailing: 07.25.2024

City of Minot Building Official

Hi,

My name is McLean Kolobakhen. I understand that the city is very upset with me in regards to my property rentals. I assure you nobody is as upset about this as I am. Unfortunately I've had some terrible luck. I have been taken advantage of by more people than I can count.

During COVID I rented all my properties out to the people that the N.D. Rent program referred to me. They came with Letters of Commitment that promised payment. However these tenants could never get the state all the documents that they were supposed to. I tried to get them to do it as well but didn't have any luck either. So I was the one that took the hit. I had all my rentals full but I wasn't receiving any money for them. I had a case worker that was supposed to be helping me and I was constantly calling the state but they were no help.

This caused me to get behind on my taxes. I lost my insurance and I didn't even have the money to legally evict. These people destroyed my properties. I have been a victim of three arsonists. And as a result my health deteriorated terribly. I suffer from seizures now. I have been hospitalized twice in the last 3 months. Because of my health I haven't been able to get much done.

But I am a fighter. And I have a

plan. I've got myself and an employee. I plan on getting these houses cleaned up immediately.

I am willing to work with Luke Tillman daily. I could report to him and let him know what I am getting done daily. And I am willing to do what he would like done first.

I also have several grants that I am going to apply for. When I get my rentals back in shape I am going to do more extensive background checks and make sure that I have more quality people in them.

I apologize for inconvenience I caused the city. But please don't tear them down.

I worked hard for what I have. I will get them cleaned up. And I won't be a nuisance to the city anymore. I would have had my affairs in better order. But my health stopped me from doing that.

Thank You!

Michael Roberts



TO: Mayor Ross
Members of the City Council

FROM: Luke Tillema, Building Official

DATE: August 19, 2024

**SUBJECT: PUBLIC HEARING: DEMOLITION OF DANGEROUS BUILDING,
LOCATED AT 101 & 103 8TH AVE SE**

I. RECOMMENDED ACTION

- 1. It is recommended City Council find that the damaged residence located at 101 & 103 8th Ave SE, Minot, ND 58701 is a dangerous building as defined by City Ordinance Sec. 9-2 (11) and 9-11(1) - (8); and**
- 2. Direct City staff to collect three bids to demolish the building(s) and select the best and most cost-effective bid.**

II. DEPARTMENT CONTACT PERSONS

Luke Tillema, Building Official, 701-857-4104

Brian Billingsley, Community Development Director, 701-857-4022

III. DESCRIPTION

A. Background

The multiple-family dwelling located at 101 & 103 8th Ave SE has been involved in multiple zoning violations and abatements over the last two years. A NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK was issued to the owner on 25 May, 2024 specifying the lack of required facilities present to occupy the building. No response or action from the owner(s) was received by the City of Minot. An abatement of the unsecured building was conducted in conjunction with the zoning violation abatement on 24 June, 2024. The cost for the before mentioned work has been repeatedly assessed to the property's tax statement. An ORDER TO DEMOLISH ALL STRUCTURES was received by the City of Minot Building Official from the First District Health Unit on 24 July, 2024 (attached). A NOTICE OF VIOLATION FOR DEMOLITION ORDER was issued to the owner by the building official on 25 July, 2024. No response has been received from the owner(s).

An appeal was not received by the Inspection Department within the 10-day appeal window. There has been no action by the owner to remediate any of the

dangerous conditions present within the dilapidated building, dating back to the first order when it was known there was no running water or electrical service at this property.

B. Proposed Project

The property currently has numerous building code and City ordinance violations, in addition to annual nuisance complaints that the City staff has been engaged in with no response from the owner since 2022.

C. Recommendation Detail

It is expected that the current conditions will worsen quickly without water and electricity. Unmaintained buildings deteriorate quickly and become more dangerous over a short period of time.

IV. IMPACT

A. Aspirations

Safe and Welcoming

B. Service/Delivery Impact:

Removing the structure will relieve neighboring properties of blight conditions, health concerns and possible life safety consequences. This structure is dangerous in accordance with the City of Minot Code of Ordinances, Sec. 9-2 (11) and 9-11(1) - (8).

C. Fiscal Impact

The City of Minot will pay for the demolition out of the 10036000-44360 account. Once the demolition is complete, the costs will be assessed to the owner of the property. If the costs of the demolitions exceed the budgeted amount, a budget amendment will be presented for approval of two readings to the City Council.

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

There are no recommended alternatives.



BOTTINEAU COUNTY | 701.228.3101 MCLEAN COUNTY (GARRISON) | 701.463.2641 SHERIDAN COUNTY | 701.363.2506
BURKE COUNTY | 701.377.2316 MCLEAN COUNTY (WASHBURN) | 701.462.3330 WARD COUNTY (KENMARE) | 701.385.4328
MCHENRY COUNTY | 701.537.5732 RENVILLE COUNTY | 701.756.6383 WARD COUNTY (MINOT) | 701.852.1376

July 24, 2024

**City of Minot
Attn: Luke Tillema
PO Box 5006
Minot ND 58701**

Re: 101 8th Ave SE, Minot ND 58701

**Deed holder of property:
Allen and Yvonne Drege**

**Contracted to:
McLean Kolobakken
413 23rd St. NW
Minot, ND 58703**

In accordance with Section 23-35-09 and 23-35-13 of the State Century Code, this office directs the City of Minot to perform the following actions at 101 8th Ave SE, Minot, Ward County:

- 1. Demolish all structures on the above named property, including any foundations or footings.**
- 2. Remove all debris from property to an approved dumpsite.**
- 3. Fill in any basements or excavations.**

This office has issued a Notice to Remove on March 18th, 2024 to McLean Kolobakken in regards to property owned located at Lakeview Addition W80 Lot 3 Block 11 (112 8th Ave NW) in Minot, Ward County. The certified letter was not signed for and returned to our office. No hearing was requested.

It is the understanding of this office that there have been repeated attempts to the owner to resolve the nuisance with no action. During the abatement of the property on May 23, 2024 by the City of Minot this office entered the property to assess the property for possible health or safety risks.

A significant portion of the building is in a condition which harbors or promotes disease. The property is unsanitary, unsafe, and in a state unfit for human habitation. The property has attracted transient individuals leading to increased concerns about safety, hygiene, and general welfare of occupants. The deteriorating condition of the property has become a hazard

to the community.

In Section 23-35-09 of the North Dakota Century Code it states that "If the owner or occupant fails to comply with the notice to remove or abate or if the nuisance, source of filth or cause of sickness exists on property of nonresident owners or the board of health may remove or destroy the nuisance, source of filth, or cause of sickness at the expense of the appropriate city or county, which shall charge the expense against the lot, piece, or parcel of land on which the work is done."

This office may be contacted at any time with questions, 701-852-1376

**Lisa Otto-Westman
Director of Environmental Health
First District Health Unit**

NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK OR DEMOLITION

DATE OF NOTICE: 07/24/2024

ADDRESS OF PROPERTY IN VIOLATION: 101 8th AVE SE

LEGAL DESCRIPTION OF PROPERTY IN VIOLATION: RAMSTADS RIVERVIEW S/D WEST 50'
OF SOUTH 1/2 LOT 3 BLOCK 10

OWNER OF RECORD: KOLOBAKKEN, MCLEAN

LAST KNOWN ADDRESS OF OWNER OR OTHER PERSON IN

CHARGE OF PROPERTY (if same as property address, enter "same"): 413 23 St. NW

Minot ND 58703-1855

A City Code Inspector has identified the following condition(s) on the above-described property which is a dangerous building or dangerous condition under City of Minot Code of Ordinances Chapter 9:

1. ☐ A substantial portion of the walls, whether exterior or interior, or other vertical structural members, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of the base. (9-11(1) dangerous building)
2. ☐ A substantial portion of the supporting elements or members show damage, destruction, or deterioration equal to one-third (1/3) or more of the material contained therein, or it otherwise reasonably appears that a substantial portion of the roof, floors, foundation or supporting members, or any combination thereof, are overloaded or insufficiently strong to be reasonably safe for the purpose to which it is put. (9-11(2) dangerous building)
3. ☐ A substantial portion of the exterior fabric of the building, exclusive of support members or elements, is damaged, destroyed or deteriorated to the extent of one-half (1/2) of the material contained therein. (9-11(3) dangerous building)
4. ☒ A substantial portion of the building is damaged, destroyed, or deteriorated to the extent that the health and safety of persons in or about the building may be imperiled. (9-11(4) dangerous building)
5. ☒ A significant portion of the building is in a condition which harbors or promotes disease (9-11(5) dangerous building)
6. ☐ The building has inadequate facilities for egress (9-11(6) dangerous building)
7. ☒ A condition exists which, if left unattended or uncorrected, will, to a reasonable degree of certainty, result in a building becoming a dangerous building within six months. (9-11 "dangerous condition")

Summary description (attach inspection report):

A significant portion of the building is in a condition which harbors or
promotes disease. The property is unsanitary, unsafe, and in a state unfit
for human habitation. The deteriorating condition of the property has
become a hazard to the community. By order of First District Health Unit,
in accordance with Section 23-35-09 of ND Century Code.

NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK OR DEMOLITION

VACATION OF BUILDING

☐ Immediate vacation of the building is **NOT REQUIRED**.

☒ **Immediate vacation of the building or part IS ORDERED as follows and for the following reason(s):**

There is no potable water available in this building, as utilities have not been paid for some time.

No electrical meter, no gas meter installed at this location.

Dwelling unit(s) lack adequate facilities for human habitation (City of Minot Code of Ordinances, Section 9-98 (e), 4, 5, 6 & 7).

If immediate vacation of the building or any part of it is ordered, the order shall remain in effect until the required remedial work has been accomplished and a building official so certifies after an inspection of the building. It is unlawful for any person having knowledge of the vacancy order to knowingly disregard it except in the course of performing remedial work or enforcing the City Code.

REQUIRED REMEDIAL WORK OR DEMOLITION

☐ Repair by reconstruction or replacement, additional protective construction, fumigation or pest eradication, or other remedial work **IS ORDERED** as follows:

The owner has the right to demolish the building in lieu of completing the required remedial work, provided the demolition is accomplished in accordance with the building code within the time period specified for completion of the remedial work.

☒ **DEMOLITION** of the building **IS ORDERED in accordance with the building code as follows and for the following reason(s):**

By order of First Distric Health Unit. See attached demolition order dated July 24, 2024.

DEADLINE TO COMPLETE REMEDIAL WORK OR DEMOLITION:

☐ **The required remedial work or demolition must be completed within NOT MORE THAN 10 DAYS of service of this Notice of Violation and Order for Remedial Work.**

☒ **For the following reasons, the required remedial work or demolition, or specified part of the work, must be completed in less than 90 days, NOT LATER THAN:** Friday, August 23, 2024. Demolish all structures, including foundations and/or footings. Remove debris from property to an approved dump-site. Fill in any basements and/or excavations.

NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK OR DEMOLITION

RIGHT TO APPEAL AND A HEARING:

An owner who receives this Notice of Violation and Order may file an appeal and, upon timely filing of an appeal, has a right to a hearing before the Minot City Council, as provided in Chapter 9 of the Minot code of Ordinances. The appeal must be in writing and filed within **ten (10) days of receipt**, with Luke Tillema, Inspections Department, City of Minot, 1025 31st Street SE, Minot, ND 58701-5253. Filing of an appeal automatically stays the Order for thirty (30) days. The appeal hearing must be held according to Chapter 9 within thirty (30) days of filing, subject to agreement of the parties postponing the hearing and staying the Order to a later date. For more information on the City of Minot’s ordinances or on your appeal rights, consult the City of Minot Code of Ordinances Chapter 9 (available at City of Minot City Hall and/or online at <https://library.municode.com/index.aspx?clientId=10154>).

CONSEQUENCES OF NON-COMPLIANCE:

If an owner fails to comply with the Order requiring remedial work or demolition, the City will take the necessary steps to enforce City of Minot Code of Ordinances as stated in Section 9-14 including, but not limited to:

- (1) **entering upon the property** for purposes of undertaking necessary remedial work or demolition, applying for and obtaining an administrative search warrant issued by a court with jurisdiction, soliciting bids for required remedial work or demolition, and certifying and assessing costs as a special assessment against the property;
- (2) **pursuing appropriate judicial remedies** by filing a civil action in a court of competent jurisdiction; and/or
- (3) **pursuing criminal charges against the property owner** for willful refusal to perform required remedial work, subjecting the property owner, upon conviction, to a penalty of up to thirty days in jail, up to a \$1,500 fine, and/or any sentencing alternatives provided in section 12.1-32-02 of the North Dakota Century Code for the violation of a city ordinance.

NAME OF BUILDING INSPECTION DEPARTMENT STAFF WHO OBSERVED CONDITIONS:

PRINTED: Luke Tillema **SIGNED:** _____

DATE VIOLATIONS OBSERVED BY BUILDING INSPECTION DEPARTMENT: 04.18.2024

PHOTOS: Yes ☒ No ☐ **ATTACHED:** Yes ☒ No ☐

If the owner in receipt of this Notice should have any questions concerning the matters specified in this Notice, please contact the City Building Official at (701) 857-4102 or the City Attorney’s Office at (701) 857-4755.

SERVICE:

- ☒ Certified Mail
- ☐ Personal Service
- ☐ Publication
- ☒ Other: Regular mail - USPS

Date of Service or Mailing: 07.25.2024

City of Minot Building Official

NOTICE OF VIOLATION AND ORDER FOR REMEDIAL WORK OR DEMOLITION

DATE OF NOTICE: 07/24/2024

ADDRESS OF PROPERTY IN VIOLATION: 103 8th AVE SE

LEGAL DESCRIPTION OF PROPERTY IN VIOLATION: RAMSTADS RIVERVIEW S/D WEST 50'
OF SOUTH 1/2 LOT 3 BLOCK 10

OWNER OF RECORD: KOLOBAKKEN, MCLEAN

LAST KNOWN ADDRESS OF OWNER OR OTHER PERSON IN

CHARGE OF PROPERTY (if same as property address, enter "same"): 413 23 St. NW

Minot ND 58703-1855

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4. ☒ A substantial portion of the building is damaged, destroyed, or deteriorated to the extent that the health and safety of persons in or about the building may be imperiled. (9-11(4) dangerous building)
5. ☒ A significant portion of the building is in a condition which harbors or promotes disease (9-11(5) dangerous building)
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By order of First Distric Health Unit. See attached demolition order dated July 24, 2024.

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- (2) **pursuing appropriate judicial remedies** by filing a civil action in a court of competent jurisdiction; and/or
- (3) **pursuing criminal charges against the property owner** for willful refusal to perform required remedial work, subjecting the property owner, upon conviction, to a penalty of up to thirty days in jail, up to a \$1,500 fine, and/or any sentencing alternatives provided in section 12.1-32-02 of the North Dakota Century Code for the violation of a city ordinance.

NAME OF BUILDING INSPECTION DEPARTMENT STAFF WHO OBSERVED CONDITIONS:

PRINTED: Luke Tillema **SIGNED:** _____

DATE VIOLATIONS OBSERVED BY BUILDING INSPECTION DEPARTMENT: 04.18.2024

PHOTOS: Yes ☒ No ☐ **ATTACHED:** Yes ☒ No ☐

If the owner in receipt of this Notice should have any questions concerning the matters specified in this Notice, please contact the City Building Official at (701) 857-4102 or the City Attorney’s Office at (701) 857-4755.

SERVICE:

- ☒ Certified Mail
- ☐ Personal Service
- ☐ Publication
- ☒ Other: Regular mail - USPS

Date of Service or Mailing: 07.25.2024

City of Minot Building Official

Hi,

My name is McLean Kolobakhen. I understand that the city is very upset with me in regards to my property rentals. I assure you nobody is as upset about this as I am. Unfortunately I've had some terrible luck. I have been taken advantage of by more people than I can count.

During COVID I rented all my properties out to the people that the N.D. Rent program referred to me. They came with Letters of Commitment that promised payment. However these tenants could never get the state all the documents that they were supposed to. I tried to get them to do it as well but didn't have any luck either. So I was the one that took the hit. I had all my rentals full but I wasn't receiving any money for them. I had a case worker that was supposed to be helping me and I was constantly calling the state but they were no help.

This caused me to get behind on my taxes. I lost my insurance and I didn't even have the money to legally evict. These people destroyed my properties. I have been a victim of three arsonists. And as a result my health deteriorated terribly. I suffer from seizures now. I have been hospitalized twice in the last 3 months. Because of my health I haven't been able to get much done.

But I am a fighter. And I have a

plan. I've got myself and an employee. I plan on getting these houses cleaned up immediately.

I am willing to work with Luke Tillman daily. I could report to him and let him know what I am getting done daily. And I am willing to do what he would like done first.

I also have several grants that I am going to apply for. When I get my rentals back in shape I am going to do more extensive background checks and make sure that I have more quality people in them.

I apologize for inconvenience I caused the city. But please don't tear them down.

I worked hard for what I have. I will get them cleaned up. And I won't be a nuisance to the city anymore. I would have had my affairs in better order. But my health stopped me from doing that.

Thank You!

Michael R. Roberts

On July 30, 2024, a Special City Council Meeting of the Minot City Council was held in the City Council Chambers, City Hall (10 3rd Ave SW). Mayor Ross called the meeting to order at 05:30 PM.

ROLL CALL

Members Present: Tom Ross, Lisa Olson, Rob Fuller, Mike Blessum, Scott Samuelson, Mark Jantzer, Paul Pitner (via Teams)

Members Absent: None

PLEDGE OF ALLEGIANCE

Mayor Ross led the City Council in the Pledge of Allegiance.

BUDGET Q & A

The City Council was able to discuss each department's presented budget for fiscal year 2025. Lisa Jundt discussed the pay plan with the market adjustments and raises for employees. The council had Lisa Jundt, HR Director, explain the new position she is requesting in her budget. David Lakefield talked with the City Council about reserve funds for the City of Minot. He also discussed general fund vs enterprise funds, along with revenues.

Police Chief Klug discussed the Task Force and the grant fund reimbursements. David Lakefield and Chief Klug also discussed the positions within the Police Department that are available to fill, but essentially not funded in the 2025 budget. Council Member Samuelson would like to see the Minot Police Department Space Needs Study be a priority for the City Council.

Fire Chief Kronschnabel was asked about the overtime changes in the proposed budget. Brian Billingsley, Community Development Director, gave an overview of the Commercial Plan Reviewer position in the 2025 budget. Lance Meyer, City Engineer, explained the changes for his department by adding the additional \$3 million to the street improvement line item. He also discussed the change in the dollar amount for consultants/contracts. Council Member Fuller requested more details pertaining to the whole budget on the consultant line items breakdown.

Jennifer Eckman, Airport Director, talked with the City Council about the career development they are trying to do at the Airport. There was discussion about the fees and lease agreements as well. Council Member Blessum asked about the change in the emergency fund and David Lakefield discussed how, with earnings from the fund, some money needs to be transferred out of the fund.

ACTION ITEMS

ADOPT THE 2025 PRELIMINARY BUDGET AND PAY PLAN

The motion to adopt the 2025 Preliminary Budget for the City of Minot was initiated by City Council Member Olson, seconded by City Council Member Jantzer.

The motion to amend the 2025 Preliminary Budget to adjust to the hybrid compensation plan was initiated by City Council Member Blessum, seconded by City Council Member Fuller and carried by the following roll call vote: ayes: None; nays: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson. The motion to amend failed.

Whereupon, the City Council returned to the original motion initiated by City Council Member Olson, seconded by City Council Member Jantzer and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

ADJOURNMENT

The motion to adjourn the meeting at 7:28 pm was initiated by City Council Member Samuelson, seconded by City Council Member Olson and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

ATTEST: _____
Mikayla McWilliams, City Clerk

APPROVED: _____
Thomas Ross, Mayor

On August 5, 2024, a Regular City Council Meeting of the Minot City Council was held in the City Council Chambers, City Hall (10 3rd Ave SW). called the meeting to order at 05:30 PM.

ROLL CALL

Members Present: Scott Samuelson, Tom Ross, Mike Blessum, Rob Fuller, Lisa Olson, Paul Pitner, Mark Jantzer

Members Absent: None

PLEDGE OF ALLEGIANCE

Mayor Ross led the City Council in the Pledge of Allegiance.

MAYOR'S REPORT

Mayor Ross attended a Task Force 21 meeting, CTE Ribbon Cutting, AGT Ribbon Cutting, a meeting on MAFB with Colorado Congressman Lamborn and General Conner, the Budget Q & A meeting, a Military Affairs meeting, Team Minot breakfast, the NDSF, and the 2nd Qtr. Bomb Wing Awards.

The motion to move Item 7.1 and 7.2 in front of Section 5 Public Hearings was initiated by City Council Member Blessum, seconded by City Council Member Pitner and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

REPORTS

CITY MANAGER'S REPORT

Harold Stewart submitted a written report to the City Council.

CITY ATTORNEY'S REPORT

Stefanie Stalheim submitted a written report to the City Council.

RESOLUTION OFFERING TO PURCHASE LAND AND AUTHORIZE USE OF EMINENT DOMAIN AUTHORITY - LIBERTY SIERRA VISTA, LLC

The motion to pass the resolution offering to purchase land and authorizing use of eminent domain authority was initiated by City Council Member Jantzer, seconded by City Council Member Olson and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

RESOLUTION OFFERING TO PURCHASE LAND AND AUTHORIZE USE OF EMINENT DOMAIN AUTHORITY - PARKVIEW MHP, LLC

The motion to pass the resolution offering to purchase land and authorizing use of eminent domain authority was initiated by City Council Member Olson, seconded by City Council Member Samuelson and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

PUBLIC HEARING

PUBLIC HEARING: PUBLIC COMMENT CDBG CONSOLIDATED PLAN

The City Council held a public hearing on the CDBG Consolidated Plan. Elizabeth McNannay presented to the City Council on how the funds can properly be spent.

The motion to close the public hearing and approve the Consolidated Plan and authorize staff to submit it to HUD for review and approval. was initiated by City Council Member Jantzer seconded by City Council Member Pitner and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

PUBLIC HEARING: RICHARD PEDERSON MOVE REQUEST

City Council Member Olson motioned to close the public hearing and approve the move after-the-fact, the building shall be subject to the following conditions in accordance with the City of Minot Code of Ordinances:

1. A ten-thousand-dollar completion bond must be posted with the City of Minot prior to issuance of any permits for this work.
2. Application and approval of mechanical, electrical, plumbing, building permits for all new proposed construction.
3. Coordinate all relocation activities with public utilities and traffic authorities.
4. An approved foundation design in compliance with City of Minot building codes.
5. If required, plumbing, electrical and HVAC systems must be brought into compliance with current code requirements of the City of Minot.
6. All work at the new location must be in compliance with City of Minot building codes and zoning ordinances.
7. The exterior of the structure must be one consistent color arrangement of colors after relocation.

The property must be provided with proper site drainage, and must be landscaped in a manner similar to surrounding properties.

The motion was seconded by City Council Member Fuller and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

PUBLIC HEARING: CRAIG RUDLAND MOVE REQUEST

City Council Member Olson motioned to close the public hearing and approve the relocation of a detached garage with 346 sq. ft. of living space from 1623 8th Ave SE, Minot ND, 58701 also known as Outlots Block 142 SW ¼ of Sec 19-155-82 S/D Lot 6 known as Lot A, to 919 36th St SE, Minot, ND 58701, also known as Miller's Third Addition Lot 1, subject to the following conditions:

1. A ten-thousand-dollar completion bond must be posted with the City of Minot prior to issuance of any permits for this work.
2. Application and approval of mechanical, electrical, plumbing, building permits for all new proposed construction.
3. Coordinate all relocation activities with public utilities and traffic authorities.
4. An approved foundation design in compliance with City of Minot building codes.
5. If required, plumbing, electrical and HVAC systems must be brought into compliance with current code requirements of the City of Minot.
6. All work at the new location must be in compliance with City of Minot building codes and zoning ordinances.
7. The exterior of the structure must be one consistent color arrangement of colors after relocation.

The property must be provided with proper site drainage, and must be landscaped in a manner similar to surrounding properties.

The motion was seconded by City Council Member Pitner and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

CONSENT ITEMS

The motion to approve consent items 6.1 through 6.25 was initiated by City Council Member Pitner, seconded by City Council Member Jantzer and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

CITY COUNCIL MINUTES

Approve the minutes of the July 15, 2024 Regular City Council meeting.

ORDINANCES

Approve the following ordinances on second reading:

1. Ordinance No 5981 - 2024 BA - Purchase of Kemper Addition Lot 5
2. Ordinance No 5982 - 2024 BA - AIRPORT TAXIWAY C C3
3. Ordinance No 5983 - 2024 BA - PD K9 Wellness Grant
4. Ordinance No 5984 - 2024 BA - NAWS Biota Plant Employees

ADMINISTRATIVE APPROVALS

Ratify the following administratively approved requests:

1. Special Event Permit for Atypical Brewery & Barrelworks (510 E Central Ave).
2. Three Special Event Permits for the Blue Rider (118 1st Ave SE).

3. Three Special Event Permits for Sports on Tap (220 S Broadway).
4. Special Event Permit for The Spot (6 2nd St NE).
5. Stanley Park District to conduct a raffle on August 1, 2024 at Corbett Field (1124 E Burdick Exwy).
6. Wounded Warriors Kids Camp to conduct a raffle on August 2, 2024 at Corbett Field (1124 E Burdick Exwy).
7. Magic City Figure Skating Club to conduct a calendar raffle from August 10-21, 2024 at Maysa Arena (2501 W Burdick Exwy).
8. Hairball Haven to conduct a raffle on July 29, 2024 at Corbett Field (1124 E Burdick Exwy).
9. Minot North Baseball to conduct a sports pool from September 9, 2024 through December 30, 2024 at Minot North Baseball (2100 21st Ave NW).
10. MARCO to conduct a calendar raffle in September 2024 at the MARCO Office (2201 15th St SW Lower Level).
11. Nedrose Cardinals Booster Club to conduct a sports pool and raffles from August 4, 2024 through February 28, 2024 at Corbett Field (1124 E Burdick Exwy) on August 4th and remaining at Nedrose High School (5705 15th Ave SE).
12. Prairie Warrior Association to conduct a raffle on September 6, 2024 at MACEDC (1020 20th Ave SE).
13. Minot Girls Fastpitch, Inc to conduct a raffle on July 18, 2024 at Corbett Field (1124 E Burdick Exwy).
14. North Dakota Miss Amazing to conduct a raffle on July 15, 2024 at Corbett Field (1124 E Burdick Exwy).

BILLS, TRANSFERS, & PAYROLL - Approve the payroll for the period of June 16, 2024 through July 13, 2024 in the amount of \$2,536,630.19 and the bills and transfers for July in the amount of \$10,458,911.21.

MDU	\$26.29	100005996	AAAE	\$165.00	301550
MDU	\$178.16	100005997	ABSOLUTE COMFORT, INC.	\$862.50	301551
UNUM LIFE INSURANCE	\$893.00	100005988	ACKERMAN ESTVOLD	\$4,370.00	301552
The Title Team	\$9,200.00	301409	ACME TOOLS	\$160.71	301553
TRINITY HEALTH	\$13,625.50	301410	ADP, INC	\$15,479.84	100006091
WEX HEALTH, INC	\$386.20	100005951	ADVANCED FIRST AID, INC.	\$71.08	301554
WEX HEALTH, INC	\$117.93	100005952	AMERICAN WELDING & GAS, INC.	\$9,745.63	301555
WEX HEALTH, INC	\$54.64	100005953	APEX ENGINEERING GROUP	\$217,057.87	301556
WEX HEALTH, INC	\$49.75	100005954	AQUA-PURE, INC.	\$4,300.00	301557
WEX HEALTH, INC	\$2,531.87	100005955	ASPHALT PRESERVATION COMPANY, INC	\$417,448.26	301558
WEX HEALTH, INC	\$25.00	100005956	AUTO ZONE 6843	\$1,199.99	301559
WEX HEALTH, INC	\$52.12	100005957	BAKER & TAYLOR BOOKS	\$3,578.34	301560
WEX HEALTH, INC	\$418.56	100005958	BAYCOM, INC.	\$843.00	301561
WEX HEALTH, INC	\$863.17	100005959	BECHTOLD PAVING	\$22,383.50	301562
WEX HEALTH, INC	\$981.61	100005960	BERT'S TRUCK EQUIPMENT INC	\$27,860.00	301563
WEX HEALTH, INC	\$207.58	100005961	BUTLER MACHINERY CO.	\$2,205.92	301564
WEX HEALTH, INC	\$1,386.96	100005962	CAROLINA SOFTWARE	\$475.00	301565
WEX HEALTH, INC	\$203.80	100005963	CATERPILLAR FINANCIAL SERVICES	\$125,190.62	301566
WEX HEALTH, INC	(\$208.89)	100005964	CDM SMITH	\$74,260.50	301567
WEX HEALTH, INC	\$2.80	100005965	CENTRAL TRENCHING, INC.	\$776.93	301568
WEX HEALTH, INC	(\$10.00)	100005990	CLEAN HARBORS ENV. SERVICES	\$45,665.50	301569
WEX HEALTH, INC	\$92.58	100005991	COOKIES FOR YOU	\$900.00	301570
WEX HEALTH, INC	\$1,172.15	100005992	DACOTAH PAPER CO.	\$95.14	301571
WEX HEALTH, INC	\$428.23	100005993	DAKOTA FIRE EXTINGUISHER	\$510.23	301572
WEX HEALTH, INC	\$220.93	100005994	DAKOTA FLUID POWER, INC.	\$591.46	301573
WEX HEALTH, INC	\$498.60	100005995	DAKOTA TRUCK & FARM	\$257.10	301574
WEX HEALTH, INC	\$865.97	100005999	DECOMM VENTURES, LP	\$3,450.00	301575
WEX HEALTH, INC	\$195.00	100006000	DL BARKIE CONSTRUCTION, INC.	\$21,075.00	301576
WEX HEALTH, INC	\$69.92	100006001	ECOLAB PEST ELIMINATION DIVISION	\$815.26	301577
AFLAC	\$15,607.86	100005998	EICKHOF COLUMBARIA, INC.	\$162.00	301578
MINOT PARK DISTRICT	\$1,355.87	100006024	ELDORADO NATIONAL - CALIFORNIA	\$3,225.84	301579
ACME TOOLS	\$458.25	301411	ELECTRO WATCHMAN, INC.	\$2,066.52	301580
ADP SCREENING & SELECTION SERVICES	\$396.00	301412	Aaron Peterson	\$47.20	301581
ADVANCED BUSINESS METHODS	\$1,247.45	301413	Andrew Tancabel	\$47.20	301582
AIRSIDE SOLUTIONS	\$2,803.34	301414	Brent Weber	\$191.64	301583
AMANO MCGANN, INC.	\$7,380.00	301415	Brent Weber	\$47.20	301584
AMERICAN WELDING & GAS, INC.	\$12,263.16	301416	Elizabeth Sorenson	\$285.90	301585
APPLIED CONCEPTS, INC.	\$24,150.00	301417	Jameson Hayden	\$47.20	301586
BAKER & TAYLOR BOOKS	\$2,598.79	301418	Josh Olson	\$47.20	301587
BECHTOLD PAVING	\$8,384.50	301419	Nicole Ramos	\$205.59	301588
BOOMTOWN ENTERPRISES, LLC	\$180,000.00	301420	Randi Grabow	\$13.98	301589
BORDER STATES INDUSTRIES, INC.	\$5,829.00	301421	EMPOWER TRUST COMPANY, LLC	\$31,322.10	100006069
CAPITAL ONE	\$87.94	301422	ENERBASE	\$9,853.36	301590
DACOTAH PAPER CO.	\$613.50	301423	ENVIRONMENTAL PRODUCTS & ACCESS	\$686.93	301591
DAKOTA FLUID POWER, INC.	\$3,242.12	301424	FACTORY MOTOR PARTS	\$724.97	301592
DAKOTA TRUCK & FARM	\$1,090.79	301425	FERGUSON ENTERPRISES, INC.	\$2,366.92	301594
DARYLE E LORENZ JR	\$8,127.50	301427	FERGUSON WATERWORKS #2516	\$1,009.38	301595
DOMESTIC VIOLENCE CRISIS CENTER	\$1,011.54	301426	FIRST DISTRICT HEALTH UNIT	\$26,500.00	301596
EAPC	\$1,045.08	301428	FIRST INTERNATIONAL BANK & TRUST	\$737.00	301597
Belinda Gladback	\$123.90	301429	FLEETMIND SOLUTIONS, INC.	\$2,120.01	301598
Christine Roberts	\$276.50	301430	GALE	\$24.79	301599
Daniel Raymond	\$729.00	301431	GALLS, LLC	\$418.53	301600
Gannon Miller	\$413.00	301432	GEFROH ELECTRIC	\$711.50	301601

Jacob Olson	\$265.50	301433	Absolute Comfort	\$32.27	301602
Kimberly Kolnes	\$267.20	301434	Broadway Liquor	\$33.93	301603
Krystle Foster	\$44.22	301435	Cashwise	\$13.00	301604
Maria Romanick	\$45.99	301436	Enerbase	\$100.00	301605
Maria Romanick	\$307.95	301437	Heidi Squyers and Thomas Crawford	\$1,350.00	301606
Melissa Anderson	\$47.91	301438	Heidi Squyers and Thomas Crawford	\$970.20	301607
Nick Schmitz	\$239.12	301439	Jessica Schermbeck	\$200.00	301608
Randi Monley	\$32.16	301440	JoAnn Linrud	\$295.00	301609
ENERBASE	\$15,993.86	301441	Kendra Pigeon	\$20.00	301610
FACTORY MOTOR PARTS	\$730.32	301442	Malachai Rickman	\$1,150.00	301611
FASTENAL COMPANY	\$30.36	301444	Minot Park District	\$26.20	301612
FIRE EQUIPMENT CO.	\$296.50	301445	Napa Valley Development LLP	\$7,083.42	301613
FIRST INTERNATIONAL BANK & TRUST	\$737.00	301446	North Dakota State Fair Parade	\$50.00	301614
FLEETMIND SOLUTIONS, INC.	\$81.59	301447	Rodney B. Neuhalfen	\$50.00	301615
G & P COMMERCIAL SALES	\$397.24	301448	Roland Elker	\$120.00	301616
GALE	\$582.20	301449	Teresa Hunt	\$25.00	301617
GALLS, LLC	\$599.82	301450	U.S Postal Service	\$100.00	301618
Brett T. Schaefer	\$125.00	301451	GENERAL TRADING	\$54.71	301619
Carol Vannett	\$450.00	301452	GRANICUS	\$11,750.31	301622
Catherine Ann Szabo	\$17.73	301453	GRANITE SPRINGS CO.	\$72.40	301623
Jennifer Demshur Baker	\$25.00	301454	GRAPHICS LETTERING & TRIM	\$180.00	301624
Katelynn Bowen	\$25.00	301455	GRAYMONT WESTERN US INC.	\$107,973.60	301625
Lauvan Mackay	\$5.00	301456	H.A. THOMPSON & SONS, INC.	\$495.00	301626
Marla Ann Zietz	\$10.00	301457	HANSON'S EXCAVATING	\$3,507.07	301627
Menards, Inc.	\$40.00	301458	HAWKINS, INC.	\$18,955.90	301628
Michaela Lynn Young	\$50.00	301459	HIGH POINT NETWORKS, LLC	\$2,933.90	301629
North Dakota Child Support	\$20.00	301460	HOUSTON ENGINEERING, INC.	\$47,301.16	301630
Patrick Schroeder	\$50.00	301461	IHEARTMEDIA	\$3,780.00	301631
Roosevelt Park Zoo/ Minot Park District	\$175.00	301462	INFORMATION TECHNOLOGY DEPARTMENT	\$3,182.55	301632
GENERAL TRADING	\$34.94	301463	INTERNATIONAL CITY MANAGEMENT ASSOCIATION RET.	\$624.56	301633
GERDAU RECYCLING	\$1,225.92	301464	INTERSTATE BATTERY SYSTEM	\$1,194.70	301634
GMRI, INC.	\$1,088.16	301465	JOHN DEERE FINANCIAL	\$1,873.73	301620
GOETTLE LAW, PLLC	\$3,500.00	301466	JOHNSON CONTROLS FIRE PROTECTION	\$1,038.00	301635
GUARDIAN FLEET SAFETY	\$456.47	301468	KELLER PAVING AND LANDSCAPING	\$105,684.86	301636
HAWKINS, INC.	\$31,798.28	301469	KEVINS AUTO BODY	\$2,660.00	301637
HOUSTON ENGINEERING, INC.	\$3,549.18	301470	LANGUAGE LINE SERVICES	\$82.72	301638
HUBER SPRINKLER SERVICE	\$158.39	301471	LINDE GAS & EQUIPMENT INC	\$301.07	301639
ICMA	\$1,200.00	301472	MATTSON CONSTRUCTION	\$123,374.00	301641
INTERNATIONAL CITY MANAGEMENT ASSOCIATION RET.	\$631.40	301473	MIDSTATES WIRELESS, INC.	\$222.50	301642
INTERSTATE ENGINEERING, INC.	\$4,900.00	301474	MILLER LAW OFFICE, P.C.	\$1,057.50	301643
JASPER ENGINEERING & EQUIPMENT COMPANY	\$5,815.00	301475	MINOT AREA CHAMBER EDC	\$46,637.50	301640
JOHN DEERE FINANCIAL	\$56.61	301467	MINOT AREA COUNCIL OF THE ARTS, INC	\$3,333.33	301644
KELLER PAVING AND LANDSCAPING	\$3,015.00	301476	MINOT AUTO	\$211.61	301645
KIWANIS CLUB OF MINOT	\$300.00	301477	MINOT DAILY NEWS	\$683.52	301646
LANGUAGE LINE SERVICES	\$32.54	301478	MINOT EMPLOYEE DONATIONS	\$824.72	301647
LEXIPOL, LLC	\$12,420.63	301479	MINOT PAVING	\$10,978.00	301648
M&T FIRE AND SAFETY, INC.	\$2,790.00	301480	MINOT PLUMBING & HEATING CO, INC.	\$17,011.00	301649
M-B COMPANIES, INC	\$1,966.99	301481	MINOT RESTAURANT SUPPLY	\$39.90	301650
MAIN ELECTRIC CONSTRUCTION	\$1,979.47	301482	MOBILE MINI	\$825.20	301651
MARCO, INC.	\$211.75	301483	MOTOROLA	\$2,406.60	301652
MENARDS	\$25.85	301484	MVTL LABORATORIES	\$274.00	301653
MIDWEST TAPE	\$5,334.20	301485	NAPA AUTO PARTS	\$3,609.87	301654
MIMG CCXXXI PLAZA SUB LLC	\$2,395.86	301486	ND DEPT OF ENVIRONMENTAL QUALITY	\$1,135.00	301655
MINOT AUTO	\$891.23	301487	ND DEPT OF TRANSPORTATION	\$151,605.41	301656
MINOT COMMISSION ON AGING	\$12,875.00	301488	ND DEPT OF WATER RESOURCES	\$24,987.79	301657
MINOT DAILY NEWS	\$738.00	301489	ND FRATERNAL ORDER OF POLICE	\$688.50	301658
MINOT EMPLOYEE DONATIONS	\$815.82	301490	ND SOLID WASTE & RECYCLING ASSOCIAT	\$175.00	301662
MINOT PARK DISTRICT	\$59,751.90	301491	ND WATER COALITION	\$1,000.00	301659
MOWBRAY & SONS	\$272.50	301492	ND WATER USERS ASSN.	\$105.00	301660
MTI DISTRIBUTING CO.	\$495.00	301493	NDDEQ	\$113.60	301661
NAPA AUTO PARTS	\$2,193.40	301494	NEWARK ELECTRONICS	\$136.91	301663
ND DEPT OF WATER RESOURCES	\$62,937.24	301495	NORTH COUNTRY SPORTSWEAR	\$264.69	301664
ND FRATERNAL ORDER OF POLICE	\$702.00	301496	NORTH DAKOTA GUARANTY & TITLE	\$904,388.78	124
ND ONE CALL, INC.	\$1,856.85	301497	NORTH DAKOTA GUARANTY & TITLE	\$5.00	125
NDAAO	\$1,125.00	301498	NORTHERN TESTING	\$785.00	301665
NDFA	\$525.00	301499	NORTHWEST TIRE AND RETREAD	\$5,252.58	301666
NEWMAN TRAFFIC SIGNS	\$330.13	301500	O'REILLY AUTO PARTS	\$96.84	301667
NORTHERN PLAINS EQUIPMENT CO., INC.	\$466.29	301501	PARKLAND USA CORPORATION	\$2,102.16	301593
NORTHERN TESTING	\$845.00	301502	PERFORMANCE REPAIR LLC	\$90.81	301668
NORTHWEST TIRE AND RETREAD	\$5,876.93	301503	PLAINS AG, INC.	\$259.83	301669
NYBAKKEN BODY SHOP	\$8,502.76	301504	POST CONSTRUCTION COMPANY	\$600,040.35	301670
O'DAY EQUIP., INC.	\$45,014.49	301505	PRAIRIE SUPPLY	\$156.00	301671
OFFICE FURNITURE RESOURCES	\$3,795.00	301506	PROCOLLECT	\$330.89	301672
OLSON'S TOWING	\$2,486.50	301507	PROJECT BEE	\$25.00	301673
OSHKOSH AEROTECH, LLC	\$7,690.26	301508	PROTECH INTEGRATIONS, LLC	\$50.00	301674
PARKLAND USA CORPORATION	\$52,039.00	301443	PROVIDENT LIFE & ACC INS CO	\$950.97	301675
PEARSON CHIROPRACTIC, PLLC	\$6,401.64	301509	RDO EQUIPMENT	\$272,881.60	301676

PITNER, JOHN & IRENE	\$100,000.00	301510	1ST MINOT MANAGEMENT	\$52.65	301677
PRINGLE & HERIGSTAD, P.C.	\$1,605.00	301511	BOUCHER, DAVID	\$16.59	301678
PROCOLLECT	\$830.53	301512	MERCK, MASON	\$19.33	301679
PROTECH INTEGRATIONS, LLC	\$353.00	301513	MORSETTE, LESLIE	\$36.27	301680
R & R REALTY, LLC	\$9,103.54	301514	OMAR, JAYDE	\$15.04	301681
RAPID FIRE PROTECTION, INC.	\$1,585.00	301515	OWHONDA, COURAGE	\$25.49	301682
RDP TECHNOLOGIES, INC	\$4,484.00	301516	RUSSO, ANTHONY	\$17.21	301683
ARSENAULT, MARCEL	\$106.22	301517	RINKER MATERIALS	\$10,211.00	301684
ARSENAULT, MARCEL	\$93.39	301518	ROLAC CONTRACTING	\$230,877.00	301685
BURGESS, KRISTI	\$50.00	301519	SALLY FAYE JOHNSON	\$300.00	301686
KNORR, JACY	\$8.10	301520	SANITATION PRODUCTS	\$6,877.62	301687
MARKLEY, CLAYTON	\$23.15	301521	SCUBA ONE INC	\$2,360.00	301688
RISH, DWIGHT	\$5.25	301522	SECRETARY OF STATE	\$36.00	301689
WHITE, CHANTE	\$11.55	301523	SHERWIN WILLIAMS	\$114.05	301690
ROLAC CONTRACTING	\$28,836.00	301524	SOLTIS BUSINESS FORMS CO.	\$5,723.67	301691
ROLLKALL TECHNOLOGIES LLC	\$22.00	301525	SOURIS RIVER JOINT WATER RESOURCE	\$2,106,563.83	301692
RON'S TRANSMISSION	\$205.00	301526	SRF CONSULTING GROUP	\$5,949.40	301693
SANITATION PRODUCTS	\$2,374.99	301527	STRATA CORPORATION	\$130,621.19	301694
SERTOMA CLUB OF MINOT	\$125.00	301528	SUNDRE SAND & GRAVEL, INC.	\$559.12	301695
SHORT ELLIOTT HENDRICKSON, INC	\$208,440.72	301529	SWANSTON EQUIPMENT COMPANIES	\$1,743.53	301696
SOURIS BASIN PLANNING COUNCIL	\$1,666.00	301530	THOMSON REUTERS-WEST PAYMENT CENTER	\$387.00	301697
SOURIS RIVER JOINT WATER RESOURCE	\$34,492.20	301531	TIMMONS GROUP	\$4,200.00	301698
SPRINKLERS PLUS, LLC	\$110.00	301532	TIMOTHY P BROOKS	\$3,055.36	301621
SWANSON FLO CO	\$2,514.21	301533	TRINITY HEALTH	\$1,362.71	301699
SWANSTON EQUIPMENT COMPANIES	\$9,084.07	301534	TRUCK & EQUIPMENT SALES & SERVICE INC	\$34.59	301700
THOMSON REUTERS-WEST PAYMENT CENTER	\$387.00	301535	UNIFORM CENTER	\$209.98	301701
TRAFFIC CONTROL CORPORATION	\$2,320.00	301536	UNITED MAILING SERVICE	\$314.30	301702
TYLER TECHNOLOGIES, INC.	\$105,444.54	301537	UNITED STATES TREASURY	\$2,846.48	301703
UNIFORM CENTER	\$134.00	301538	VERIZON CONNECT NWF, INC.	\$264.42	301704
UNITED MAILING SERVICE	\$261.83	301539	VISIT MINOT	\$22,725.34	301705
USA BLUE BOOK	\$281.90	301540	WAGNER CONSTRUCTION	\$594,578.06	301706
VISIT MINOT	\$32,111.34	301541	WARD COUNTY AUDITOR	\$8,900.00	301707
WAGNER CONSTRUCTION	\$171,066.56	301542	WESTLIE FORD	\$2,251.85	301708
WALLWORK TRUCK CENTER MINOT	\$39.50	301543	WESTLIE TRUCK CENTER	\$10,357.84	301709
WASTEQUIP LLC	\$7,335.00	301544	ND PUBLIC EMPLOYEES RETIREMENT SYSTEM	\$13,687.10	100006072
WESTLIE TRUCK CENTER	\$6,488.13	301545	ND PUBLIC EMPLOYEES RETIREMENT SYSTEM	\$218.00	100006078
ZOEFTIG LTD	\$1,109.00	301546	ND PUBLIC EMPLOYEES RETIREMENT SYSTEM	\$184,803.17	100006079
U.S. ARMY CORPS OF ENGINEERS	\$24,160.00	100006004	VERENDRYE ELECTRIC	\$79,945.59	100006036
EMPOWER TRUST COMPANY, LLC	\$31,221.92	100006005	UNUM LIFE INSURANCE	\$893.00	100006070
ND PUBLIC EMPLOYEES RETIREMENT SYSTEM	\$13,637.10	100006009	UNUM LIFE INSURANCE	\$28,724.02	100006071
MINOT PARK DISTRICT	\$1,413.74	100006099	WEX HEALTH, INC	\$281.40	100006023
JOB SERVICES OF NORTH DAKOTA	\$1,356.04	100006068	AFLAC	\$15,607.86	100006125
1 CALL SEPTIC SERVICES, INC	\$12,340.90	301547	JEROMES COLLISION CENTER	\$16,376.90	301710
3D SPECIALTIES, INC	\$894.88	301548	BECHTOLD PAVING	\$136,545.79	301711
48 NORTH CONCRETE CONSTRUCTION INC	\$73,080.00	301549	Total	\$8,809,911.38	

MAYORAL APPOINTMENTS - Confirm the following Mayoral Appointments:

- Darrik Trudell to replace Justin Hochhalter on the Planning Commission, with a term to expire December 2028.
- Jill Wald to fulfill a private sector seat on the Renaissance Zone Review Board, with a term to expire December 2027.

ALCOHOLIC BEVERAGE LICENSE - BASECAMP INDIAN KITCHEN - Approve the Specialty Restaurant Beer and Wine license for the Basecamp Indian Kitchen at 1425 24th Ave SW for the period of August 5, 2024 through December 31, 2024.

ALCOHOLIC BEVERAGE LICENSE - INDIA CLAY OVEN BAR/GRILL - Approve the Supper Club license for the India Clay Oven Bar/Grill at 1412 2nd Ave SW for the period of August 5, 2024 through December 31, 2024.

POTENTIAL SALE OF CITY LAND – 20TH AVE SE OUTLOTS (4876)

1. Approve the sale of the City owned land described as:
 - a. OUTLOTS SEC 25-155-83 OUTLOT 33 SWSE
 - b. OUTLOTS SEC 36-155-83 OUTLOT 12 NENE;
2. Approve the terms of the Purchase Agreement;
3. Approve the Request for Bids; and
4. Authorize the Mayor to sign the Purchase Agreement and any other documents to complete the bid/auction and transfer of this parcel of land to the highest bidder.

2025 WASHINGTON SAFE ROUTES TO SCHOOL - EASEMENT ACQUISITION TASK ORDER - Approve the attached Task Order 1 with Moore Engineering and authorize the Mayor to sign the Task Order.

EXTENSION OF STRUCTURE DEMOLITION/SITE RESTORATION CONTRACT - 309 1ST AVE NE - Authorize the Mayor to sign the extension of the contract award with Dig It Up Backhoe Services.

REQUEST TO USE SEIZURE FUNDS FOR CORDICO WELLNESS APP FOR POLICE DEPARTMENT - Approve the requested expenditure of seizure funds; approve the budget amendment on first reading for the Police Department for the proposed services through Lexipol; and authorize the Mayor to sign the agreement.

MINOT PUBLIC LIBRARY DIGITIZATION PROJECT BUDGET AMENDMENT - Accept the donation from the Patrons of the Library group to enhance the Minot Public Library's offerings for the community and approve the budget amendment on first reading.

AWARD BID FOR NEW FIRE ALARM CONTROL PANEL SYSTEM AND INSTALLATION - Authorize City staff to accept bids which were opened on July 23, 2024; authorize City staff to award the bid to the lowest bidder, Main and Homes Electric in the amount of \$146,814.00; approve the budget amendment on the first reading; and authorize the Mayor to execute the contract.

ROUND 2 STRUCTURE DEMOLITION FINAL PAYMENT (\$17,034.63) TO BERGER ENTERPRISES, LLC - Approve the final retainage payout of \$17,034.63 to Berger Enterprises, LLC.

PURCHASE AGREEMENT ADDENDUM - 1209 6TH AVE SW - Authorize the Mayor to sign the Purchase Agreement Addendum, which extends the closing date to September 30, 2024.

WELLS 5 AND 6 RAW WATER LINE REPLACEMENT - FINAL PAYMENT (4758) - Approve the final payment for the Riverside Park Raw Water Line project to Steen Construction in the amount of \$150,797.27.

CDBG POLICY AND PROCEDURES - Approve the CDBG Policy and Procedure manual.

4726 - 2023 WATER MAIN REPLACEMENT PROJECT - FINAL PAYMENT - Approve the final payment for the 2023 Water Main Replacement Project to Post Construction in the amount of \$33,074.31

TRENCH BOX - APPROVAL OF PURCHASE - Approve the capital purchase of a small trench box system at a cost of \$11,121 plus shipping.

WARD COUNTY LAW ENFORCEMENT RANGE - LEAD RECLAMATION PROJECT - Approve the lead reclamation project and quote, and authorize the Mayor to sign the quote to initiate the project.

SANITATION TRUCK - PERMISSION TO SELL ASSET - Approve the sale of a sanitation truck using an online auction site.

TRAFFIC SIGNAL DISTRICT 2022-1 FINAL PAYMENT - Approve the final payment to Main Electric Inc in the amount of \$5,870.04.

INSPIRITUS COMMUNITY HEALTH FOUNDATION GRANT APPROVAL - Approve the Fire Department to apply for the grant and authorize the Mayor to sign the endorsement letter.

APPOINTMENT OF SPECIAL ASSISTANT CITY ATTORNEY SEYMOUR JORDAN MINOT MUNICIPAL COURT CASE NO. MI-2024-CR-00703 - Appoint conflict counsel within the month to ensure we have counsel available to prosecute this matter and respond to any motions that are filed.

DEMOLITION BID AWARD - 511 7TH ST NE - Award the bid for the demolition of 511 7th St. NE – Dangerous Building Abatement to the low bidder, Dig It Up Backhoe Service, Inc., in the amount of \$20,000.00; and authorize the Mayor to sign the Agreement.

ACTION ITEMS

BUDGET AMENDMENT AND LEASE BUYOUT AUTHORIZATION FOR 6-MOTOR GRADERS

The motion to approve the budget amendment to buyout the six motor grader leases was initiated by City Council Member Jantzer, seconded by City Council Member Olson and carried by the following roll call vote: ayes: Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: Mike Blessum, Rob Fuller.

CITY COUNCIL DIRECTON ON DOWNTOWN QUIET ZONE

City Council Member Olson motioned to approve alternate #1: Phase the project over time by working with NDDOT or other partners as grants and opportunities arise to lower the project cost where available. Bring those alternatives back to council for consideration when available. Program the quiet zone project when directed by council.

The motion was seconded by City Council Member Pitner and carried by the following roll call vote: ayes: Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross; nays: Mike Blessum, Rob Fuller, Scott Samuelson.

WILDLIFE HAZARD REMOVAL AND DRAINAGE IMPROVEMENT PHASE 3 - CONSTRUCTION ADMINISTRATION CONTRACT AND GRANT (BIL 3-38-0037-074-2025)

City Council Member Jantzer motioned to:

1. Approve the Wildlife Hazard Removal and Drainage Improvement - Phase 3 - Construction Administration to be conducted by Short Elliott Hendrickson, Inc. (SEH) in the amount of \$444,400.00;
2. Authorize Mayor to sign the agreements and other related documentation; and
3. Authorize the Mayor, City Attorney, and the Airport Director to apply for, accept and sign grant awards and other related documents as appropriate.

The motion was seconded by City Council Member Olson and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

REGIONAL CARBON DIOXIDE STORAGE FACILITY - BUDGET AMENDMENT

The motion to approve the budget amendment on 1st reading for the regional carbon dioxide storage facility was initiated by City Council Member Olson, seconded by City Council Member Jantzer and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

LOGISTICS PARK OF NORTH DAKOTA (CRISI) GRANT CONTRACT AMENDMENT (4546)

The motion to approve the contract amendment 2; authorize the Mayor to sign; and approve the budget amendment was initiated by City Council Member Jantzer, seconded by City Council Member Olson and carried by the following roll call vote: ayes: Mike Blessum, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross; nays: Rob Fuller.

SECOND READING: ORDINANCE UPDATE - CHAPTER 6 - PAWN AND SECONDHAND

The motion to approve the ordinance on second reading for Chapter 6 Pawn and Secondhand was initiated by City Council Member Pitner, seconded by City Council Member Olson and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

PERSONAL APPEARANCES

Tom Warsocki spoke to the City Council about the idea of budgeting franchise fees.

MISCELLANEOUS AND DISCUSSION ITEMS

DOWNTOWN ORNAMENTAL LIGHTING ORDINANCE

Bob Thomas urged the City Council to review the DBPA Downtown Ornamental Lighting project. Derek Hackett discussed the lighting his company Pretty Lights has placed on some of the buildings downtown. Brian Billingsley, Community Development Director, and the City Council discussed the ordinance on ornamental lighting.

MINOT AREA COUNCIL OF THE ARTS PRESENTATION

Tonia Vitko and Miles Barcomb presented to the City Council and highlighted MACA projects and activities.

ADDITIONAL BUDGET Q & A

The City Council asked staff questions about the enterprise funds in the 2025 budget.

Alderman Pitner asked for a Point of Clarification on Item 9.1:

The motion to see options for recommendations from the Community Development Director including but not limited to the removal of restrictions, adjustment of time to 2 am, adding into ordinance 11 pm, and appeal process to City Council was

initiated by City Council Member Pitner, seconded by City Council Member Blessum and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

ADJOURNMENT

The motion to adjourn the meeting at 8:30 pm. was initiated by City Council Member Pitner, seconded by City Council Member Samuelson and carried by the following roll call vote: ayes: Mike Blessum, Rob Fuller, Mark Jantzer, Lisa Olson, Paul Pitner, Tom Ross, Scott Samuelson; nays: None.

ATTEST: _____
Mikayla McWilliams, City Clerk

APPROVED: _____
Thomas Ross, Mayor

ORDINANCE NO: 5987

**AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE
LIBRARY MEMORIAL REVENUES AND EXPENDITURES FOR THE LIBRARY
DIGITIZATION DONATION FROM THE PATRONS OF THE LIBRARY:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: Amend the 2024 annual budget to increase the library memorial revenues and expenditures for the library digitization donation from the patrons of the library:

21000000-36400		\$22,386
21067000-48206		22,386

- §2: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING: August 5, 2024

PASSED SECOND READING: August 19, 2024

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk

ORDINANCE NO: 5988

**AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE
AIRPORT STATE OPERATING REVENUE AND STRUCTURE REPAIR
EXPENDITURES AND DECREASE ROAD MAINTENANCE, INFRASTRUCTURE
AND EQUIPMENT EXPENDITURES FOR THE FIRE PANEL REPLACEMENT
PROJECT.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: An ordinance amending the 2024 annual budget to increase the Airport state operating revenue and structure repair expenditures and decrease Airport road maintenance, infrastructure and equipment expenditures for the Fire Panel Replacement project:

11000000-33400	2024500004	\$63,552
11050000-44320	2024500005	146,816
11050000-44504		(75,000)
11050000-57200		(2,253)
11050000-57500		(6,010)

- §2: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING:

August 5, 2024

PASSED SECOND READING:

August 19, 2024

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk

ORDINANCE NO: 5989

AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO DECREASE THE STREET RENTAL EXPENDITURES AND INCREASE THE STREET CAPITAL EXPENDITURES FOR THE LEASE BUY-OUT OF (6) GRADERS AND APPROVE THE TRANSFER AND USE OF GENERAL FUND CASH RESERVES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: Amend the 2024 annual budget to decrease the Street rental expenditures and increase the Street capital expenditures for the lease buy-out of (6) graders:

10040000-44400-L4003		(\$84,972)
42040000-57500-L4003		1,186,200

- §2: Approve the transfer of general fund cash reserves:

10040000-49124		\$1,186,200
42000000-39101-L4003		(1,186,200)

- §3: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING: August 5, 2024

PASSED SECOND READING: August 19, 2024

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk

ORDINANCE NO: 5990

**AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE
WATER PLANT ENGINEERING EXPENDITURES FOR THE CITY'S SHARE OF
THE DESIGN OF THE REGIONAL CARBON DIOXIDE FACILITY AND APPROVE
THE USE OF WATER/SEWER CASH RESERVES.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: Amend the 2024 annual budget to increase the water plant engineering expenditures for the City's share of the design of the regional carbon dioxide facility:

14060000-43050		60,000
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- §2: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING: August 5, 2024

PASSED SECOND READING: August 19, 2024

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk

ORDINANCE NO: 5991

**AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE
ENGINEERING DEPARTMENT EXPENDITURES FOR THE MINOT INTERMODAL
FACILITY AND APPROVE THE TRANSFER AND USE OF SALES TAX ECONOMIC
DEVELOPMENT CASH RESERVES.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: Amend the 2024 annual budget to increase the engineering department expenditures for the Minot Intermodal Facility (CRISI) Ackerman Estvold Contract Amendment #2:

10038000-43050	2021380001	\$210,000
10000000-39113	2021380001	177,457
25172000-49101		177,457

- §2: Approve the transfer of Sales Tax Economic Development cash reserves:

25172000-49101		177,457.00
10000000-39113	2021380001	(177,457.00)

- §3: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING: August 5, 2024

PASSED SECOND READING: August 19, 2024

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk

ORDINANCE NO: 5986

**AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE
POLICE DEPARTMENT EXPENDITURES FOR THE CORDICO APP, USING NON-
FEDERAL ASSET FORFEITURE FUNDS.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

§1: Amend the 2024 annual budget to increase the police department expenditures for the Cordico app, using non-federal asset forfeiture funds:

10021000-44350	2021210001	\$14,799
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§2: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING: August 5, 2024

PASSED SECOND READING: August 19, 2024

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk



TO: Mayor Ross
Members of the City Council

FROM: Mikayla McWilliams, City Clerk

DATE: August 19, 2024

SUBJECT: ADMINISTRATIVE APPROVALS

I. RECOMMENDED ACTION

It is recommended City Council ratify the following administratively approved requests:

- 1. Special Event Permit for The Ranger Lounge (1218 S Broadway).**
- 2. Special Event Permit for the Blue Rider (118 1st Ave SE).**
- 3. Two Special Event Permits for Sports on Tap (220 S Broadway).**
- 4. Special Event Permit for The Landing Bar and Bottleshop (2015 N Broadway).**
- 5. Community Rocks, Inc. to conduct a raffle on August 24, 2024 at MSU Summer Theater (1357-1573 7th St NW).**
- 6. Minot High School Trap Team to conduct raffle November 1-30, 2024 at Minot North High School (2000 21st Ave NW).**
- 7. Minot State University to conduct raffles from August 23, 2024 through February 26, 2025 at MSU (500 University Ave W).**
- 8. Minot Indoor Rodeo, Inc to conduct a raffle on October 26, 2024 at Minot Auditorium (420 3rd Ave SW).**
- 9. Operation Warm Heart to conduct a raffle on August 3, 2024 at Corbett Field (1124 E Burdick Exwy).**
- 10. Souris Valley Animal Shelter to conduct a raffle on August 6, 2024 at Corbett Field (1124 E Burdick Exwy).**

II. DEPARTMENT CONTACT PERSONS

Mikayla McWilliams, City Clerk, 701-857-4752
John Klug, Chief of Police, 701-857-9800

III. DESCRIPTION

A. Background

Under the Code of Ordinances, a permit issued pursuant to NDCC 5-02-01.1, to allow an alcoholic beverage sales licensee to operate at premises other than the

licensed premises to which the license relates, shall be issued administratively by the city clerk upon the following terms and conditions:

1. The payment by the applicant of a nonrefundable fee of twenty-five dollars (\$25.00).
2. The submission by the applicant, as part of the application required by the city clerk, of a brief narrative explaining:
 - a. The nature of the occasion for the permit (e.g., wedding dance, trade show or promotion, etc.); and
 - b. The steps which will be undertaken by the permittee to restrict the sale to, and consumption of, alcoholic beverages by minors at such occasion.
3. The written approval by the chief of police of the issuance of the permit.
4. A permit issued pursuant to this subsection may not be used for the off-sale of alcoholic beverages.

An application for local authorization pertaining to gaming, other than site approval, shall be issued administratively by the city clerk upon the following terms and conditions:

1. The payment by the applicant of a fee [of \$25].
2. The submission by the applicant, as part of the application required by the city clerk, of the following:
 - a. The appropriate form and other information prescribed or recommended by the attorney general; or
 - b. If there is no prescribed or recommended form, then a brief narrative explaining the particulars whereby the applicant should be considered to be qualified under state law for the particular local authorization sought; what the net proceeds will be expended for; and such other information, if any, as the city clerk may reasonably require to assist him in administering this subsection.
3. The written approval by the chief of police of the issuance of the authorization.

Each month, a report shall be provided to the city council concerning the permits allowed and the permits denied under this subsection subsequent to the last prior such report.

IV. IMPACT

A. Aspirations

Safe and Welcoming

B. Service/Delivery Impact:

N/A

C. Fiscal Impact

Special Event Permits, Local Permits and Restricted Event Permits are approved administratively each month through the City Clerk's Office. The

non-refundable application fee for each permit is \$25 and is deposited into the appropriate general fund revenue accounts.

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

N/A - the request is to ratify the applications which have been administratively approved.



TO: Mayor Ross
Members of the City Council

FROM: Mikayla McWilliams, City Clerk

DATE: August 19, 2024

SUBJECT: ALCOHOLIC BEVERAGE LICENSE - BASECAMP INDIAN KITCHEN

I. RECOMMENDED ACTION

It is recommended City Council approve a Supper Club license for the Basecamp Indian Kitchen at 1425 24th Ave SW for the period of August 19, 2024 through December 31, 2024.

II. DEPARTMENT CONTACT PERSONS

Mikayla McWilliams, City Clerk, 701-857-4752
John Klug, Chief of Police, 701-857-9800

III. DESCRIPTION

A. Background

In order to renew an alcoholic beverage license, an application must be submitted for review by the Police Department and inspections are done by the Building Official and Fire Marshal. Complete renewal applications approved by the Police Chief.

City Council approved Basecamp Indian Kitchen for a Specialty Restaurant Beer and Wine license on August 5, 2024. After discussions with the owner, they would like approval for a Supper Club license.

B. Proposed Project

N/A

C. Recommendation Detail

N/A

IV. IMPACT

A. Aspirations

Safe and Welcoming

B. Service/Delivery Impact:

N/A

C. Fiscal Impact

The fees vary depending on the type of license and are deposited into the appropriate general fund revenue account.

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

The business would not be able to sell alcoholic beverages until the license is approved.



TO: Mayor Ross
Members of the City Council

FROM: Ryan Kamrowski, City Assessor

DATE: August 19, 2024

**SUBJECT: CITY ASSESSOR'S PROPERTY RECORD WEBSITE CONTRACT
RENEWAL - VANGUARD APPRAISALS, INC.**

I. RECOMMENDED ACTION

It is recommended City Council approve the website service contract between Vanguard Appraisals, Inc. and the City of Minot and authorize the Mayor to sign the contract.

II. DEPARTMENT CONTACT PERSONS

Ryan Kamrowski, City Assessor, 701-857-4161

III. DESCRIPTION

A. Background

The City Assessor's Office provides access to public records through Web Services hosted by our appraisal software vendor, Vanguard Appraisals, Inc. Accessibility to public records online reduces the work load of City staff and provides ease of access for the public to access information. The existing five-year service contract expires 9/12/2024.

B. Proposed Project

The contract will renew our Web Services for a five-year period commencing 9/12/2024. The vendor will provide the City of Minot with their most current version of web page packages, to include enhancements and updates to the existing website. Enhancements will include, but not limited to, interactive GIS map integration, Special Assessment data, and printable property records.

C. Recommendation Detail

The proposed contract and length of commitment was selected based on the cost savings offered by Vanguard Appraisal, Inc. The City of Minot will receive a 30% discount for signing a multi-year service contract.

IV. IMPACT

A. Aspirations

Excellent and Connected, Dynamic and Flourishing

B. Service/Delivery Impact:

This service provides updated property information to the public and real estate professionals. Continued publication of records will improve service delivery for the City.

C. Fiscal Impact

Cost associated for this contract are budgeted each year into the City Assessor's budget. Funding for year one is included in the approved 2024 budget and funding for subsequent years will be requested in the City Assessor's budgets.

Project Costs

\$19,250.00 (\$3,850/yr)

Project Funding

10021100-44350 IT Maintenance & Repair Agreements

VI. ALTERNATIVES

1. Modify the service contract for a period of one year and agree to a cost increase of 30% each year
2. Not providing web services, this would restrict the public's ease of access to records. The City Assessor does not recommend this alternative.

SERVICE CONTRACT

VANGUARD COMPUTER SYSTEMS – Assessor Web Site

This Service Contract is made and entered into by and between Vanguard Appraisals, Inc. an Iowa corporation ("Vanguard") and the City of Minot ("Client").

WHEREAS, Vanguard owns certain computer application software modules and related materials known as Vanguard Computer Systems software and the Client is presently using or desires to use said system under license from Vanguard and in connection with such use Vanguard agrees to provide the Client with the following services as applicable:

1. **TERM.** This contract is for a five year period commencing 9/12/2024. Vanguard reserves the right to collect the total amount of the service fees should the client choose to terminate the service contract for any reason before 9/12/2029.
 - Termination.
 - Termination by Mutual Agreement. This Agreement may be terminated by mutual consent of both parties executed in writing.
 - Termination without Cause. This Agreement may be terminated by either party upon thirty (30) days' written notice to the other party of the terminating party's intent to terminate before the expiration of this Agreement.
 - Termination for Cause. City may terminate this Agreement effective upon delivery of written notice to Vanguard, or any later date stated in the notice:
 - If Vanguard fails to provide Services required by this Agreement within the time specified or any extension agreed to by City; or
 - If Vanguard fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.
 - The rights and remedies of City provided in this Paragraph are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
2. **Installation and Training.** The setup time has been waived for installation, training on-site, domain registration and Vanguard's staff travel time. Vanguard shall install and test the licensed software on Vanguard's web server equipment. In addition, Client's sub domain name will be registered and maintained by Vanguard; i.e. minotcity.northdakotaassessors.com. All time for installation, training, domain registration and Vanguard's staff travel time will not count against and be deducted from the service contract time balance. See item 5 for additional services.
3. **Enhancements, Update and Revisions.** As Vanguard continues to improve on the client web page package(s) and work on suggestions for features from Clients, Client will automatically receive during the term of this service contract, provided client is current and not in default of any payments due Vanguard, all updating information; i.e. new search features, current function enhancements, as and when released by Vanguard for the modules of the Vanguard Computer System software for which Client has a license and maintains this Service Contract. However, this service contract does not include future programs such as, but not limited to, the data conversion due to software rewrite because of operating system changes, data conversion from other vendor's software, and jurisdiction specific modifications.
4. **Consultation.** All service contract holders have unlimited telephone consultation privileges during normal business hours which relate to operation of Vanguard Computer Systems software (VCS). All non-VCS telephone consultation (such as hardware operations or malfunction, third party software operation or integration, etc.) will be charged at the then current normal telephone service fee rate (call for current rate). Service PLUS contracts for additional time may be purchased at a reduced service fee rate (call for rate). See item 5 for additional services.

5. **Additional Services.** Additional services like training, re-installations, on-site consultation, customizing client web pages, changing from one license web package to another, installation on Client's jurisdiction web server, web browser configuration, hardware trouble-shooting, non-VCS software training, Vanguard staff travel time, etc. shall be available at Vanguard's then current normal service fee rate. A minimum charge of one day per instance will be billed for on-site visits. Service PLUS contracts for additional time may be purchased at a reduced service fee rate (call for rate).
6. **Web Server Storage and Update.** The Client will lease storage capacity from Vanguard. Client parcel data will be updated on the web server periodically. The maximum period will be six times per year but the client may choose to update less frequently, however, the Schedule A charges will not be reduced. The storage capacity will be monitored periodically as parcel data is updated from the Client to the Vanguard web server and reported to the Client. Payment Schedule A shows the calculations that are used to determine the storage capacity. Minimum increments of 600-Mb (megabytes) will be allocated. Vanguard may adjust the payment schedule for changes in storage capacity and storage fees on the next renewal date of the service contract.
7. **Administrator Contact.** Vanguard reserves the right to display a small icon and link to Vanguard Appraisals, Inc. web site for the purposes of contacting the web site administrator.
8. **LIMITED WARRANTY.** Vanguard shall perform its services hereunder in a workmanlike manner. Vanguard does not warrant that the services will be error free. EXCEPT AS EXPRESSLY SET FORTH IN THIS SERVICE CONTRACT, VANGUARD EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES CONCERNING THE SERVICES TO BE RENDERED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES THAT MAY ARISE OR BE DEEMED TO ARISE FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. In no event shall Vanguard be liable to Client or any other person for any indirect, consequential, special, exemplary, or incidental damages of whatever kind and however caused, even if Vanguard knew or should have known of the possibility of such damages. In no event shall Vanguard's cumulative liability for any claim arising in connection with this Service Contract exceed the total fees and charges paid to Vanguard under this Service Contract during the last 12 months. No action, whether based in contract, strict liability, or tort, including any action based on negligence, arising out of the performance of services under this Contract, may be brought by Client more than 1 year after such cause of action accrued.
9. **MISCELLANEOUS.** This Contract (a) constitutes the entire agreement between the parties concerning the subject matter hereof; (b) may be amended only by a writing signed by both parties; (c) Governing Law and Venue. This Agreement shall be construed and interpreted both as to the validity and performance of the Parties in accordance with the laws of the State of North Dakota. In the event of any dispute hereunder the forum shall be in District Court, Ward County, North Dakota. Each Party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or forum non conveniens. If any provision in this Contract should be held illegal or unenforceable by a court having jurisdiction, such provision shall be modified to the extent necessary to render it enforceable without losing its intent or severed from this Contract if no such modification is possible, and other provisions of this Contract shall remain in full force and effect; A waiver by either party of any term or condition of this Contract or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach thereof. Neither party shall be in default or be liable for any delay, failure in performance (excepting the obligation to pay), or interruption of service resulting directly or indirectly from any cause beyond its reasonable control. (d) Independent Entity. Vanguard is an independent entity under this Agreement and is not a City employee for any purpose. (e) Compliance with Law. Vanguard agrees to comply with all applicable federal, state, and local laws, rules, and policies, including those relating to nondiscrimination, accessibility, and civil rights. (f) Compliance with Public Records Laws. Vanguard understands that, City must disclose to the public upon request any records it receives from Vanguard. Vanguard further understand that any records obtained or generated by Vanguard under this Agreement, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. Vanguard agrees to contact City promptly upon receiving a request for information under the public records law. The client agrees not to distribute the Vanguard database housing the county data in whole or in part. (g) Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and assignees. (h) Assignment. Neither Party may not assign or otherwise transfer or delegate any right nor duty

Vanguard Appraisals, Inc.

without the other Party's express written consent. (i) Force Majeure. Neither Party to this Agreement will be liable to the other Party for delays, or direct and indirect costs resulting from any causes beyond the reasonable control or contemplation for either Party. (j) Severability. If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement did not contain that term. (k) Authority to Execute Agreement. Each party represents and warrants that this Agreement has been duly authorized, executed and delivered by it; that the undersigned representatives are fully authorized to sign this Agreement on behalf of the party for whom they are signing and whom they represent; that performance of all the actions contemplated thereby have been duly authorized by all requisite action and that this Agreement constitutes a valid and binding obligation, enforceable against each party, its successors and assigns in accordance with its terms. (l) Entire Agreement and Modification. This Agreement, including the Attachments, constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by both Parties. (m) Effectiveness of Agreement. This Agreement is not effective until fully executed by both Parties.

10. Notice. All notices or other communications required under this Agreement must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

City:	Provider:
City of Minot	Vanguard
c/o City Manager	c/o President/CEO
P.O. Box 5006	1065 Sierra Ct NE, Suite D
Minot, ND 58702	Cedar Rapids, IA 52402

[Balance of page intentionally blank.]

Payment Schedule A

License No: WEB2058

Parcel Count: 17,869

Leased Storage Capacity: 2,000 megabytes @ \$ 2.75/Mb = \$ 5,500.00 X 5 yrs= \$27,500.00
Less 30% discount for signing multi-year service contract. \$1,650.00 x 5 yrs = -8,250.00
Total = \$19,250.00 (\$3,850/yr)

All payments to Vanguard under this Service Contract shall be payable in the U.S. dollars and shall be net of any and all taxes, withholdings, setoffs, or deductions of any nature.

VANGUARD APPRAISALS, INC.

By: 
Brad M. Miller, Senior Vice President/CIO

Dated: July 15, 2024

City of Minot

By: _____

Mayor: _____

Dated: _____



TO: Mayor Ross
Members of the City Council

FROM: Jenna Zelinski, Comptroller

DATE: August 19, 2024

SUBJECT: APPROVAL OF ACCOUNTS RECEIVABLE WRITE-OFFS

I. RECOMMENDED ACTION

It is recommended City Council approve the July 2024 general accounts receivable write-offs.

II. DEPARTMENT CONTACT PERSONS

David Lakefield, Finance Director, 701-857-4774

III. DESCRIPTION

A. Background

The Finance Department is working on an overhaul of all policy documents to modernize and align them with current practices. Many of our current policies cite our legacy software system and procedures that are no longer in practice due to business process improvements made during the implementation of the new ERP system. The General Accounts Receivable Policy was adopted by City Council on July 1, 2024. Within that policy is a requirement for City Council to approve any receivable write-offs in excess of \$2,500.00. The Finance Department will bring a summary of these write-offs to City Council on a monthly basis for administrative approval.

B. Proposed Project

N/A

C. Recommendation Detail

It is recommended the City Council approve the July 2024 general accounts receivable write-offs.

IV. IMPACT

A. Aspirations

The adoption of our General Accounts Receivable Policy is meeting the City Council's aspiration of Excellent and Connected. In accordance with

Generally Accepted Accounting Principles (GAAP), this policy was adopted to remain fiscally responsible and align with industry best practices.

B. Service/Delivery Impact:

N/A

C. Fiscal Impact

There is no fiscal impact relating to these write-offs as they were either completed in error by duplication or charged to the incorrect customer.

VI. ALTERNATIVES

N/A



General Accounts Receivables Write-Offs

July 2024

Pursuant to the General Accounts Receivable Policy adopted by City Council on July 1, 2024, the following write-offs were completed that exceeded the \$2,500.00 threshold requiring City Council approval:

Customer #	Customer	Invoice #	Write-Off Amount	Reason for Write-Off
4032	Farmer's Union Insurance	19557	\$ 16,376.90	Duplicate invoice
5636	Credit Card Customer	19620	2,550.00	Incorrect customer
2684	Israel Perez	14282	94,246.14	Duplicate invoice
			<u>\$ 113,173.04</u>	

Respectfully submitted,

David Lakefield, CPA

Finance Director

10 3rd Ave SW Minot, ND 58701

(701)-857-4784



TO: Mayor Ross
Members of the City Council

FROM: Tom Joyce, Asst. City Manager
Lisa Jundt, Human Resource Director

DATE: August 19, 2024

**SUBJECT: ICMA AGREEMENT TO PARTICIPATE IN VETERANS LOCAL
GOVERNMENT MANAGEMENT FELLOWSHIP**

I. RECOMMENDED ACTION

It is recommended City Council approve the agreement to participate in the Veterans Local Government Fellowship; and authorize the Mayor sign the agreement on behalf of the City of Minot.

II. DEPARTMENT CONTACT PERSONS

Lisa Jundt, Human Resource Director, 701-857-4753

III. DESCRIPTION

A. Background

The Veterans Local Government Management Fellowship Program is part of the Department of Defense Skillbridge Program, which provides transitioning service members the opportunity for hands-on training in local government in preparation for a potential career in municipal government.

B. Proposed Project

This is a four to six month program paid for by the Department of Defense, which provides transitioning military members with professional development experience(s) that could assist them with future employment after their military career.

C. Recommendation Detail

This no-cost program provides the City of Minot with a good recruitment opportunity to find possible candidates for positions that are often difficult to fill.

IV. IMPACT

A. Aspirations

Prepared and Resilient. The City is finding ways to be proactive with recruitment in needed areas, and to be prepared and resilient for future succession planning and department efficiencies.

B. Service/Delivery Impact:

Department efficiencies will provide better services to the community and its residents.

C. Fiscal Impact

Fiscal impact could improve department deliverables and provide a positive impact to the City budget

Project Costs

No outward cost

Project Funding

N/A

VI. ALTERNATIVES

Alternative: don't participate in the program.

Agreement to Host a Veterans Local Government Management Fellow

This Agreement is between the organization and the International City/County Management Association ("ICMA"), and is effective as of _____. The organization and ICMA are referred to herein each, as a "Party", and collectively, as the "Parties".

Overview

The Veterans Local Government Management Fellowship (VLGMF) is a four to six month Department of Defense Skillbridge Program that provides transitioning service members with management training and hands-on experience in the municipal environment to prepare them for smooth transitions into local government careers. This program matches selected fellows with surrounding local government sponsors based on skills, education, experience, and the preferences of both parties.

Intent

This document signifies that the Parties will participate in good faith in the Veterans Local Government Management Fellowship (VLGMF) program. The Parties recognize the need to identify and develop the next generation of talented individuals to assume positions within local government and to support Veterans as they transition out of the Armed Services and into the civilian workforce. By entering into this Agreement, the Parties agree to provide transitioning military members with a meaningful professional development experience and to follow the guidelines set forth below.

Guidelines

As a local government participating in the VLGMF program, the organization agrees to fulfill the obligations of hosting a fellow by providing an experience that meets the intent of the items below. The Parties understand that every fellow has a different level of skillsets and goals and that this list is meant as a guideline, not as a mandate of tasks to be accomplished. The workplan will be designed based on the fellow's goals and the needs and structure of the municipality at that time.

1. Assign a mentor to the Fellow who will, for the duration of the fellowship, be the Fellow's primary point of contact and coach while the Fellow is in the program; the mentor may not necessarily be the Fellow's direct day-to-day supervisor.
2. Schedule feedback sessions with the mentor to provide the Fellow with a chance to ask questions, review resumes, and seek career advice.

3. Encourage the Fellow to attend meetings in order to observe the interaction between local government staff and the elected body.
4. Allow the Fellow the opportunity to develop and give presentations to a variety of offices.
5. Expose the Fellow to a variety of administrative processes, including but not limited to budget, contracts, and human resources.
6. Provide structured professional development through educational courses and training as available.
7. Allow the Fellow the opportunity to attend community events, especially those that are Veteran centric.
8. Allow the Fellow the time to attend conferences or workshops.
9. Provide the Fellow the time to schedule and attend the appointments necessary for their retirement/separation process.
10. Provide the Fellow with time to work on applications, resumes and participate in interviews.

ADDITIONAL PROVISIONS:

- A. **Program Manager.** The organization will designate one individual as the primary contact for all correspondence with the ICMA Veterans Programs Manager.
- B. **Work Plan.** The organization will prepare and submit to ICMA a work plan (see, for guidance purposes, job/rotation description <https://icma.org/building-veteran-fellow-work-plan>) not later than two weeks prior to the start of each fellowship. The purpose of the plan is to create an enriching learning experience for the Fellow.
- C. **Future Employment of Fellows.** The organization understands that the fellowship is a four to six-month commitment, and that, subject to all applicable federal, state and local laws and policies, the organization is encouraged to consider employment of the Fellow if a position is available and the Fellow meets all the requirements for the position including the interview
- D. **Termination.** This agreement may be terminated at any time by the organization or ICMA upon advance written notice by one Party to the other.
- E. **Concerns.** Each Party agrees to notify the other in the event of any concerns.

F. **Non-Discrimination.** The Parties agree that all Fellows shall be selected without discrimination on account of race, color, religion, national origin, ancestry, disability, marital status, gender, gender identity, sexual orientation, or age.

G. **Employment Status.** The Parties understand and agree that the Fellows enrolled in the VLGMF Program are in attendance for educational purposes, and such Fellows are not considered employees of the organization or ICMA for any purpose, including, but not limited to, compensation for services, welfare and pension benefits, or workers' compensation insurance.

H. **Indemnification.**

- I. ICMA agrees to indemnify, defend and hold harmless the organization and its affiliates, directors, trustees, officers, agents, and employees, against all claims, demands, damages, costs, expenses of whatever nature, including court costs and reasonable attorney's fees, arising out of or resulting from ICMA's sole negligence, or in proportion to ICMA's comparative fault
- II. To the extent allowed by North Dakota Law, the city agrees to indemnify, defend and hold harmless ICMA and its affiliates, directors, trustees, officers, agents, and employees, against all claims, demands, damages, costs, expenses of whatever nature, including court costs and reasonable attorney's, arising out of or resulting from the City's sole negligence, or in proportion to the City's comparative fault relating to this Agreement.

The individual indicated below agrees to participate in the VLGMF Program based on the criteria listed in this Agreement. By filling out the information below, the individual indicates that they have authority to execute this Agreement. This Agreement secures the participation of the organization as a host in the VLGMF Program but does not require the organization to host a VLGMF Fellow.

NAME: _____

POSITION: _____

PHONE: _____

E-MAIL: _____



TO: Mayor Ross
Members of the City Council

FROM: Jennifer Eckman, Airport Director

DATE: August 19, 2024

**SUBJECT: CONSENT TO THE CHANGE OF OWNERSHIP FROM OAKWELLS
COMMUTER RAIL, LLC TO TAILWIND HOSPITALITY, INC.**

I. RECOMMENDED ACTION

- 1. It is recommended City Council consent to the change of ownership from Oakwells Commuter Rail, LLC to Tailwind Hospitality, Inc. contingent on the closing occurring within 10 business-days of the anticipated transaction date, August 29, 2024;**
- 2. Direct staff to draft an amendment to the Concession Agreement to reflect the new owner's name and contact information following proof of sales documents is provided;**
- 3. Approve the Mayor to sign all applicable documents.**

II. DEPARTMENT CONTACT PERSONS

Jennifer Eckman, Airport Director, 701-857-4739
Jessica Long, Business & Development Man., 701-857-4725

III. DESCRIPTION

A. Background

Oakwells Commuter Rail, LLC (Oakwells) has been the airport's primary concession service provider since February 29, 2016. A Non-exclusive Food, Beverage, Retail, and Vending (FBRV) RFP was issued and reviewed in the Fall of 2022 and Oakwells was accepted as the highest-ranking proposal by the City Council on December 5, 2022, and the FBRV Concession agreement commenced on March 1, 2023. It remains in effect for eight years from the commencement date with a one-time, five-year option at the end of the term.

B. Proposed Project

On July 31, 2024, the Minot Airport Director was contacted by the operator of Oakwells, Michael Reilly. Reilly indicated Oakwells intended to sell the business to its competitor Tailwind Hospitality, Inc (Tailwind) and was requesting the City's consent to the agreement pursuant to the Concession Agreements

provisions. A letter of intent showing Tailwind's plan to acquire 100% equity in Oakwells was provided to City staff. Oakwells needs the consent approved for the final sale. Reilly understands that the approval for consent, if given, from City Council will not occur before the August 14, 2024 deadline.

C. **Recommendation Detail**

The final sale is scheduled for August 29, 2024. If the sale does not go through, Oakwells would be obligated to continue operations per the existing FBRV Concessions agreement.

IV. IMPACT

A. Aspirations

City Council aspirations which will be adopted by the proposed recommendation are to promote excellence and connection with the community.

B. Service/Delivery Impact:

The consent to transfer the operator of the concession agreement will allow for the continuation of all the existing Concession operations with little to no impact on the community members who use these services. It will also continue the positive relationship the City has with its Airport service providers.

C. Fiscal Impact

The consent to transfer ownership will have no new fiscal impact as the new service provider will be obligated to the same minimum annual guarantee (MAG) and percentage of gross sales as the current provider.

VI. ALTERNATIVES

1. The City Council could choose to not consent to the ownership transfer, which may delay or cancel the pending sale.
2. The City Council could choose to consent to the ownership transfer without the sale contingency or the amendment to the Concessions Agreement.

July 31, 2024

Minot International Airport
305 Airport Rd,
Minot, ND 58703

Attention: Jennifer Eckman, Airport Director

Re: Request for Consent related to Non-exclusive Food, Beverage, Retail, and Vending Concession Agreement, dated March 1, 2023 (the “Contract”), by and between the City of Minot (“you”) and Oakwells Commuter Rail, LLC (“Oakwells”)

Ladies and Gentlemen:

We are writing to inform you that Oakwells intends to enter into a definitive agreement with Tailwind Hospitality, Inc., pursuant to which, Oakwells will undergo a change of ownership (the “Transaction”). Following completion of the Transaction, Oakwells will continue to perform the Contract upon the same terms and conditions as currently provided in the Contract, and the Contract will continue in full force and effect.

The Transaction will be deemed an assignment of the Contract pursuant to Section 23 of the Contract, and as a result, your prior written consent may be required in connection with the Transaction. Accordingly, Oakwells is hereby (i) providing notice to you of the Transaction and (ii) requesting that you execute the acknowledgement below confirming your consent to the Transaction and your waiver of any notice, consent and procedural requirements set forth in the Contract, if any, with respect to the Transaction. Furthermore, your execution of this letter shall (a) serve as an acknowledgment that the Transaction will not (1) result in a breach or default (or an event of default) under the Contract or cause, or entitle you to cause, the termination or acceleration of any of the parties’ respective obligations or rights under the Contract, or (2) otherwise give rise to any right to alter or amend any of terms of the Contract, and (b) operate as a waiver of any notice period under the Contract with respect to the Transaction.

Please indicate confirmation of your consent to the Transaction **on or before August 14, 2024** by signing this letter in the space provided below and returning a signed copy to Michael Reilly via email at m9reilly@gmail.com. Upon your execution and delivery of this letter, the consent hereunder will be irrevocable, provided that if the Transaction is not effected or otherwise does not occur for any reason, this letter will become null and void and without any force or effect without the need for any further action on the part of any party.

* * *

If you have any questions, please do not hesitate to contact Michael Reilly at m9reilly@gmail.com.

Sincerely,

OAKWELLS COMMUTER RAIL, LLC

By: Michael J. Reilly

Name: Michael Reilly

Title: Chief Executive Officer

Acknowledged, agreed to and accepted by:

CITY OF MINOT

By: _____

Name: _____

Title: _____

Date: _____



TO: Mayor Ross
Members of the City Council

FROM: David Lakefield, Finance Director

DATE: August 19, 2024

SUBJECT: SPECIAL ASSESSMENT APPROVAL; SIDEWALK REPAIR (4713)

I. RECOMMENDED ACTION

It is recommended City Council approve the assessment roll for Sidewalk Repair project 4713.

II. DEPARTMENT CONTACT PERSONS

David Lakefield, Finance Director, 701-857-4774
Melody Shelkey, Treasurer, 701-857-4771

III. DESCRIPTION

A. Background

Sidewalk repair project #4713 was approved by City Council on July 24, 2023. The special assessment portion of this project has been completed and staff wishes to move forward with the special assessment process.

B. Proposed Project

This portion of the sidewalk repair project is completed and requires approval by City Council to move forward with the special assessment certification process.

C. Recommendation Detail

Council's approval of the assessment roll will allow staff to move forward with processing the loans resulting in inclusion in the annual certification to Ward County for collection.

IV. IMPACT

A. Aspirations

These agreements achieve all of the City Council Aspirations: Resilient and Prepared. It allows for the City to prepare the annual certification to Ward County for collection.

B. Service/Delivery Impact:

Provides for consistent, safe sidewalks throughout the City of Minot.

C. Fiscal Impact

This project was funded with tax levy. Timely collection of the assessments will keep sidewalk cash reserves available for future use.

Project Costs

The special assessment portion of the project was funded with tax levy and will be repaid to the City by special assessments. The City chose to use a ten year assessment term to allow the property owners to spread out the cost of the burden.

Project Funding

10038000-44506 - Engineering Department sidewalks, curbs, and gutters

VI. ALTERNATIVES

The Council could deny approval of the assessment roll for Sidewalk 4713, putting the cost back to the tax levy.

2023 Sidewalk Repairs Project 4713

Worked approved by CC 7/24/23

Parcel	Property Address	Legal	Property Owner	Total Cost
MI240370200140	118 9th Ave SE	Charlebois Addition Lot 14 Block 2	Richard P Olson & Mary Burns	\$ 4,905.00
MI242210100020	805 1st St SE	Lynchs Addition Lot 2 Less The East 20' Blk 1	Aaron L & Rebecca Lament	1,224.38
MI242210100070	825 1st St SE	Lynchs Addition Lot 7 Less The East 20' Block 1	Bryan W & Mary Crobertson	14,299.38
MI01D140400160	58 Olive Cir NE	Stonebridge Farms 4Th Addn L 16 Blk 4	Daniel & Sara Dangerfield	19,068.13
MI01D140300320	110 Mulberryloop NE	Stonebridge Farms 4Th Addition Lot 32 Block 3	Anh & Trieu Tran	7,537.61
MI243160100111	120 Burdick Expy E	Ramstads Fourth Addition Lt 7 Less S 75' Of W 50' And All Of Lots 8 Thru 11 Of Blk 1	Minot State University Development Foundation	26,532.50
MI11E130100030	2505 15th St NW	Tollberg Shores Addition Lot 3 Block 1	Luke & Echo Ryan	8,340.00
MI132881530160	1100 Broadway N	Outlots Sec 13 155 83 Sw1/4Nw1/4 Outlot 16	Minot State University Development Foundation	8,715.63
MI241460000222	1109 Valley St	Heckers Second Addition South 1/2 Lot 22	John & Brittany Choleva / Nicholas Housel	4,124.38
MI240370200150	208 9th Ave SE	Charlebois Addition Lot 15 Block 2	Mavis Williamson	12,308.75
MI242210100010	102 8th Ave SE	Lynchs Addition Lot 1 Less The East 20' Block 1	Mary L Sanders	2,557.50
MI221150300020	317 20th St NW	Garden Valley Addition Lot 2 Block 3	Edward A & Margaret Akendall	1,224.38
MI06E300100050	1517 Valley Bluffs Dr S	The Bluffs Third Addition Lot 5 Block 1	Michael Weisner / Marta Janion	1,224.38
MI242220000101	106 9th Ave SE	Lynchs Second Addition East 42' Of Lot 10	Lindsey Nicole Benoit	2,478.13
				<u>\$ 114,540.15</u>



TO: Mayor Ross
Members of the City Council

FROM: Jason Sorenson, Utilities Director

DATE: August 19, 2024

SUBJECT: MREFPP MI-7E - CONCURENCE OF BID AWARD

I. RECOMMENDED ACTION

It is recommended City Council concur with the award recommendation by the SRJB to Wagner Construction, Inc in the amount of \$35,177,052.12.

II. DEPARTMENT CONTACT PERSONS

Jason Sorenson, Utilities Director, 701-857-4768

III. DESCRIPTION

A. Background

The Mouse River Enhanced Flood Protection Plan (MREFPP) is a multi-phased project to bring flood protection to Minot and the entire Souris River Basin. The project generally consists of levees and floodwalls adjacent to the river designed to protect the community from the level of flooding experienced in 2011. Multiple phases have been completed with many more under design.

B. Proposed Project

On July 25, 2024, bids were opened for the rebid of MI-7E Roosevelt Park and Zoo phase of the MREFPP. This project consists of a small levee segment on the north end of Roosevelt Park and flood walls through the zoo terminating at Burdick Expressway. Bids were originally opened in May 2024, but ultimately rejected when only one bidder submitted a bid and it was nearly 50% over the estimate. Modifications were made to the bid package to help alleviate some of the issues that may have driven costs up. There were five bidders for the rebid of MI-7 and Wagner Construction Inc. submitted the lowest responsible bid in the amount of \$35,177,052.12. The SRJB took action on August 1, 2024 and awarded the project to Wagner Construction.

C. Recommendation Detail

The bid from Wagner Construcion is still over the engineers estimate but appears to be representative of current bidding climate. There is no indication any further modifications can be made to the bid package to warrant rejection

and rebidding.

IV. IMPACT

A. Aspirations

Resilient and Prepared

B. Service/Delivery Impact:

This is another project toward completing overall flood protection in the City of Minot

C. Fiscal Impact

Project Costs

Engineers Estimate \$28,000,000

Wagner Construction Bid \$35,177,052.12

Project Funding

Project will be funded with 65% Department of Water Resources funds and 35% sales tax flood control dollars.

VI. ALTERNATIVES

N/A

Memorandum

To: Souris River Joint Board
From: Barr Engineering Co.
Subject: MREFPP Phase MI-7E – Roosevelt Park and Zoo
Date: July 26, 2024
Project: 34/51-1010.20

Dear Mr. Ashley:

On Thursday July 25, 2024, bids for the rebid of the Mouse River Enhanced Flood Protection Project Phase MI-7E Roosevelt Park and Zoo were received at the City of Minot City Hall. The following bids were acknowledged for the project. A detailed bid tabulation is provided in **Attachment A**.

Bidder Name	Contract 1	Contract 2	Contract 3
Wagner Construction, Inc.	\$11,967,087.60	\$25,597,719.00	\$35,177,052.12
Meyer Contracting, Inc.	\$17,028,028.07	\$28,100,258.46	\$40,377,357.39
Bluestone Construction, Inc.	\$15,704,508.00	n/a	n/a
Strata Corporation	\$18,948,854.75	n/a	n/a
Park Construction Company	\$16,592,536.00	\$32,480,036.00	\$47,670,872.00

Barr has reviewed the bids for completeness based on requirements stated in the Project Manual under Section 00 02 00 Instruction to Bidders and determined that the bids meet the list of requirements to be considered a Qualified Bidder for the project as summarized below.

- Signed Bid Form and Acknowledgement of Addenda
- Bid Bond Form, per Project Manual Section 00 04 30 Bid Bond
- Required Bid Bond and ND Contractor's License
- List of Subcontractors and Suppliers

The low bid on Contract 3 is lower than the sum of any combination of bids on Contracts 1 and 2, and was 25% over the Engineer's estimate for Contract 3. Barr recommends awarding the bid to Wagner Construction, Inc. for the Contract 3 bid price of \$35,177,052.12 which is considered the lowest qualified bid for the Mouse River Enhanced Flood Protection Project – Phase MI-7E.

Enclosed are Project Manual Sections 00 05 10 Notice of Award. These documents must be complete and signed prior to starting work. A pre-construction meeting is requested to be scheduled at City Hall to include the City, Barr, Ackerman Estvold and Wagner Construction, Inc. prior to the start of construction.

Sincerely,



Patrick Brockamp, PE
 Barr Engineering Co.

Enclosures
 Attachment A – Notice of Award
 Attachment B – Bid Tabulation



TO: Mayor Ross
Members of the City Council

FROM: Jason Sorenson, Utilities Director

DATE: August 19, 2024

SUBJECT: WASTEWATER MASTER SERVICE AGREEMENTS

I. RECOMMENDED ACTION

It is recommended City Council approve the Master Service Agreements with Ackerman Engineering and Apex Engineering.

II. DEPARTMENT CONTACT PERSONS

Jason Sorenson, Utilities Director, 701-857-4768

III. DESCRIPTION

A. Background

In 2020, the Public Works Department went through an RFQ process for wastewater consultants. Two firms responded and the decision was made to enter into Master Service Agreements (MSA) with both firms. This allows city staff flexibility to work with two firms having varying workloads and expertise in different areas.

B. Proposed Project

The MSAs expired in 2023 so both firms were requested to send updated agreements. The agreements set general legal terms and each time a consultant is asked to work on a project a task order is signed that sets scope and fee.

C. Recommendation Detail

N/A

IV. IMPACT

A. Aspirations

Resilient and Prepared

B. Service/Delivery Impact:

Issues arise on a regular basis that require technical expertise that staff does not have experience with. These MSAs allow staff to react more quickly to get technical assistance on board in a timely manner.

C. Fiscal Impact

Project Costs

The MSAs don't have a funding component until a task order is generated.

Project Funding

Funding for individual task orders will generally be budgeted in a department budget. Task Orders for work not contemplated in the budget will be brought to council to approve a funding source.

VI. ALTERNATIVES

Council could elect to not approve the MSAs. This will make it more cumbersome and time-consuming to generate a service agreement each time assistance is requested and bring through council for approval.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the specific Agreement between Owner and Engineer, and the controlling Laws and Regulations.

EJCDC® E-505, Agreement between Owner and Engineer for Professional Services—Task Order Edition, is published in four parts: (1) the Main Agreement (general provisions governing all Task Orders)(see below); (2) the Exhibits to Main Agreement; (3) the Task Order Form; and (4) the Exhibits to Task Order. The Main Agreement contains a Guidelines for Use section that pertains to all four parts of E-505.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES— TASK ORDER EDITION

MAIN AGREEMENT

Prepared by



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American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES—TASK ORDER EDITION

MAIN AGREEMENT

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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES—TASK ORDER EDITION

MAIN AGREEMENT

This Main Agreement is a part of the Agreement between **City of Minot, North Dakota** (Owner) and **Apex Engineering Group, Inc.** (Engineer). Other terms used in the Agreement are defined in Article 7.

From time to time Owner may request that Engineer provide professional services for Specific Projects. Each engagement will be documented by a Task Order. This Main Agreement sets forth the general terms and conditions that apply to all duly executed Task Orders.

Owner and Engineer further agree as follows:

ARTICLE 1—SERVICES OF ENGINEER

1.01 General

- A. Engineer's services will be detailed in a duly executed Task Order for each Specific Project, or for a portion of a Specific Project.
- B. The Main Agreement is not a commitment by Owner to issue any Task Orders.
- C. Engineer will not be obligated to perform any prospective Task Order unless and until (1) Owner and Engineer agree to the particulars of the assignment, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters, and include such particulars in the Task Order, and (2) Owner and Engineer both sign the Task Order.
- D. Each duly executed Task Order will be subject to the terms and conditions of (a) this Main Agreement; (b) the Main Agreement's exhibits; (c) any executed written amendments of the Main Agreement (see Exhibit C); (d) the specific Task Order itself; (e) the specific Task Order's exhibits; and (f) any amendments or modifications of the specific Task Order.

1.02 Task Order Procedure

- A. The general recommended format of a Task Order is presented in the accompanying Task Order Form. Commonly-used Task Order exhibits are presented in the accompanying Exhibits to Task Order document.
- B. Each specific Task Order will indicate:
 - 1. Project Background Data;
 - 2. Specific services to be performed by Engineer ("Scope"), including key deliverables;
 - 3. Additions or Modifications to Owner's Responsibilities;
 - 4. Task Order Schedule;

Main Agreement.

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Page 1 of 32

5. Engineer's Compensation for Task Order; and
 6. Primary Subconsultants, if any.
- C. With respect to the Engineer's scope of services under a specific Task Order, each specific Task Order will either (1) be accompanied by and incorporate an Exhibit A, "Engineer's Services Under Task Order," and Exhibit B, "Deliverables Schedule," prepared for the specific Task Order, or (2) state a customized scope of services and deliverables schedule in the Task Order document itself or in an attachment.
- D. Upon signature of the Task Order by both parties (but no earlier than the Effective Date of the specific Task Order), Engineer will commence performance and furnish, or cause to be furnished, the services authorized by the Task Order.
- E. Task Orders may be amended as set forth in Paragraph 8.05.B of this Main Agreement.

1.03 Management of Engineering Services

- A. All phases of Engineer's services under each Task Order will include management of Engineer's Specific Project responsibilities, including but not limited to the following management tasks, whether separately tracked and itemized or included as being incidental to other phase and scope task items.
1. Develop and submit an Engineering Services Schedule. The Engineering Services Schedule will:
 - a. be consistent with and serve as a supplement to the Schedule of Deliverables set forth in Exhibit B to Task Order.
 - b. be updated on a regular basis, and as required to reflect any programmatic decisions by Owner.
 - c. include, but not be limited to, an anticipated sequence of tasks; estimates of task duration; interrelationships among tasks; milestone meetings and submittals; anticipated schedule of construction; and other pertinent Project events.
 2. Develop and submit detailed work plans from Exhibit A to Task Order tasks.
 3. Coordinate services within Engineer's internal team, and with Subconsultants and Engineer's Subcontractors.
 4. Prepare for and participate in meetings with consultants and contractors working on other parts of the Specific Project that may affect, or be affected by, Engineer's services or resulting construction.
 5. Prepare and submit **periodic** engineering services progress reports to the Owner. Include a summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns.
 6. Special Invoicing: In addition to, or as a substitute for, Engineer's standard invoicing, for each invoice provide the specified additional information or documentation, following the invoicing procedures indicated: **Not Applicable**.
 7. Conduct ongoing management tasks, including:

- a. Maintaining communications records and files pertaining to or arising from Engineer's services;
 - b. With respect to Engineer's services and other directly relevant parts of the Specific Project, prepare for and participate in periodic progress meetings with Owner to discuss progress, schedule, budget, issues, potential problems and their resolution; and
 - c. Preparing agendas prior to and minutes following all Engineer-led meetings.
- B. Unless a different standard is expressly set forth in a specific Task Order, in all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with **Engineer's CAD standards**, using **AutoCAD** – current version software.
- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be **Engineer's standard specifications**, unless a different source document is expressly identified in the specific Task Order.

1.04 Sequencing and Coordination

- A. For each Task Order, the Work to be designed or specified by Engineer, upon which the Engineer's scope has been established, will be performed or furnished under one prime Construction Contract, unless specified otherwise in the Task Order.
- B. If the Work designed or specified by Engineer under a specific Task Order is to be performed or furnished under more than one prime Construction Contract, or if Engineer's services are to be separately sequenced with the work of one or more of Owner's consultants or contractors (such as in the case of fast-tracking), then:
 - 1. the Task Order's Deliverables Schedule will account for the need to sequence and properly coordinate Engineer's services as applicable to the Work under the Construction Contracts; or
 - 2. If the Task Order does not address such sequencing and coordination, then Owner and Engineer will jointly develop a schedule for sequencing and coordination of services prior to commencement of final design services; this schedule is to be prepared and included in or become an amendment to the authorizing Task Order, whether the work under such contracts is to proceed concurrently or sequentially.

ARTICLE 2—OWNER'S RESPONSIBILITIES

2.01 Application of Owner's Responsibilities

- A. The responsibilities of Owner set forth in Article 2 apply to each Specific Project and each specific Task Order. Supplemental responsibilities of Owner applicable only to a specific Task Order may be stated in the specific Task Order.

2.02 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of the Specific Project, including Owner's:

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1. design objectives and constraints;
 2. space, capacity, and performance requirements;
 3. flexibility and expandability needs;
 4. design and construction standards;
 5. budgetary limitations; and
 6. any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services under the Task Order; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Surveys, Mapping, and Utility Documentation.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Specific Project, the Site, and adjacent areas.
 7. Data or consultations as required for the specific Task Order but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- D. If a specific Task Order requires Engineer to assist Owner in collating the various cost categories that comprise Total Project Costs, Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice).

- E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications prepared or furnished under a Task Order will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
- F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A to Task Order.
- G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Specific Project.

2.03 Owner's Instructions Regarding Bidding and Construction Contract Documents

- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
 - 1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in draft Construction Contract Documents;
 - 2. insurance and bonding requirements;
 - 3. protocols for electronic transmittals during bidding and construction;
 - 4. Owner's safety and security programs applicable to Contractor and other Constructors;
 - 5. diversity and other social responsibility requirements;
 - 6. bidding and contract requirements of funding, financing, or regulatory entities;
 - 7. other specific conditions applicable to the procurement of construction or contract documents;
 - 8. any other information necessary for Engineer to assist Owner in preparing, for each Specific Project, bidding-related documents (or requests for proposals or other construction procurement documents) and Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise) and other engineering or technical matters.
 - 1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Owner shall place and pay for advertisements for Bids in appropriate publications.

2.04 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for each Specific Project:
 - 1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - 2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
 - 3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for each Specific Project.
- D. With respect to the portions or phases of each Specific Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
 - 1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
 - 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Specific Project.
- E. Owner may delegate to a Contractor or others the responsibilities set forth in Paragraphs 2.04.C and D.

2.05 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement and under each Task Order.
- B. Owner will provide Engineer with Owner's budget for each Specific Project, including type and source of funding to be used and will promptly inform Engineer if the budget or funding sources change.

- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement and under each Task Order.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement and under each Task Order.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement or any Task Order. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement or any Task Order, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to a Specific Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, then Owner shall define and set forth, in an exhibit to the governing Task Order, the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
 - 1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 - 2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.
 - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.

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- b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
- 3. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of each Task Order, as required.
- 4. Perform or provide the following:
 - a. All other Owner responsibilities expressly identified in any Task Order, not otherwise set forth in this Agreement.

2.06 Payment

- A. Owner shall pay Engineer as set forth in each Task Order, pursuant to the applicable terms of Article 4.

ARTICLE 3—TERM AND TIMES FOR RENDERING SERVICES

3.01 Term

- A. This Agreement will be effective and applicable to Task Orders issued hereunder for **5** years from the Effective Date of the Agreement.
- B. The parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term.

3.02 Commencement

- A. Engineer is authorized to begin rendering services under a Task Order as of the Effective Date of the Task Order.

3.03 Time for Completion

- A. The Effective Date of the Task Order and the times for completing services or providing deliverables will be stated in each Task Order.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of a Specific Project, or of Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If the Contract Times to complete the Work under a Construction Contract are extended beyond the period stated in the governing Task Order, Owner will pay Engineer for the additional services during the extension based on the Standard Hourly Rates Method of Payment.
- E. If Engineer fails, for reasons within the control of Engineer, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

ARTICLE 4—INVOICES AND PAYMENTS

4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices; the terms of any progress reporting and special invoicing requirements in Paragraph 1.03, or as otherwise required in Exhibit A to the Task Order; and with the applicable terms of Appendix 1 to Main Agreement, Reimbursable Expenses Schedule, and Appendix 2 to Main Agreement, Standard Hourly Rates Schedule. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 Payments

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion, subject to the terms of Article 4. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
 - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date of a Task Order any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under the Task Order, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of this Main Agreement and the specific Task Order.

4.03 Basis of Compensation

- A. The bases of compensation (compensation methods) for Basic Services (including if applicable the bases of compensation for individual phases of Basic Services) and for Additional Services must be identified in each specific Task Order (Task Order Form, Paragraph 6). Owner shall pay Engineer for services in accordance with the applicable basis of compensation.
- B. The two following bases of compensation are used for services under Task Orders, as identified in each specific Task Order:
 - 1. Lump Sum (plus any expenses expressly eligible for reimbursement)

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2. Standard Hourly Rates (plus any expenses expressly eligible for reimbursement)
- C. The terms and conditions applicable to each of the two compensation methods are set forth in Paragraph 4.04.

4.04 Explanation of Compensation Methods

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services.
2. The Lump Sum will include compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Engineer's Subcontractor and Subconsultant charges.
3. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services in the specified category (see Appendix 1 for rates or charges):
 - a. **None**
4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services completed during the billing period to the Lump Sum.

B. Standard Hourly Rates

1. For the specified category of services, the Owner shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class. Under this method, Engineer shall also be entitled to reimbursement from Owner for the expenses identified in Paragraph 4.05 below, and Appendix 1.
2. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
3. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Agreement as Appendices 1 and 2.
4. The total estimated compensation for the specified category of services will be stated in the Task Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, and reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any).
5. The amounts billed will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any).

6. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 1st**) to reflect equitable changes in the compensation payable to Engineer.

4.05 Reimbursable Expenses

- A. Under the Lump Sum method basis of compensation to Engineer, unless expressly indicated otherwise the Lump Sum amount includes the following categories of expenses: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Engineer's Subcontractor and Subconsultant charges. These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in Paragraph 4.04.A.3 above.
- B. Expenses eligible for reimbursement under the Standard Hourly Rate method of compensation include the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Task Order:
 1. Transportation (including mileage), lodging, and subsistence incidental thereto;
 2. Providing and maintaining field office facilities including furnishings and utilities;
 3. Toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items;
 4. Consultant charges; and
 5. Other expenses identified in Appendix 1.
- C. Reimbursable expenses reasonably and necessarily incurred in connection with services provided under the Standard Hourly Rate method must be paid at the rates set forth in Appendix 1, Reimbursable Expenses Schedule, subject to the factors set forth below.
- D. The amounts payable to Engineer for reimbursable expenses will be the Project-specific internal expenses actually incurred or allocated by Engineer, plus all invoiced external reimbursable expenses allocable to the Specific Project, the latter multiplied by a factor of **1.10**.
- E. Whenever Engineer is entitled to compensation for the charges of its Consultants, those charges will be the amount billed by such Consultants to Engineer times a factor of **1.10**.
- F. The external reimbursable expenses and Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

4.06 Other Provisions Concerning Payment

- A. Estimated Compensation Amounts

1. Engineer's estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
2. When estimated compensation amounts have been stated in a Task Order and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination for Owner's convenience of Engineer's services under the Task Order. Upon notice, Owner and Engineer will promptly review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services under the Task Order for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer will be paid for all services rendered.

ARTICLE 5—OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6—GENERAL CONSIDERATIONS

6.01 Standards of Performance

- A. Standard of Care: The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

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- B. Technical Accuracy: Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. Engineer's Subcontractors and Subconsultants: Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. Reliance on Others: Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. Compliance with Laws and Regulations, and Policies and Procedures
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date of the Task Order to Laws and Regulations,
 - b. the receipt by Engineer after the Effective Date of the Task Order of Owner-provided written policies and procedures, and
 - c. changes after the Effective Date of the Task Order to Owner-provided written policies or procedures.
- F. General Conditions of Construction Contract: The general conditions for any construction contract documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in this Agreement.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under a specific Task Order, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence the Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.

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- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer. Engineer shall continue to own the Documents and all associated rights whether or not the Specific Project is completed.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project.
 - 2. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations:
 - a. Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other

project, or for any other use or purpose, without written verification or adaptation by Engineer;

- b. any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Subconsultants;
 - c. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and
 - d. such limited license to Owner shall not create any rights in third parties.
- B. If Engineer, at Owner's request, verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.
- C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.
- D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, all correspondence, Documents, text, data, drawings, information, and graphics related to each Specific Project, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
- 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP or in a specific Task Order.
 - 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to

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Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.

- B. If this Agreement does not include Exhibit F, or a specific Task Order expressly excludes the application of Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.
- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
 - 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
 - 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
 - 4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
 - 1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies,

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documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation made available for review under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.

- F. All construction contracts entered into by Owner with respect to a Specific Project must require builder's risk or similar property insurance.
- G. All policies of property insurance relating to a Specific Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Specific Project. Owner and Engineer shall take appropriate measures in other Specific Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so, requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

A. Suspension

- 1. By Owner: Owner may suspend Engineer's services under a specific Task Order for up to 90 days upon 7 days' written notice to Engineer.
- 2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under a Task Order:
 - a. if Owner has failed to pay Engineer for invoiced services and expenses under that Task Order, as set forth in Paragraphs 4.02.B and 4.02.C;

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- b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
 - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under the Task Order.
 - 3. A suspension under a specific Task Order, whether by Owner or Engineer, does not affect the duty of the two parties to proceed with their obligations under other Task Orders.
- B. Termination for Cause—Task Order
- 1. Either party may terminate a Task Order for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement and the specific Task Order, through no fault of the terminating party.
 - a. Notwithstanding the foregoing, the Task Order will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
 - 2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate a Task Order for cause upon 7 days' written notice:
 - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
 - b. if the Engineer's services under the Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
 - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
 - 3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Cause—Main Agreement: In the case of a default by Owner in its obligation to pay Engineer for its services under more than one specific Task Order, Engineer may request immediate payment of all amounts invoiced on other Task Orders, and may invoice Owner for continued services on such Task Orders on a two-week billing cycle, with payment due within one week of an invoice. If Owner fails to make such payments, then upon 7 days' notice Engineer may terminate this Main Agreement and all Task Orders.
- D. Termination for Convenience by Owner: Owner may terminate a Task Order or this Main Agreement for Owner's convenience, effective upon Engineer's receipt of notice from Owner.
- E. Effective Date of Termination: If Owner terminates the Main Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later

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than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files. Engineer shall be entitled to compensation for such tasks.

- F. **Payments Upon Termination:** In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services that have been performed or furnished in accordance with this Main Agreement and the specific Task Order, and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated a Task Order for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Main Agreement or as otherwise agreed in writing.
 2. If Owner has terminated the Main Agreement for convenience, or if Engineer has terminated a Task Order for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in this Main Agreement.

6.06 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Main Agreement and any Task Order issued under this Main Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Main Agreement, or in any Task Order, without the written consent of the other party, 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 Main Agreement or any Task Order.
- C. Unless expressly provided otherwise in this Main Agreement:
1. All duties and responsibilities undertaken pursuant to this Main Agreement or any Task Order will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

2. Nothing in this Main Agreement or in any Task Order will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in all Construction Contracts associated with this Main Agreement and its Task Orders.

6.07 Dispute Resolution

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
- B. Mediation: Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Main Agreement or any Task Order hereunder, or to any breach of this Main Agreement or any Task Order (“Disputes”) to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
- C. If the parties fail to resolve a dispute through mediation under Paragraph 6.07.B, then either or both may invoke the applicable dispute resolution procedures of Exhibit H. If Exhibit H is not included, or if no applicable dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Main Agreement and all Task Orders (unless expressly stated otherwise) are to be governed by the Laws and Regulations of the state North Dakota.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of Owner’s principal office; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which Owner’s principal office is located.

6.09 Environmental Condition of Site

- A. With respect to each specific Task Order, Specific Project, and Site (unless indicated otherwise in a specific Task Order), Owner represents to Engineer that, as of the Effective Date of the Task Order, to the best of Owner’s knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern. For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as “undisclosed” Constituents of Concern.
 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.

2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under a Task Order are not undisclosed Constituents of Concern.
 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that for all Task Orders the Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Specific Project adversely affected thereby until such portion of the Specific Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- E. If the presence at a Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under a specific Task Order, then:
1. if the adverse effects do not preclude Engineer from completing its Specific Project services in general accordance with the Task Order on unaffected or marginally affected portions of the Specific Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Task Order will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
 2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its Specific Project services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate the Task Order for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to a Specific Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."
- B. Indemnification by Owner: Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors as required by Laws and Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.
- C. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under a Site, provided that:
 - 1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
 - 2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use

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or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under a specific Task Order, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Task Order. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Main Agreement or a Task Order will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All notices must be effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Main Agreement or in a Task Order will survive completion or termination for any reason.
- C. Severability: Any provision or part of the Main Agreement or any Task Order held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Main Agreement and any Task Order will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Specific Project is not completed, then no later than the date of Owner's last payment to Engineer under the applicable Task Order.

ARTICLE 7—DEFINITIONS

7.01 Defined Terms

- A. Wherever used in this Agreement (as defined herein), terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
 - 1. Addenda—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. Additional Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of a specific Task Order.

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3. Agreement—This written contract for professional services between Owner and Engineer, including the Main Agreement, all exhibits and appendices to the Main Agreement identified in Paragraphs 8.01 and 8.02, all duly executed amendments, and all Task Orders, including all exhibits and duly executed amendments to such Task Orders.
 - a. Main Agreement—See definition at Paragraph 7.01.A.28 below.
4. Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. Basic Services—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of a specific Task Order.
6. Bidding/Proposal Documents—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
7. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
8. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
9. Constituents of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
10. Construction Contract—The entire and integrated written contract between the Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.

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13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of a Specific Project designed or specified by or for Engineer under a Task Order, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner's costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer's Subcontractors), performing or supporting construction activities relating to a Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.
17. Documents—All documents expressly identified as deliverables in this Main Agreement or in any Task Order, whether in printed or Electronic Document form, required to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. Effective Date of the Main Agreement—The date indicated in this Main Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Main Agreement is signed and delivered by the last of the two parties to sign and deliver.
20. Effective Date of the Task Order—The date indicated in a specific Task Order on which the Task Order becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.
21. Electronic Document—Any Specific Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
22. Electronic Means—Electronic mail (email), upload/download from a secure Specific Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by

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the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

23. Engineer—The individual or entity named as such in this Main Agreement.
24. Engineer's Subcontractor—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to a Specific Project as an independent contractor.
25. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
26. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
27. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
28. Main Agreement—The portion of the Agreement containing the general terms and conditions of the contract between Owner and Engineer, applicable to all Task Orders, including but not limited to provisions regarding task order procedures, Owner responsibilities, invoice and payment procedures, standard of care, ownership of documents, suspension and termination, and definitions.
29. Owner—The individual or entity named as such in this Main Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning Specific Projects.
30. Record Drawings—Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
31. Resident Project Representative—As authorized by a specific Task Order, the representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR. The duties and responsibilities of the RPR (if any) will be as set forth in each Task Order.

32. Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
33. Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
34. Site—Lands or areas to be indicated in the Construction Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
35. Specifications—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
36. Specific Project—A specifically identified and defined total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Task Order are a part.
37. Subconsultant—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to a Specific Project as an independent contractor.
38. Subcontractor—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
39. Submittal—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
40. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the

purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

41. **Supplier**—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
42. **Task Order**—A document executed under this Main Agreement by Owner and Engineer (including incorporated exhibits and amendments if any), stating the scope of services, Engineer's compensation, times for performance of services, and other relevant information.
43. **Total Project Costs**—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to Owner.
44. **Underground Facilities**—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
45. **Work**—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
46. **Work Change Directive**—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8—EXHIBITS AND APPENDICES TO MAIN AGREEMENT; TASK ORDER FORM; EXHIBITS TO TASK ORDER; SPECIAL PROVISIONS

8.01 Exhibits to Main Agreement

The following exhibits are incorporated by reference and included as part of this Main Agreement, and as such are applicable to all Task Orders:

- A. Reserved.
- B. Reserved.
- C. Exhibit C, Amendment to Main Agreement (form).
- D. Reserved.
- E. Reserved.
- F. Exhibit F, Electronic Documents Protocol (EDP).
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability.

8.02 Appendices to Main Agreement

- A. The following appendices are incorporated by reference and made a part of this Main Agreement:
 - 1. Appendix 1—Reimbursable Expenses Schedule
 - 2. Appendix 2—Standard Hourly Rates Schedule

8.03 Resource Documents: Task Order Form and Exhibits to Task Order

- A. The parties acknowledge the accompanying documents, “Task Order Form” and “Exhibits to Task Order.” These documents are a resource for the parties’ use when a specific Task Order is issued. To the extent practical and applicable to a Specific Project, the parties will use the Task Order Form and Exhibits to Task Order as the basis for preparing the specific Task Order and its exhibits. The Task Order Form and Exhibits to Task Order are not a part of this Main Agreement or binding on the parties except to the extent they serve as the basis for a duly executed Task Order and its exhibits.

8.04 Executed Task Orders and Their Exhibits

- A. When a specific Task Order is duly executed by Owner and Engineer, the Task Order and its exhibits become an integral part of the Agreement, governed by the Main Agreement and its exhibits.

8.05 Total Agreement; Amendments to Main Agreement and Task Orders

- A. This Agreement (as defined herein) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral understandings.
- B. Amendments:

Main Agreement.

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1. This Main Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Such written instruments should be based whenever possible on the format of Exhibit C to this Main Agreement.
2. Amendments and modifications to a Task Order may be made by execution of a new, expressly related Task Order, or by execution of a written amendment to the Task Order.
3. Nothing in any Task Order will be construed as revising or modifying the terms and conditions of the Main Agreement or its exhibits, except as expressly stated in such Task Order.

8.06 Designated Representatives

- A. With the execution of this Main Agreement, Engineer and Owner shall each designate a specific individual to act as representative under the Main Agreement. Such an individual must have authority to execute Task Orders, transmit instructions, receive information, and render decisions with respect to this Main Agreement, on behalf of the party that the individual represents.
- B. With the execution of each Task Order, Engineer and Owner shall each designate a specific individual to act as representative with respect to the Task Order. Such individual must have authority to transmit instructions, receive information, and render decisions with respect to the specific Task Order, on behalf of the party that the individual represents.

8.07 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.07:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

8.08 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict

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of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.

2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

This Main Agreement's Effective Date is **[date to be inserted at the time of execution]**.

Owner:

City of Minot, North Dakota

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

10 3rd Avenue SW

Minot, ND 58701

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

Engineer:

Apex Engineering Group, Inc.

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

Timothy J. Paustian

(typed or printed)

Title:

Vice President

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

4733 Amber Valley Parkway South

Fargo, ND 58104

Designated Representative:

Name:

Mike Berg

(typed or printed)

Title:

Vice President

(typed or printed)

Address:

600 South 2nd Street – Suite 145

Bismarck, ND 58504

Phone:

Email:

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the specific Agreement between Owner and Engineer, and the controlling Laws and Regulations.

EJCDC® E-505, Agreement between Owner and Engineer for Professional Services—Task Order Edition, is published in four parts: (1) the Main Agreement (general provisions governing all Task Orders)(see below); (2) the Exhibits to Main Agreement; (3) the Task Order Form; and (4) the Exhibits to Task Order. The Main Agreement contains a Guidelines for Use section that pertains to all four parts of E-505.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES— TASK ORDER EDITION

PART 1 OF 4: MAIN AGREEMENT

Prepared by



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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES—TASK ORDER EDITION

MAIN AGREEMENT

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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES—TASK ORDER EDITION

MAIN AGREEMENT

This Main Agreement is a part of the Agreement between **City of Minot** (Owner) and **Ackerman-Estvold** (Engineer). Other terms used in the Agreement are defined in Article 7.

From time to time Owner may request that Engineer provide professional services for Specific Projects. Each engagement will be documented by a Task Order. This Main Agreement sets forth the general terms and conditions that apply to all duly executed Task Orders.

Owner and Engineer further agree as follows:

ARTICLE 1—SERVICES OF ENGINEER

1.01 General

- A. Engineer's services will be detailed in a duly executed Task Order for each Specific Project, or for a portion of a Specific Project.
- B. The Main Agreement is not a commitment by Owner to issue any Task Orders.
- C. Engineer will not be obligated to perform any prospective Task Order unless and until (1) Owner and Engineer agree to the particulars of the assignment, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters, and include such particulars in the Task Order, and (2) Owner and Engineer both sign the Task Order.
- D. Each duly executed Task Order will be subject to the terms and conditions of (a) this Main Agreement; (b) the Main Agreement's exhibits; (c) any executed written amendments of the Main Agreement (see Exhibit C); (d) the specific Task Order itself; (e) the specific Task Order's exhibits; and (f) any amendments or modifications of the specific Task Order.

1.02 Task Order Procedure

- A. The general recommended format of a Task Order is presented in the accompanying Task Order Form. Commonly-used Task Order exhibits are presented in the accompanying Exhibits to Task Order document.
- B. Each specific Task Order will indicate:
 - 1. Project Background Data;
 - 2. Specific services to be performed by Engineer ("Scope"), including key deliverables;
 - 3. Additions or Modifications to Owner's Responsibilities;
 - 4. Task Order Schedule;

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5. Engineer's Compensation for Task Order; and
 6. Primary Subconsultants, if any.
- C. With respect to the Engineer's scope of services under a specific Task Order, each specific Task Order will either (1) be accompanied by and incorporate an Exhibit A, "Engineer's Services Under Task Order," and Exhibit B, "Deliverables Schedule," prepared for the specific Task Order, or (2) state a customized scope of services and deliverables schedule in the Task Order document itself or in an attachment.
 - D. Upon signature of the Task Order by both parties (but no earlier than the Effective Date of the specific Task Order), Engineer will commence performance and furnish, or cause to be furnished, the services authorized by the Task Order.
 - E. Task Orders may be amended as set forth in Paragraph 8.05.B of this Main Agreement.

1.03 Management of Engineering Services

- A. All phases of Engineer's services under each Task Order will include management of Engineer's Specific Project responsibilities, including but not limited to the following management tasks, whether separately tracked and itemized or included as being incidental to other phase and scope task items.
 1. Develop and submit an Engineering Services Schedule. The Engineering Services Schedule will:
 - a. be consistent with and serve as a supplement to the Schedule of Deliverables set forth in Exhibit B to Task Order.
 - b. be updated on a regular basis, and as required to reflect any programmatic decisions by Owner.
 - c. include, but not be limited to, an anticipated sequence of tasks; estimates of task duration; interrelationships among tasks; milestone meetings and submittals; anticipated schedule of construction; and other pertinent Project events.
 2. Develop and submit detailed work plans from Exhibit A to Task Order tasks.
 3. Coordinate services within Engineer's internal team, and with Subconsultants and Engineer's Subcontractors.
 4. Prepare for and participate in meetings with consultants and contractors working on other parts of the Specific Project that may affect, or be affected by, Engineer's services or resulting construction.
 5. Prepare and submit **monthly** engineering services progress reports to the Owner. Include a summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns.
 6. Conduct ongoing management tasks, including:
 - a. Maintaining communications records and files pertaining to or arising from Engineer's services;
 - b. With respect to Engineer's services and other directly relevant parts of the Specific Project, prepare for and participate in periodic progress meetings with Owner to

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discuss progress, schedule, budget, issues, potential problems and their resolution;
and

- c. Preparing agendas prior to and minutes following all Engineer-led meetings.
- B. Unless a different standard is expressly set forth in a specific Task Order, in all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with **Engineer's CAD standards**, AutoCAD software.
- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be **Owner's standard specifications**, unless a different source document is expressly identified in the specific Task Order.

1.04 Sequencing and Coordination

- A. For each Task Order, the Work to be designed or specified by Engineer, upon which the Engineer's scope has been established, will be performed or furnished under one prime Construction Contract, unless specified otherwise in the Task Order.
- B. If the Work designed or specified by Engineer under a specific Task Order is to be performed or furnished under more than one prime Construction Contract, or if Engineer's services are to be separately sequenced with the work of one or more of Owner's consultants or contractors (such as in the case of fast-tracking), then:
 - 1. the Task Order's Deliverables Schedule will account for the need to sequence and properly coordinate Engineer's services as applicable to the Work under the Construction Contracts; or
 - 2. If the Task Order does not address such sequencing and coordination, then Owner and Engineer will jointly develop a schedule for sequencing and coordination of services prior to commencement of final design services; this schedule is to be prepared and included in or become an amendment to the authorizing Task Order, whether the work under such contracts is to proceed concurrently or sequentially.

ARTICLE 2—OWNER'S RESPONSIBILITIES

2.01 Application of Owner's Responsibilities

- A. The responsibilities of Owner set forth in Article 2 apply to each Specific Project and each specific Task Order. Supplemental responsibilities of Owner applicable only to a specific Task Order may be stated in the specific Task Order.

2.02 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of the Specific Project, including Owner's:
 - 1. design objectives and constraints;
 - 2. space, capacity, and performance requirements;
 - 3. flexibility and expandability needs;

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4. design and construction standards;
 5. budgetary limitations; and
 6. any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services under the Task Order; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
1. Property descriptions.
 2. Zoning, deed, and other land use restrictions.
 3. Surveys, Mapping, and Utility Documentation.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Specific Project, the Site, and adjacent areas.
 7. Data or consultations as required for the specific Task Order but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- D. If a specific Task Order requires Engineer to assist Owner in collating the various cost categories that comprise Total Project Costs, Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice).
- E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications prepared or furnished under a Task Order will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.

- F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A to Task Order.
- G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Specific Project.

2.03 Owner's Instructions Regarding Bidding and Construction Contract Documents

- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
 - 1. Owner's standard contract forms, general conditions (if other than the 2018 edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in draft Construction Contract Documents;
 - 2. insurance and bonding requirements;
 - 3. protocols for electronic transmittals during bidding and construction;
 - 4. Owner's safety and security programs applicable to Contractor and other Constructors;
 - 5. diversity and other social responsibility requirements;
 - 6. bidding and contract requirements of funding, financing, or regulatory entities;
 - 7. other specific conditions applicable to the procurement of construction or contract documents;
 - 8. any other information necessary for Engineer to assist Owner in preparing, for each Specific Project, bidding-related documents (or requests for proposals or other construction procurement documents) and Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise) and other engineering or technical matters.
 - 1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Owner shall place and pay for advertisements for Bids in appropriate publications.

2.04 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for each Specific Project:
 - 1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by

the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.

2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
 3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for each Specific Project.
- D. With respect to the portions or phases of each Specific Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Specific Project.
- E. Owner may delegate to a Contractor or others the responsibilities set forth in Paragraphs 2.04.C and D.

2.05 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement and under each Task Order.
- B. Owner will provide Engineer with Owner's budget for each Specific Project, including type and source of funding to be used and will promptly inform Engineer if the budget or funding sources change.
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement and under each Task Order.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement and under each Task Order.

- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement or any Task Order. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement or any Task Order, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to a Specific Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, then Owner shall define and set forth, in an exhibit to the governing Task Order, the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
 - 1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 - 2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.
 - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.
 - b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
 - 3. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of each Task Order, as required.
 - 4. Perform or provide the following:

- a. All other Owner responsibilities expressly identified in any Task Order, not otherwise set forth in this Agreement.

2.06 Payment

- A. Owner shall pay Engineer as set forth in each Task Order, pursuant to the applicable terms of Article 4.

ARTICLE 3—TERM AND TIMES FOR RENDERING SERVICES

3.01 Term

- A. This Agreement will be effective and applicable to Task Orders issued hereunder for **five** years from the Effective Date of the Agreement.
- B. The parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term.

3.02 Commencement

- A. Engineer is authorized to begin rendering services under a Task Order as of the Effective Date of the Task Order.

3.03 Time for Completion

- A. The Effective Date of the Task Order and the times for completing services or providing deliverables will be stated in each Task Order.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of a Specific Project, or of Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If the Contract Times to complete the Work under a Construction Contract are extended beyond the period stated in the governing Task Order, Owner will pay Engineer for the additional services during the extension based on the Standard Hourly Rates Method of Payment.
- E. If Engineer fails, for reasons within the control of Engineer, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

ARTICLE 4—INVOICES AND PAYMENTS

4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices; the terms of any progress reporting and special invoicing requirements in Paragraph 1.03, or as otherwise required in Exhibit A to the Task Order; and

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with the applicable terms of Appendix 1 to Main Agreement, Reimbursable Expenses Schedule, and Appendix 2 to Main Agreement, Standard Hourly Rates Schedule. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 Payments

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion, subject to the terms of Article 4. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
 - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date of a Task Order any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under the Task Order, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of this Main Agreement and the specific Task Order.

4.03 Basis of Compensation

- A. The bases of compensation (compensation methods) for Basic Services (including if applicable the bases of compensation for individual phases of Basic Services) and for Additional Services must be identified in each specific Task Order (Task Order Form, Paragraph 6). Owner shall pay Engineer for services in accordance with the applicable basis of compensation.
- B. The three following bases of compensation are used for services under Task Orders, as identified in each specific Task Order:
 - 1. Lump Sum (plus any expenses expressly eligible for reimbursement)
 - 2. Standard Hourly Rates (plus any expenses expressly eligible for reimbursement)
 - 3. Direct Labor Costs Times a Factor (plus any expenses expressly eligible for reimbursement)
- C. The terms and conditions applicable to each of the three compensation methods are set forth in Paragraph 4.04.

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4.04 Explanation of Compensation Methods

A. Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services.
2. The Lump Sum will include compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. The Lump Sum constitutes full and complete compensation for Engineer's services in the specified category, including labor costs, overhead, profit, expenses (other than those expenses expressly eligible for reimbursement, if any), and Engineer's Subcontractor and Subconsultant charges.
3. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of the services in the specified category (see Appendix 1 for rates or charges):
 - a. **None**
4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services completed during the billing period to the Lump Sum.

B. Standard Hourly Rates

1. For the specified category of services, the Owner shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class. Under this method, Engineer shall also be entitled to reimbursement from Owner for the expenses identified in Paragraph 4.05 below, and Appendix 1.
2. Standard Hourly Rates include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
3. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Agreement as Appendices 1 and 2.
4. The total estimated compensation for the specified category of services will be stated in the Task Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, and reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any).
5. The amounts billed will be based on the cumulative hours charged to the specified category of services on the Specific Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any).
6. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 1, 2026**) to reflect equitable changes in the compensation payable to Engineer.

C. Direct Labor Costs Times a Factor

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1. For the specified category of services, the Owner shall pay Engineer an amount equal to Engineer's Direct Labor Costs times a factor of **1.0** for the services of Engineer's employees engaged on the Specific Project. Direct Labor Costs means salaries and wages paid to employees but does not include payroll-related costs or benefits. Under this method, Engineer shall also be entitled to reimbursement from Owner for the expenses identified in Paragraph 4.05 below, and Appendix 1.
2. Engineer's Reimbursable Expenses Schedule is attached to this Exhibit as Appendix 1.
3. The total estimated compensation for the specified category of services must be stated in the Task Order. This total estimated compensation incorporates all labor, overhead, profit, and reimbursable expenses (including Consultant's charges, if any).
4. The amounts billed will be based on the applicable Direct Labor Costs for the cumulative hours charged to the specified category of services on the Specific Project during the billing period times the above-designated Factor, plus reimbursable expenses (including Engineer's Subcontractor and Subconsultant charges, if any).
5. The Reimbursable Expenses Schedule, Direct Labor Costs, and the factor applied to Direct Labor Costs will be adjusted annually (as of **January 1, 2025**) to reflect equitable changes in the compensation payable to Engineer.

4.05 Reimbursable Expenses

- A. Under the Lump Sum method basis of compensation to Engineer, unless expressly indicated otherwise the Lump Sum amount includes the following categories of expenses: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone services, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items; and Engineer's Subcontractor and Subconsultant charges. These expenses are not reimbursable under the Lump Sum method, unless expressly indicated otherwise in Paragraph 4.04.A.3 above.
- B. Expenses eligible for reimbursement under the Direct Labor Costs Times a Factor and Standard Hourly Rate methods of compensation include the following expenses reasonably and necessarily incurred by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Task Order:
 1. Transportation (including mileage), lodging, and subsistence incidental thereto;
 2. Providing and maintaining field office facilities including furnishings and utilities;
 3. Toll telephone calls, mobile phone services, and courier services; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Specific Project-related items;
 4. Consultant charges; and
 5. Other expenses identified in Appendix 1.
- C. Reimbursable expenses reasonably and necessarily incurred in connection with services provided under the Direct Labor Costs Times a Factor and Standard Hourly Rate methods

must be paid at the rates set forth in Appendix 1, Reimbursable Expenses Schedule, subject to the factors set forth below.

- D. The amounts payable to Engineer for reimbursable expenses will be the Project-specific internal expenses actually incurred or allocated by Engineer, plus all invoiced external reimbursable expenses allocable to the Specific Project, the latter multiplied by a factor of **1.0**.
- E. Whenever Engineer is entitled to compensation for the charges of its Consultants, those charges will be the amount billed by such Consultants to Engineer times a factor of **1.0**.
- F. The external reimbursable expenses and Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

4.06 Other Provisions Concerning Payment

A. Estimated Compensation Amounts

- 1. Engineer's estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
- 2. When estimated compensation amounts have been stated in a Task Order and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination for Owner's convenience of Engineer's services under the Task Order. Upon notice, Owner and Engineer will promptly review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services under the Task Order for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer will be paid for all services rendered.

ARTICLE 5—OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

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5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6—GENERAL CONSIDERATIONS

6.01 Standards of Performance

- A. **Standard of Care:** The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. **Technical Accuracy:** Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. **Engineer's Subcontractors and Subconsultants:** Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. **Reliance on Others:** Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. **Compliance with Laws and Regulations, and Policies and Procedures**
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date of the Task Order to Laws and Regulations,
 - b. the receipt by Engineer after the Effective Date of the Task Order of Owner-provided written policies and procedures, and
 - c. changes after the Effective Date of the Task Order to Owner-provided written policies or procedures.

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- F. General Conditions of Construction Contract: The general conditions for any construction contract documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in this Agreement.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under a specific Task Order, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence the Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer. Engineer shall continue to own the Documents and all associated rights whether or not the Specific Project is completed.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project.
 - 2. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations:
 - a. Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 - b. any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Subconsultants;
 - c. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and
 - d. such limited license to Owner shall not create any rights in third parties.

6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, all correspondence, Documents, text, data, drawings, information, and graphics related to each Specific Project, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
 - 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP or in a specific Task Order.
 - 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.

- B. If this Agreement does not include Exhibit F, or a specific Task Order expressly excludes the application of Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.
- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
 - 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
 - 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
 - 4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
 - 1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any

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documentation made available for review under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.

- F. All construction contracts entered into by Owner with respect to a Specific Project must require builder's risk or similar property insurance.
- G. All policies of property insurance relating to a Specific Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Specific Project. Owner and Engineer shall take appropriate measures in other Specific Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so, requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

A. Suspension

- 1. By Owner: Owner may suspend Engineer's services under a specific Task Order for up to 90 days upon 7 days' written notice to Engineer.
- 2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under a Task Order:
 - a. if Owner has failed to pay Engineer for invoiced services and expenses under that Task Order, as set forth in Paragraphs 4.02.B and 4.02.C;
 - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
 - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under the Task Order.

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3. A suspension under a specific Task Order, whether by Owner or Engineer, does not affect the duty of the two parties to proceed with their obligations under other Task Orders.
- B. Termination for Cause—Task Order
1. Either party may terminate a Task Order for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement and the specific Task Order, through no fault of the terminating party.
 - a. Notwithstanding the foregoing, the Task Order will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
 2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate a Task Order for cause upon 7 days' written notice:
 - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
 - b. if the Engineer's services under the Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
 - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
 3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Cause—Main Agreement: In the case of a default by Owner in its obligation to pay Engineer for its services under more than one specific Task Order, Engineer may request immediate payment of all amounts invoiced on other Task Orders, and may invoice Owner for continued services on such Task Orders on a two-week billing cycle, with payment due within one week of an invoice. If Owner fails to make such payments, then upon 7 days' notice Engineer may terminate this Main Agreement and all Task Orders.
- D. Termination for Convenience by Owner: Owner may terminate a Task Order or this Main Agreement for Owner's convenience, effective upon Engineer's receipt of notice from Owner.
- E. Effective Date of Termination: If Owner terminates the Main Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files. Engineer shall be entitled to compensation for such tasks.

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- F. **Payments Upon Termination:** In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services that have been performed or furnished in accordance with this Main Agreement and the specific Task Order, and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated a Task Order for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Main Agreement or as otherwise agreed in writing.
 2. If Owner has terminated the Main Agreement for convenience, or if Engineer has terminated a Task Order for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in this Main Agreement.

6.06 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Main Agreement and any Task Order issued under this Main Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Main Agreement, or in any Task Order, without the written consent of the other party, 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 Main Agreement or any Task Order.
- C. Unless expressly provided otherwise in this Main Agreement:
1. All duties and responsibilities undertaken pursuant to this Main Agreement or any Task Order will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 2. Nothing in this Main Agreement or in any Task Order will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in all Construction Contracts associated with this Main Agreement and its Task Orders.

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6.07 Dispute Resolution

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
- B. Mediation: Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Main Agreement or any Task Order hereunder, or to any breach of this Main Agreement or any Task Order (“Disputes”) to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
- C. If the parties fail to resolve a dispute through mediation under Paragraph 6.07.B, then either or both may invoke the applicable dispute resolution procedures of Exhibit H. If Exhibit H is not included, or if no applicable dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Main Agreement and all Task Orders (unless expressly stated otherwise) are to be governed by the Laws and Regulations of the state in which the principal office of the Owner is located: **North Dakota**.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of Owner’s principal office; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which Owner’s principal office is located.

6.09 Environmental Condition of Site

- A. With respect to each specific Task Order, Specific Project, and Site (unless indicated otherwise in a specific Task Order), Owner represents to Engineer that, as of the Effective Date of the Task Order, to the best of Owner’s knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern. For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as “undisclosed” Constituents of Concern.
 - 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
 - 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under a Task Order are not undisclosed Constituents of Concern.
 - 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not

undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.

- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that for all Task Orders the Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Specific Project adversely affected thereby until such portion of the Specific Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- E. If the presence at a Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under a specific Task Order, then:
 - 1. if the adverse effects do not preclude Engineer from completing its Specific Project services in general accordance with the Task Order on unaffected or marginally affected portions of the Specific Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Task Order will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
 - 2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its Specific Project services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate the Task Order for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to a Specific Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or

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destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."

- B. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under a Site, provided that:
 - 1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
 - 2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services under a specific Task Order, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under the Task Order. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

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6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Main Agreement or a Task Order will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words “Formal Notice” or similar in the e-mail’s subject line. All notices must be effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Main Agreement or in a Task Order will survive completion or termination for any reason.
- C. Severability: Any provision or part of the Main Agreement or any Task Order held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party’s non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Main Agreement and any Task Order will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer’s services do not include Construction Phase services, or the Specific Project is not completed, then no later than the date of Owner’s last payment to Engineer under the applicable Task Order.

ARTICLE 7—DEFINITIONS

7.01 Defined Terms

- A. Wherever used in this Agreement (as defined herein), terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
 - 1. Addenda—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. Additional Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of a specific Task Order.
 - 3. Agreement—This written contract for professional services between Owner and Engineer, including the Main Agreement, all exhibits and appendices to the Main Agreement identified in Paragraphs 8.01 and 8.02, all duly executed amendments, and all Task Orders, including all exhibits and duly executed amendments to such Task Orders.
 - a. Main Agreement—See definition at Paragraph 7.01.A.28 below.
 - 4. Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.

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5. Basic Services—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of a specific Task Order.
6. Bidding/Proposal Documents—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
7. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
8. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
9. Constituents of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
10. Construction Contract—The entire and integrated written contract between the Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of a Specific Project designed or specified by or for Engineer under a Task Order, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

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15. **Constructor**—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), performing or supporting construction activities relating to a Specific Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. **Contractor**—The entity or individual with which Owner enters into a Construction Contract.
17. **Documents**—All documents expressly identified as deliverables in this Main Agreement or in any Task Order, whether in printed or Electronic Document form, required to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
18. **Drawings**—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. **Effective Date of the Main Agreement**—The date indicated in this Main Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Main Agreement is signed and delivered by the last of the two parties to sign and deliver.
20. **Effective Date of the Task Order**—The date indicated in a specific Task Order on which the Task Order becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.
21. **Electronic Document**—Any Specific Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
22. **Electronic Means**—Electronic mail (email), upload/download from a secure Specific Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
23. **Engineer**—The individual or entity named as such in this Main Agreement.
24. **Engineer’s Subcontractor**—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to a Specific Project as an independent contractor.

25. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
26. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
27. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
28. Main Agreement—The portion of the Agreement containing the general terms and conditions of the contract between Owner and Engineer, applicable to all Task Orders, including but not limited to provisions regarding task order procedures, Owner responsibilities, invoice and payment procedures, standard of care, ownership of documents, suspension and termination, and definitions.
29. Owner—The individual or entity named as such in this Main Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning Specific Projects.
30. Record Drawings—Drawings depicting the completed Specific Project, or a specific portion of the completed Specific Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
31. Resident Project Representative—As authorized by a specific Task Order, the representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR. The duties and responsibilities of the RPR (if any) will be as set forth in each Task Order.
32. Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
33. Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
34. Site—Lands or areas to be indicated in the Construction Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed,

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including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

35. Specifications—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
36. Specific Project—A specifically identified and defined total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under a specific Task Order are a part.
37. Subconsultant—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to a Specific Project as an independent contractor.
38. Subcontractor—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
39. Submittal—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
40. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
41. Supplier—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
42. Task Order—A document executed under this Main Agreement by Owner and Engineer (including incorporated exhibits and amendments if any), stating the scope of services, Engineer's compensation, times for performance of services, and other relevant information.
43. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Specific Project, including Construction Cost

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and all other Specific Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Specific Project, and the cost of other services to be provided by others to Owner.

44. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
45. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
46. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8—EXHIBITS AND APPENDICES TO MAIN AGREEMENT; TASK ORDER FORM; EXHIBITS TO TASK ORDER; SPECIAL PROVISIONS

8.01 Exhibits to Main Agreement

The following exhibits are incorporated by reference and included as part of this Main Agreement, and as such are applicable to all Task Orders:

- A. Reserved.
- B. Reserved.
- C. Exhibit C, Amendment to Main Agreement (form).
- D. Reserved.
- E. Reserved.

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- F. Exhibit F, Electronic Documents Protocol (EDP).
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability.

8.02 Appendices to Main Agreement

- A. The following appendices are incorporated by reference and made a part of this Main Agreement:
 - 1. Appendix 1—Reimbursable Expenses Schedule
 - 2. Appendix 2—Standard Hourly Rates Schedule

8.03 Resource Documents: Task Order Form and Exhibits to Task Order

- A. The parties acknowledge the accompanying documents, “Part 3 of 4: Task Order Form” and “Part 4 of 4: Exhibits to Task Order.” These documents are a resource for the parties’ use when a specific Task Order is issued. To the extent practical and applicable to a Specific Project, the parties will use the Task Order Form and Exhibits to Task Order as the basis for preparing the specific Task Order and its exhibits. The Task Order Form and Exhibits to Task Order are not a part of this Main Agreement or binding on the parties except to the extent they serve as the basis for a duly executed Task Order and its exhibits.

8.04 Executed Task Orders and Their Exhibits

- A. When a specific Task Order is duly executed by Owner and Engineer, the Task Order and its exhibits become an integral part of the Agreement, governed by the Main Agreement and its exhibits.

8.05 Total Agreement; Amendments to Main Agreement and Task Orders

- A. This Agreement (as defined herein) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral understandings.
- B. Amendments:
 - 1. This Main Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Such written instruments should be based whenever possible on the format of Exhibit C to this Main Agreement.
 - 2. Amendments and modifications to a Task Order may be made by execution of a new, expressly related Task Order, or by execution of a written amendment to the Task Order.
 - 3. Nothing in any Task Order will be construed as revising or modifying the terms and conditions of the Main Agreement or its exhibits, except as expressly stated in such Task Order.

8.06 Designated Representatives

- A. With the execution of this Main Agreement, Engineer and Owner shall each designate a specific individual to act as representative under the Main Agreement. Such an individual must have authority to execute Task Orders, transmit instructions, receive information, and

render decisions with respect to this Main Agreement, on behalf of the party that the individual represents.

- B. With the execution of each Task Order, Engineer and Owner shall each designate a specific individual to act as representative with respect to the Task Order. Such individual must have authority to transmit instructions, receive information, and render decisions with respect to the specific Task Order, on behalf of the party that the individual represents.

8.07 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.07:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

8.08 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
 - 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.
 - 2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

This Main Agreement's Effective Date is August 14, 2024

Owner:

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

City of Minot Public Works

1025 31st Street SE

Minot ND 58701

Designated Representative:

Name: Jason Sorenson

(typed or printed)

Title: Utilities Director

(typed or printed)

Address:

1025 31st Street SE

Minot, ND 58701

Phone: 701-857-4140

Email: Jason.sorenson@minotnd.gov

Engineer:

Ackerman-Estvold

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

Patrick Samson

(typed or printed)

Title:

Vice President

(typed or printed)

Attest:

(individual's signature)

Title:

VP/CEO

(typed or printed)

Address for giving notices:

1907 17th Street SE

Minot, ND 58701

Designated Representative:

Name: Patrick Samson

(typed or printed)

Title: Vice President

(typed or printed)

Address:

1907 17th Street SE

Minot, ND 58701

Phone: 701-837-8737 / 701-857-9150

Email: Patrick.samson@ackerman-estvold.com

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the specific Agreement between Owner and Engineer, and the controlling Laws and Regulations.

EJCDC® E-505, Agreement between Owner and Engineer for Professional Services—Task Order Edition, is published in four parts: (1) the Main Agreement (general provisions governing all Task Orders); (2) the Exhibits to Main Agreement (see below); (3) the Task Order Form; and (4) the Exhibits to Task Order. The Main Agreement contains a Guidelines for Use section that pertains to all four parts of E-505.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES— TASK ORDER EDITION

PART 2 OF 4: EXHIBITS TO MAIN AGREEMENT

Prepared by



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EXHIBIT C—AMENDMENT TO MAIN AGREEMENT

AMENDMENT TO MAIN AGREEMENT

Amendment No. _____

Owner: **City of Minot**

Engineer: **Ackerman-Estvold**

Effective Date of Agreement: _____

Nature of Amendment: (Check those that apply)

- ☐ Modifications to responsibilities of Owner
- ☐ Modifications of payment to Engineer
- ☐ Modifications to term of Main Agreement
- ☐ Modifications to other terms and conditions of the Main Agreement

Description of Modifications:

Owner and Engineer hereby agree to modify the above-referenced Main Agreement as set forth in this Amendment. The Effective Date of the Amendment is _____.

Owner

Engineer

(typed or printed name of organization)

(typed or printed name of organization)

By:

(individual's signature)

By:

(individual's signature)

(Attach evidence of authority to sign.)

(Attach evidence of authority to sign.)

Date:

(date signed)

Date:

(date signed)

Name:

(typed or printed)

Name:

(typed or printed)

Title:

(typed or printed)

Title:

(typed or printed)

Exhibit C—Amendment to Main Agreement.

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Exhibit D—Reserved.

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Exhibit E—Reserved.

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EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

ARTICLE 1—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

Paragraph 6.03 of the Main Agreement is supplemented by the following Exhibit F Paragraph 1.01 and Exhibit F—Attachment 1: Software Requirements for Electronic Document Exchange:

1.01 Electronic Documents Protocol

- A. Electronic Transmittals: The parties shall conform to the following provisions together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals. References to "Project" will mean the Specific Project, or the facilities program or other combination of projects undertaken with Engineer's involvement, as the case may be.

1. Basic Requirements

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents by Electronic Means using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Agreement.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Agreement.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between the Owner and Engineer and any third party for any portion of the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with Owner, Engineer, or any Contractor or other entity directly contracted with the Owner to furnish Project-related services. Nothing herein will modify the requirements of the Agreement and applicable Construction Contract Documents regarding communications between and among the individual third parties and their respective subcontractors and consultants, except to the extent that any respective subcontractor or consultant exchanges Electronic Documents with the Owner or Engineer.
- e. When transmitting Electronic Documents, the transmitting Party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving Party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
- f. Nothing herein negates any obligation (1) in the Agreement to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; (2) to comply with any

applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or (3) to comply with any notice requirements limiting or otherwise modifying the acceptance of Electronic Documents for such notice.

2. System Infrastructure for Electronic Document Exchange

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP and any explicit system requirements specified by attachment to this EDP, it will be the obligation of each party to determine, for itself, its own System Infrastructure.
 - 1) The maximum size of an e-mail attachment for exchange of Electronic Documents under this EDP is 5 MB. Attachments larger than that may be exchanged using large file transfer functions or physical media.
 - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it will not be liable to the other party for any breach of system security.
- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties will cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Engineer, not reasonably anticipated under the original EDP, Engineer shall be entitled to compensation as Additional Services for its costs associated with the revisions to the EDP, delayed adoption of this exhibit, or implementation of other Electronic Documents protocols.
- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of any Project contract/agreement under this EDP, unless

this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the Parties may rely for document archiving during the specified term of operation of such project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of project documents, as each party deems necessary for its own purposes, after the term of contract, or termination of the project document archive, if one is established.

- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

B. Software Requirements for Electronic Document Exchange; Limitations

- 1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
 - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
- 2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.
- 3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in the following Attachment 1 to this EDP, including software version, if listed.

C. Format and Distribution of Deliverables

- 1. By definition, "Documents" as used in this Agreement are documents expressly identified as deliverables from Engineer to Owner. Exhibit A of each specific Task Order identifies various Documents that Engineer is required to deliver to Owner as part of Engineer's services; Exhibit B of each specific Task Order is a schedule of such Documents. Engineer will transmit such Documents to Owner in the formats identified in Attachment 1 to this Protocol. If no specific format is identified for a deliverable Document, the format will be Portable Document Format (PDF).
- 2. If a Document will be distributed to third parties, such as prospective bidders and contractors, reviewing agencies, or lenders, the transmittal format for distribution will

be as identified in Attachment 1 to this Protocol; provided, however, that if a format for distribution of a specific Document is expressly stated in a specific Exhibit A, then the Exhibit A format will take precedence. If no specific format is identified for distribution of a deliverable Document to third parties, the format will be Portable Document Format (PDF).

- a. If a format for Document distribution other than Portable Document Format (PDF) is specified, Owner shall first obtain a written, signed release from each third party to which the deliverable Document is distributed, establishing agreement to the following conditions:
 - 1) The content included in the Electronic Documents prepared by or for Engineer and covered by the request was prepared as an internal working document for Engineer's purposes solely, and is being provided to the third party on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, the third party is advised and acknowledges that the content may not be suitable for the third party's application, or may require substantial modification and independent verification by the third party. The content may include limited resolution of models; not-to-scale schematic representations and symbols; use of notes to convey design concepts in lieu of accurate graphics; approximations; graphical simplifications; undocumented intermediate revisions; and other devices that may affect subsequent reuse.
 - 2) Electronic Documents containing text, graphics, metadata, or other types of data that are provided to the Requesting Party are only for the convenience of the third party. Any conclusion or information obtained or derived from such data will be at the third party's sole risk and the third party waives any and all claims against Engineer or Owner arising from the use of the Electronic Documents covered by the request, or of any data contained in such Electronic Documents.
 - 3) The third party shall indemnify and hold harmless Owner, Engineer, and Engineer's Subcontractors and Subconsultants, from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from the third party's use, adaptation, or distribution of any Electronic Documents provided under the request.
 - 4) The third party agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the request and is limited to the third party's subcontractors and consultants. The third party warrants that subsequent use by the third party's subcontractors and subconsultants will comply with all terms of the Construction Contract Documents and any specific instructions or conditions established by Owner.
- b. If Engineer is required to assist or participate in obtaining such releases from third parties, such services will be categorized as Additional Services.

D. Requests by Project-Related Parties for Electronic Documents in Other Formats

1. Owner may release (or direct Engineer to release) an Electronic Document version of a Document prepared by or for Engineer, including but not limited to a deliverable Document as set forth in Exhibit F Paragraph 1.01.C, in a format other than those identified in Exhibit F Paragraph 1.01.B or 1.01.C of the Electronic Documents Protocol, or elsewhere in the Agreement, only if (a) a Contractor or other Project-related party (Requesting Party) makes a good faith request for such release, (b) Owner determines in its sole discretion that such release is prudent and will be beneficial to the Project, and (c) Owner obtains Requesting Party's written consent to the four conditions set forth in Exhibit F Paragraph 1.01.C.2.a.1-4 above.
2. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under this Exhibit F Paragraph 1.01.D are Additional Services. Such services may include but are not limited to preparing the data in a manner deemed appropriate by Engineer. Owner may require reimbursement from the Requesting Party for the cost of such Additional Services, but compensation by Owner to Engineer for the Additional Services is not contingent upon Owner obtaining reimbursement from the Requesting Party.

EXHIBIT F—ATTACHMENT 1: SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices, and responses to general information requests for which there is no specific prescribed form.	Email	Email	
a.2	Meeting agendas; meeting minutes; RFI's and Responses to RFI's; and Construction Contract administrative forms.	Email w/Attach	PDF	(2)
a.3	Contractor's Submittals (Shop Drawings, "Or Equal" requests, Substitute requests, documentation accompanying Sample submittals and other Submittals) to Owner and Engineer; and, Owner's and Engineer's Responses to Contractor's Submittals, Shop Drawings, Correspondence, and Applications for Payment	Email w/Attach	PDF	
a.4	Correspondence; Interim and Final Versions of reports, layouts, Specifications, Drawings, maps, calculations and spreadsheets, Construction Contract, Bidding/Proposal Documents, and Front-End Construction Contract Documents.	Email w/ Attach or LFE	PDF	(3)
a.5	Layouts, plans, maps, and Drawings to be submitted to Owner by Engineer for future use and modification	Email w/ Attach or LFE	DWG	
a.6	Correspondence, reports, and specifications to be submitted by Engineer to Owner for future word processing use and modification	Email w/ Attach or LFE	DOC	
a.7	Spreadsheets and data to be submitted to Owner by Engineer for future data processing use and modification	Email w/ Attach or LFE	EXC	
a.8	Database files and data to be submitted to Owner for future data processing use and modification	Email w/ Attach or LFE	DB	
Notes				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of the Agreement and Construction Contract.			
(2)	Transmittal of written notices is governed by requirements of the Agreement and Construction Contract.			
(3)	Transmittal of Bidding/Proposal Documents and Front-End Construction Contract Documents will be in manner selected by Owner in Exhibit A, Paragraph 1.05.A.1.a. Unless otherwise expressly stated, these documents and the Construction Contract will be transmitted in PDF format, including transmittals to bidders and Contractor.			
Key				
EMAIL	Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies.			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive.)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader.			
DWG	Autodesk® AutoCAD. dwg format.			
DOC	Microsoft® Word. docx format.			
EXC	Microsoft® Excel .xlsx or .xml			
DB	Microsoft® Access .mdb			

EXHIBIT G—INSURANCE

ARTICLE 1—INSURANCE

Paragraph 6.04 of the Main Agreement, Insurance, is supplemented to include the following Exhibit G Paragraphs 1.01 and 1.02:

1.01 Insurance Policies and Limits

- A. In accordance with Paragraph 6.04.A of the Main Agreement, the insurance that Engineer must procure and maintain, and the policy limits of such insurance, are as follows:

ACORD		ACKERMA-01		JCHAPMAN	
CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY) 11/2/2023	
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.					
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).					
PRODUCER Western Agency Inc 408 20th Ave SW Minot, ND 58701		CONTACT NAME: PHONE (A/C, No, Ext): (701) 852-5383 FAX (A/C, No): (701) 852-6272 E-MAIL ADDRESS: mail@western-agency.com			
INSURED Ackerman-Estfold Engineering and Management Consulting, Inc. 1907 17th Street SE Minot, ND 58701		INSURER(S) AFFORDING COVERAGE		NAIC #	
		INSURER A : Travelers		19046	
		INSURER B : Auto Owners		18988	
		INSURER C : Lloyds of London		52421	
		INSURER D :			
		INSURER E :			
		INSURER F :			
COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:					
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD. WVD.	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)
A	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR		680-9K912647-23-47	11/7/2023	11/7/2024
	GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO JECT ☐ LOC ☐ OTHER:				
					LIMITS
					EACH OCCURRENCE \$ 1,000,000
					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
					MED EXP (Any one person) \$ 5,000
					PERSONAL & ADV INJURY \$ 1,000,000
					GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY		5309630000	11/7/2023	11/7/2024
	☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY				
					LIMITS
					COMBINED SINGLE LIMIT (Ea accident) \$
					BODILY INJURY (Per person) \$ 1,000,000
					BODILY INJURY (Per accident) \$ 1,000,000
					PROPERTY DAMAGE (Per accident) \$ 1,000,000
A	UMBRELLA LIAB ☒ EXCESS LIAB	☒ OCCUR ☐ CLAIMS-MADE	CUP-7D575947-23-47	11/7/2023	11/7/2024
	DED ☒ RETENTION \$ 10,000				
					LIMITS
					EACH OCCURRENCE \$ 5,000,000
					AGGREGATE \$ 5,000,000
					Products Comp \$ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	☐ Y ☒ N	680-9K912647-23-47	11/7/2023	11/7/2024
					LIMITS
					E.L. EACH ACCIDENT \$ 1,000,000
					E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
					E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Prof. Errors & Omiss		PLC0163901	9/10/2023	9/10/2024
C	Prof. Errors & Omiss		PLC0163901	9/10/2023	9/10/2024
					LIMITS
					Per Claim \$ 2,000,000
					Aggregate \$ 4,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)					
CERTIFICATE HOLDER			CANCELLATION		
INFORMATION PURPOSES ONLY			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.		
			AUTHORIZED REPRESENTATIVE <i>Jodie Chapman</i>		

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Exhibit G—Insurance.

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1.02 Additional Insureds

- A. Owner shall cause Engineer, its Subconsultants, and its Engineer's Subcontractors to be listed as additional insureds on any of Owner's general liability policies that are applicable to the Project. The following individuals or entities are to be listed on Owner's general liability policies of insurance (and on Contractor's policies required under Paragraph 6.04.D of the Main Agreement) as additional insureds:

Name of Additional Insured	Address
Ackerman-Estvold	1907 17 th Street SE

- B. During the term of this Main Agreement the Engineer shall notify Owner of any other Subconsultant or Engineer's Subcontractor to be listed as an additional insured on Owner's and applicable Contractor's general liability policies of insurance.
- C. The Owner must be listed on Engineer's general liability policy as provided in Paragraph 6.04.B.
- D. For applicable Contractor's general liability policies of insurance, the additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
- E. For applicable Contractor's general liability policies of insurance, Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent for Engineer, Subconsultants, and other design professional additional insureds.

EXHIBIT H—DISPUTE RESOLUTION

ARTICLE 1—DISPUTE RESOLUTION METHOD

Paragraph 6.07 of the Agreement, Dispute Resolution, is supplemented to include the following Exhibit H Paragraph 1.01:

1.01 Arbitration

- A. Method for Resolution of Disputes: All Disputes between Owner and Engineer that have not been resolved by negotiations or mediation will be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (subject to the conditions and limitations of this Exhibit H Paragraph 1.01). This agreement to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. Arbitration Provisions
 - 1. Notice of the demand for arbitration must be filed in writing with the other party to the Agreement and with the selected arbitration administrator. The demand must be made within a reasonable time after the Dispute has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such Dispute would be barred by the applicable statute of limitations.
 - 2. The arbitrator(s) must be licensed engineers, architects, contractors, attorneys, or construction managers. Hearings will take place pursuant to the standard procedures of the Construction Arbitration Rules that contemplate in-person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute or the Agreement. Any award in an arbitration initiated under this clause will be limited to monetary damages and include no injunction or direction to any party other than the direction to pay a monetary amount.
 - 3. If the applicable arbitration rules require a preliminary mediation, but the parties have already participated in mediation with respect to the Dispute, then the second mediation is not required.
 - 4. The rules of any arbitration must be supplemented to include the following: The award rendered by the arbitrators must be in writing, and include (a) a precise breakdown of the award, and (b) a written explanation of the award specifically citing the Agreement provisions deemed applicable and relied on in making the award.
 - 5. The award rendered by the arbitrators will be consistent with this Agreement and final, and judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to appeal or modification.
 - 6. The arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a specific Law or Regulation or this Agreement expressly permits them to do so.
 - 7. The parties agree that failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges will constitute a waiver

Exhibit H—Dispute Resolution.

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by that party of the right to present evidence or cross-examine witness. In such event, the other party will be required to present evidence and legal argument as the arbitrator(s) may require for the making of an award. Such waiver will not allow for a default judgment against the non-paying party in the absence of evidence presented as provided for above.

8. Except as may be required by Laws or Regulations, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties, with the exception of any disclosure required by Laws and Regulations or the Agreement. To the extent any disclosure is allowed pursuant to the exception, the disclosure must be strictly and narrowly limited to maintain confidentiality to the extent possible.
9. If a Dispute in question between Owner and Engineer involves the work of a Contractor, Subcontractor, or consultants to the Owner, Subconsultants to the Engineer, or Engineer's Subcontractors (each a "Joinable Party"), and such Joinable Party has agreed contractually or otherwise to participate in a consolidated arbitration concerning this Project, then either Owner or Engineer may join such Joinable Party as a party to the arbitration between Owner and Engineer hereunder. Nothing in this Exhibit H Paragraph 1.01 nor in the provision of such contract consenting to joinder will create any claim, right, or cause of action in favor of the Joinable Party and against Owner or Engineer that does not otherwise exist.

EXHIBIT I—LIMITATIONS OF LIABILITY

ARTICLE 1—LIMITATIONS OF LIABILITY

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph(s):

1.01 Mutual Indemnification

- A. Indemnification by Owner: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

1.02 Limitation of Engineer's Liability

- A. Engineer's Liability Limited to Stated Amount, or Amount of Engineer's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's Subcontractors, officers, directors, members, partners, agents, employees, and Subconsultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project, to Engineer's or its Subconsultants' or Engineer's Subcontractor's services, or to this Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Subconsultants, or Engineer's Subcontractors, will not exceed the total total compensation received by Engineer under this Agreement, whichever is greater. Higher limits are available for an additional fee.
- B. Engineer's Liability Limited to Amount of Engineer's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers,

Exhibit I—Limitations of Liability.

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directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors, will not exceed the total compensation received by Engineer under this Agreement.

- C. Engineer's Liability Limited to Amount of Insurance Proceeds: Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors (hereafter "Owner's Claims"), will be limited to (1) responsibility for payment of all or the applicable portion of any deductibles, either directly to the Engineer's insurers or in settlement or satisfaction, in whole or in part, of Owner's Claims, and (2) total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's applicable insurance policies up to the amount of insurance required under this Agreement.
1. Such limitation will not be reduced, increased, or adjusted on account of legal fees paid, or costs and expenses of investigation, claims adjustment, defense, or appeal.
 2. If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner, for any and all such uninsured Owner's Claims will not exceed the contract amount.

APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE

<u>ITEM</u>	<u>RATE</u>
Mileage	IRS Rate
Photocopies	\$0.25/copy
Plots	\$1.00/s.f.
Outside Services *	Cost x 1.10
Out of Pocket Expenses	At Cost

*Includes laboratory testing, architectural and engineering consultants, surveying, etc.

** Includes telephone, postage, subsistence, technical literature, equipment rental, etc.

APPENDIX 2: STANDARD HOURLY RATES SCHEDULE

2024 Rate Schedule

WWW.ACKERMAN-ESTVOLD.COM

CLASSIFICATION	HOURLY RATE	ITEM	RATE
Engineer 1	\$145	Mileage	IRS Rate
Engineer 2	\$165	Photocopies	\$0.25/copy
Engineer 3	\$185	Plots	\$1.00/s.f.
Engineer 4	\$205	Outside Services *	Cost x 1.10
Engineer 5	\$225	Out of Pocket Expenses	At Cost
Engineer 6	\$245		
Engineer 7	\$265		
Architect 1	\$140		
Architect 2	\$165		
Architect 3	\$190		
Architect 4	\$215		
Architect 5	\$240		
Landscape Architect 1	\$140		
Landscape Architect 2	\$165		
Landscape Architect 3	\$190		
Landscape Architect 4	\$215		
Landscape Architect 5	\$240		
Technician 1	\$95		
Technician 2	\$120		
Technician 3	\$145		
Technician 4	\$170		
Technician 5	\$195		
Technician 6	\$220		
Administrative 1	\$90		
Administrative 2	\$125		
Administrative 3	\$165		
Administrative 4	\$190		

*Includes laboratory testing, architectural and engineering consultants, surveying, etc.
** Includes telephone, postage, subsistence, technical literature, equipment rental, etc.

Notes:

- (1) Rates are subject to increase annually on January 1.
- (2) Overtime will be billed at 1.5x the listed rates for Technicians and some Administrative staff.
- (3) Regardless of hours worked, all work on Sundays or holidays acknowledged by Ackerman-Estvold shall be considered overtime if required by the client or contract.



Appendix 2: Standard Hourly Rates Schedule.

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the specific Agreement between Owner and Engineer, and the controlling Laws and Regulations.

EJCDC® E-505, Agreement between Owner and Engineer for Professional Services—Task Order Edition, is published in four parts: (1) the Main Agreement (general provisions governing all Task Orders); (2) the Exhibits to Main Agreement; (3) the Task Order Form (see below); and (4) the Exhibits to Task Order. The Main Agreement contains a Guidelines for Use section that pertains to all four parts of E-505.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES— TASK ORDER EDITION

PART 3 OF 4: TASK ORDER FORM

Prepared by



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TASK ORDER NO. [____]

This is Task Order No. [____],
consisting of 5 pages.

In accordance with Paragraph 1.01, Main Agreement, of the Agreement Between Owner and Engineer for Professional Services—Task Order Edition dated [date], Owner and Engineer agree as follows:

1. TASK ORDER DATA

a.	Effective Date of Task Order:	
b.	Owner:	
c.	Engineer:	
d.	Specific Project (title)	
e.	Specific Project (description):	
f.	Related Task Orders Supplemented by this Task Order: Superseded by this Task Order:	

2. BASELINE INFORMATION

Baseline Information. Owner has furnished the following Specific Project information to Engineer as of the Effective Date of the Task Order. Engineer's scope of services has been developed based on this information. As the Specific Project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the scope of services.

Specific Project Title:

Type and Size of Facility:

Description of Improvements:

Expected Construction Start:

Task Order.

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Prior Studies, Reports, Plans:

Facility Location(s):

Current Specific Project Budget:

Funding Sources:

Known Design Standards:

Known Specific Project
Limitations:

Specific Project Assumptions:

Other Pertinent Information:

3. SERVICES OF ENGINEER ("SCOPE")

A. The specific Basic Services to be provided or furnished by Engineer under this Task Order are:

[Select one of the following options and delete the others.]

☐ Exhibit A to Task Order, "Engineer's Services for Task Order," as attached to this specific Task Order. **[Attach a scope of services exhibit labeled "Exhibit A." This exhibit will often be based on E-505's published Exhibit A to Task Order, as modified for the specific Task Order; or at the user's option the exhibit may consist of an attached custom-drafted scope of services, or a scope of services set out in a separate document such as a letter or proposal.]**

[or]

☐ as follows: **[Directly insert customized scope of services here.]**

B. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order, with the exception of Resident Project Representative Services, if any, which are compensated separately.

C. Resident Project Representative (RPR) Services:

1. If the Scope established in Paragraph 2.A above includes RPR services, then Exhibit D to Task Order is expressly incorporated in this Task Order by reference.

D. Additional Services: Services not expressly set forth as Basic Services in Paragraph 3.A above, and necessary services listed as not requiring Owner's written authorization, or requiring additional effort in an immediate, expeditious, or accelerated manner as a result of unanticipated construction events or Specific Project conditions, are Additional Services, and will be compensated by the method indicated for Additional Services in this Task Order. All other Additional Services require mutual agreement and may be authorized by amending the

Task Order.

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Task Order as set forth in Paragraph 8.05.B.2 of the Main Agreement, with compensation for such other Additional Services as set forth in the amending instrument.

4. DELIVERABLES SCHEDULE

- A. In submitting required Documents and taking other related actions, Engineer and Owner will comply with Exhibit B to Task Order, attached to this specific Task Order.

5. ADDITIONS TO OWNER'S RESPONSIBILITIES

- A. Owner shall have those responsibilities set forth in Article 2 of the Main Agreement, and the following supplemental responsibilities that are specific to this Task Order: **[State any supplementary Owner responsibilities applicable to this Task Order here.]**

6. TASK ORDER SCHEDULE

- A. In addition to any schedule provisions provided in Exhibit B or elsewhere, the parties shall meet the following schedule: **[Indicate "Not Applicable" if the schedule in Exhibit B, as modified for the specific Task Order, is sufficient.]**

Date	Action / Milestone	Comment

7. ENGINEER'S COMPENSATION

- A. The terms of payment are set forth in Article 4 of the Main Agreement.
- B. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services	\$[]	[]
a. Phase or Subtask 1	\$[]	[]
b. Phase or Subtask 2	\$[]	[]
c. Phase or Subtask 3	\$[]	[]
d. Phase or Subtask 4*	\$[]	[]
2. Resident Project Representative Services*	\$[]	[]
TOTAL COMPENSATION (items 1 and 2)	\$[]	

Task Order.

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3. Additional Services under Section 2.D above	(N/A)	[]

*Based on a [number]-month continuous construction period.

- C. Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Subconsultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

8. ENGINEER'S PRIMARY SUBCONSULTANTS FOR TASK ORDER, AS OF THE EFFECTIVE DATE OF THE TASK ORDER:

- A. [Identify primary Subconsultants]

9. EXHIBITS AND ATTACHMENTS:

- A. Exhibit A to Task Order—Engineer's Services Under Task Order
 B. Exhibit B to Task Order—Task Order Deliverables Schedule
 C. Exhibit D to Task Order—Duties, Responsibilities, and Limitations of Authority of Resident Project Representative Under Task Order
 D. Exhibit E to Task Order-EJCDC® C-626, Notice of Acceptability of Work (Form)
 E. Other:

Execution of this Task Order by Owner and Engineer makes it subject to the terms and conditions of the Main Agreement and its exhibits and appendices, which Main Agreement, exhibits, and appendices are incorporated by this reference.

OWNER:

ENGINEER:

By:

By:

Print Name:

Print Name:

Title:

Title:

Engineer's License or Firm's
Certificate No. (if required):

State of:

Task Order.

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DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: _____

Title: _____

Address: _____

E-Mail
Address: _____

Phone: _____

Date: _____

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: _____

Title: _____

Address: _____

E-Mail
Address: _____

Phone: _____

Date: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the specific Agreement between Owner and Engineer, and the controlling Laws and Regulations.

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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES— TASK ORDER EDITION

PART 4 OF 4: EXHIBITS TO TASK ORDER

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Article 1 of the Main Agreement, Services of Engineer, is supplemented to include the following provisions:

Engineer shall provide Basic and Additional Services as set forth below.

ARTICLE 1—BASIC SERVICES

1.01 Management of Engineering Services

A. See Main Agreement, Paragraph 1.03.

1.02 Study and Report Phase

A. Engineer shall:

1. Consult with Owner to define and clarify Owner’s requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
 - a. If Owner has already identified one or more potential solutions to meet its Specific Project requirements, then proceed with the study and evaluation of the Owner-identified potential solutions listed here:
 - 1) **[List the specific potential solutions to be studied and evaluated here].**
 - b. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner’s requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer’s study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.
 - c. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify **[insert specific number]** alternative solutions potentially

available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.

2. Identify potential solution(s) to meet Owner's Specific Project requirements, as needed.
3. Study and evaluate the potential solution(s) to meet Owner's Specific Project requirements.
4. Visit the Site, or potential Specific Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
5. Assess initially available Specific Project information and data, including the Baseline Information set forth at the beginning of this Exhibit A.
6. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Specific Project-related information and data, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Specific Project requirements, and preparation of a related report.
7. After consultation with Owner, recommend the solution(s) which in Engineer's judgment meet Owner's requirements for the Specific Project.
8. Identify, consult with, and analyze requirements of authorities having jurisdiction to permit or approve construction or operation of the portions of the Specific Project to be designed or specified by Engineer, including but not limited to impacts and mitigating measures identified in previously prepared environmental assessments for the Specific Project provided to the Engineer or being concurrently prepared for Owner by others.
9. Advise the Owner of any need for Owner to provide data or services of the types described in Article 2 of the Agreement, for use in Specific Project design, or in preparation for Contractor selection and construction.
10. Assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface conditions at the Site; innovative design, contracting, or procurement strategies; project delivery method; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph will be referred to in Exhibit A as "Specific Project Strategies, Technologies, and Techniques."
11. Assist Owner in identifying opportunities for enhancing the sustainability of the Specific Project, and pursuant to Owner's instructions, plan for the inclusion of sustainable features in the design.
12. Review with Owner the thresholds established in applicable codes, standards, and design criteria specifically governing the ability of the proposed facilities or improvements to perform, and to absorb or avoid damage without suffering complete or substantial failure. As part of the review, identify additional risk assessment studies or tools that are available to evaluate the susceptibility of the facilities or improvements to natural and man-made events beyond the applicable established thresholds. Upon Owner request, as an additional service, perform additional risk assessment studies or tools to further evaluate system resiliency beyond the applicable established thresholds.

Exhibit A—Engineer's Services Under Task Order.

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13. Utilities, including Underground Facilities

- a. Review any utility mapping and surveys and other utilities documentation made available by Owner. Take note of observable utilities during Site visit.
- b. Identify, in a preliminary manner and to the extent determinable by such mapping or other information provided by Owner, and by observations at the Site, those utilities (whether above-ground utilities of any type, or Underground Facilities) likely to be affected by the Specific Project construction and additional utility facilities or extensions that will be needed to serve the Specific Project.
- c. If the impact on existing utilities or the need for additional utility facilities or extensions cannot reasonably be determined in a preliminary manner from mapping or other information provided by Owner, or such information was not available from Owner, then assist Owner in evaluating the need to either obtain additional utility mapping and utility documentation during the Study and Report Phase, or undertake other alternative approaches and contingencies to account for utility uncertainties in this phase.
- d. Advise Owner of additional utility documentation and coordination needed during the design and construction phases to adequately assess, mitigate, and manage the impact of the Specific Project (including any additional utility facilities or extensions needed to serve the Specific Project) on existing utilities.
- e. Use ASCE 38, “Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data” as a means to advise the Owner regarding the extent and identification and mapping of existing Underground Facilities during the design and construction phases.
 - 1) If Owner has retained a land surveyor, utility engineer, or utility consultant, collaborate with such individuals or entities regarding the application of ASCE 38.

14. Inquire regarding survey methodologies and technologies that would aid in addressing Owner’s Specific Project requirements. Develop a scope of work and survey limits for any topographic and other surveys necessary for design. For recommended survey deliverables, specify a) required technical specifications; b) pertinent datum; c) survey limits, and d) formats of deliverables. Collaborate with land surveyor, when separately retained by Owner or third party, to develop such scope of work.

15. Prepare a report (the “Report”) which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer’s recommended solution(s).

- a. For each recommended solution, Engineer will separately tabulate Total Project Cost, itemizing those items and services included within the definition of Total Project Costs.
- b. Engineer will meet with Owner to discuss the draft Report and receive Owner’s comments.

16. Perform or provide the following other Study and Report Phase tasks or deliverables:
 - a. **[List any such tasks or deliverables here].**
 17. Furnish the Report and any other Study and Report Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.
 18. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
- B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the final Report (as revised) and any other Study and Report Phase deliverables.

1.03 Preliminary Design Phase

- A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables (if Engineer's services under this Agreement included Study and Report Phase services); selection by Owner of a recommended solution; issuance by Owner of any instructions for use of Specific Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design, or enhanced resiliency of the design; indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Specific Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document in writing any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from the selected solution, related Specific Project Strategies, Technologies, or Techniques, sustainable design and resiliency instructions, specific modifications to the Specific Project, or changes, refinements, or supplementation of the Baseline Information.
- B. Upon written authorization from Owner, Engineer shall:
 1. Review and assess all available Specific Project information and data, including any pertinent reports or studies (whether prepared by Engineer or others) and any related instructions from Owner.
 2. Based on the threshold review and assessment of available information and data, advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer any additional information and data, for Engineer's use in the preparation of a Preliminary Design Phase Report.
 3. Prepare a Preliminary Design Phase Report in the following format: **[specify the format that is appropriate to the scope of the design and sufficient for Owner's purposes—ranging from a consolidated and comprehensive narrative report to an assemblage of required documents]**.
 4. The Preliminary Design Phase Report will consist of final design criteria, preliminary drawings, a preliminary list of expected specifications, and written descriptions of the Specific Project. The Preliminary Design Phase Report will consider the following

matters to the extent applicable to the Specific Project and as necessary to establish the basis of design for proceeding to final design and construction:

- a. The Specific Project concept, intent, performance criteria, desired outcomes, Owner's standards and Owner directed improvements and facility elements as established in the Study and Report Phase and as expressly set forth in the Baseline Information section of this Exhibit A (collectively the "Specific Project Goals").
 - b. Recommended appropriate design criteria for each primary portion and significant discipline of the design necessary to address the Specific Project Goals.
 - c. Site conditions and characterization as known at the time of, or to be determined during, the Preliminary Design Phase, including topography; subsurface information; Constituents of Concern; cultural, historical, and archaeological resources at the Site; wetlands information; and evaluations of flora and fauna that may be affected by the Specific Project.
 - d. The time schedule for completion of the Specific Project in accordance with Specific Project Goals, including any recommended changes to the time required to complete the Final Design Phase (as set forth in Exhibit B, Deliverables Schedule) and estimated schedule(s) for construction.
 - e. Identification of major items of materials and equipment, rationale for selection with consideration of quality, suitability, pricing, sourcing, regulatory, and bidding issues affecting recommended selection.
 - f. Revised opinions of probable Construction Cost.
 - g. The impact of Specific Project Strategies, Technologies, and Techniques, sustainable features, and enhanced resiliency selected by Owner for inclusion in the Specific Project on the Specific Project Goals, schedule and probable Construction Cost, including impact of multiple prime construction contracts, separate procurement of materials or equipment, and other alternate project delivery methods when the Specific Project Goals necessitate and Owner authorizes;
 - h. Construction Phase quality assurance and quality control needs affecting development of Drawings and Specifications and other Final Design and Bidding Phase documents.
 - i. The effect of permits and authorizations by other entities and utility coordination needs on the Specific Project.
 - j. Other matters and information pertinent to addressing the Specific Project Goals.
5. In preparing the Preliminary Design Phase Report, use any specific applicable Specific Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features and enhanced resiliency, as appropriate, pursuant to Owner's instructions.
 6. Visit the Site as needed to prepare the Preliminary Design Phase Report.
 7. If at any point in the Preliminary Design Phase it becomes apparent to Engineer that additional reports, data, information, or services of the types described in Article 2 are

necessary, then so advise Owner, and assist Owner in obtaining such reports, data, information, or services.

8. Above-Ground Utilities

- a. Review above-ground utilities information obtained from Owner and from observations at the Site.
- b. Make recommendations regarding any further identification, investigation, and mapping of above-ground utilities at or adjacent to the Site, for Engineer's design purposes or otherwise.
- c. Account for above-ground utilities, based on available information, when advancing design during the Preliminary Design Phase.

9. Underground Facilities

- a. Review Underground Facilities data furnished by Owner. Assist Owner in reducing and managing risks associated with Underground Facilities by working together with Owner to jointly establish a procedure ("Underground Facilities Procedure") for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site, using ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as a basis for establishing such Underground Facilities Procedure.
- b. Such Underground Facilities Procedure must take into account the Site and the nature of the Specific Project.
- c. Use the Underground Facilities Procedure to aid in the performance of design services:
 - 1) Account for Underground Facilities, based on available information, when advancing the design during the Preliminary Design Phase.
 - 2) The Underground Facilities Procedure will include a plan to keep Underground Facilities information current as Engineer proceeds with the provision of design services, and to add new or relocated Underground Facilities information to the base utility or Site drawings.
 - 3) To manage the potential impact of design changes on Underground Facilities, Engineer shall work together with Owner to modify or reapply the Underground Facilities Procedure as the design progresses and changes.

10. Mitigation of Utilities Conflicts

- a. Identify potential conflicts between the Specific Project (including existing and new facilities and structures) and above-ground utilities and Underground Facilities as reviewed in Exhibit A Paragraphs 1.03.B.8 and 9 above, and advise Owner regarding the need for resolution of such conflicts with utility and Underground Facilities owners and permit agencies. Identify the potential need for the relocation of existing above-ground utilities and Underground Facilities.
- b. Update the Underground Facilities Procedure as necessary for any Underground Utilities conflicts and relocations.

- c. Working together with Owner, jointly identify which specific parties or other entities will be responsible for implementation of the various specific parts of the Underground Facilities Procedure (including those parts that address resolution of Underground Facilities conflicts), and for resolution of above-ground utilities conflicts. Such identification will take into account Owner's authority and standing, as owner of the Site, with respect to Underground Facilities and above-ground utilities.
 - 1) To the extent that Owner and Engineer agree that in addition to performing the design-related obligations set forth in Exhibit A Paragraphs 1.03.B.8 and 9, Engineer will also implement any non-design part of the Underground Facilities Procedure (including resolution of Underground Facilities conflicts), or undertake resolution of above-ground utilities conflicts, such additional duties will be Additional Services under Article 2 of this Exhibit A.
11. Surveys, Topographic Mapping, and Utility Documentation
 - a. Coordinate with Owner's utility engineer, utility consultant, or land surveyor for the necessary field surveys, topographic mapping, and utility documentation required for Engineer's design purposes, or by the Underground Facilities Procedure.
 - b. If no scope of work and procedure for utility documentation has been established, selected, or authorized, then at a minimum Engineer will contact utility owners and obtain available information. Except as otherwise provided in this Agreement, Owner acknowledges that the information gathered from utility owners may be incorrect, incomplete, outdated, or otherwise flawed, and as to Engineer, bidders, and Contractor, the Owner accepts all associated risks. Owner reserves all associated rights as to recourse against the sources of such flawed information and against third parties.
 12. Prepare initial draft of a comprehensive permit document that identifies Owner's permit duties, Engineer's permit duties, and Contractor's permit duties, and the schedule for permitting activities.
 13. Continue to assist Owner with Specific Project Strategies, Technologies, and Techniques that Owner has chosen to implement in Exhibit A Paragraph 1.03.A.
 14. Obtain Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's Bidding/Proposal Documents and Front-End Construction Contract Documents.
 - a. Also obtain copies of Owner's standard Bidding/Proposal Documents and Front-End Construction Contract Documents (if other than the EJCDC 2018 Construction Series documents), and any other related documents or content for Engineer to include in drafts of the Specific Project-specific Bidding/Proposal Documents and Front-End Construction Contract Documents, when applicable.

- b. Review Owner's instructions regarding procurement, bidding and contracting of construction services with respect to effects on the Specific Project design, schedule and construction and address as needed in the Preliminary Design Phase deliverables.
- 15. Prepare the Preliminary Design Phase Report. This Report will consist of, as appropriate, separate or combined submittals in whole or summary, the Preliminary Design Phase documents listed in Exhibit A Paragraph 1.03.B.4, and Engineer's findings and recommendations for advancing the Specific Project to the Final Design Phase (including Engineer's findings and recommendations, if any, regarding permitting, utilities, and Underground Facilities). The submittal will be in the format of a report, or otherwise organized and assembled for ease and practicality of use.
 - a. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and on the basis of information furnished by Owner, assist Owner in tabulating the various cost categories which comprise Total Project Costs.
 - b. Engineer will meet with Owner to discuss the draft Preliminary Design Phase submittal and receive Owner's comments.
- 16. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
 - a. **[List any such tasks or deliverables here].**
- 17. Furnish the Preliminary Design Phase Report, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.
- 18. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
- C. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Preliminary Design Phase Report (as revised) and associated documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

1.04 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase Report and any other Preliminary Design Phase deliverables; issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, or design requirements of the Specific Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from specific modifications to the Specific Project, or changes, refinements, or supplementation of the Baseline Information.
 - 1. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is **[Enter**

number of contracts]. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

2. If more than one prime construction contract is to be awarded for the Work designed or specified by Engineer, then Owner shall define and set forth (in an exhibit to this Agreement, or in a subsequent document) the duties, responsibilities, and limitations of authority of a person or entity that will have authority and responsibility for coordinating the activities among the various prime Contractors, and any resulting changes in the duties, responsibilities, and authority of Engineer.
 3. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime construction contract, or if Engineer's services are to be separately sequenced with the work of one or more separate design professional consultants or prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding/Proposal, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable under such separate prime construction contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such construction contracts is to proceed concurrently.
- B. Upon written authorization from Owner, Engineer shall prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor, in accordance with the Preliminary Design Phase Report (as revised) and other Preliminary Design Phase deliverables. As part of the preparation of the Drawings and Specifications, Engineer shall prepare interim drafts and final Drawings and Specifications as follows, pursuant to the Deliverables Schedule in Exhibit B:
1. First Final Design Phase draft of all Drawings and Specifications.
 2. Second Final Design Phase draft of all Drawings and Specifications, addressing Owner comments and including appropriate design advancement.
 3. Final Drawings and Specifications that address Owner comments; complete the design; are suitable for estimating and pricing by prospective Contractors; and are complete and ready for construction.
- C. In preparing the Specifications (and any bidding, contract, or other documents that are part of Engineer's scope of services), Engineer shall obtain from Owner or Owner's legal counsel any relevant constraints such as requirements for use of domestic steel and iron, other domestic purchasing requirements, statutory restrictions on utilizing proprietary specifying methods, and the like, and comply with or account for such constraints in drafting Specifications, Bidding/Proposal Documents, and other Specific Project documents.
- D. Engineer shall prepare or assemble draft Bidding/Proposal Documents and Front-End Construction Contract Documents as follows:
1. Such documents will be based on the 2018 EJCDC Construction Documents, and on the specific bidding or Contractor selection-related instructions and forms, contract forms, text, or other content received from Owner.

2. When Engineer is required to use other than the 2018 EJCDC Construction Documents, then as required in the Preliminary Design Phase Owner will furnish to Engineer a copy of the required documents to be used for the Specific Project's Bidding/Proposal Documents and Front-End Construction Contract Documents. Prior to the first Final Design Phase submittal, Engineer will review the bidding and contracting documents furnished by Owner and provide comments to Owner. Engineer will meet with Owner to discuss Engineer's comments. Owner will consider Engineer's recommendations to revise Owner's documents for the Specific Project.
 3. Engineer will furnish to Owner, for review by Owner's legal counsel, the draft Bidding/Proposal Documents and Front-End Construction Contract Documents. Owner and Owner's legal counsel must transmit to Engineer, in a timely manner, one coordinated set of comments and revisions to the draft documents.
- E. During the Final Design Phase the Engineer shall continue to account for above-ground utilities and Underground Facilities as the design advances and is finalized. This may include:
1. performing the services assigned to Engineer under the Underground Facilities Procedure described in Exhibit A Paragraph 1.03 above, including but not limited to the design-related tasks in Exhibit A Paragraph 1.03.B.9.
 2. addressing required and proposed activities or mitigations identified in the analysis of utilities and by the Underground Facilities Procedure as having an impact on the final design, and considering such in preparing the Drawings and Specifications.
- F. Engineer shall perform or furnish the following other Final Design Phase services:
1. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
 2. Assist with or prepare applications for permits and approvals, as follows:
 - a. Update comprehensive permit document created in Preliminary Design Phase for Final Design detail.
 - b. Prepare the following applications for Owner's submittal to authorities having jurisdiction over the construction or operation of the Specific Project:
 - 1) **[identify specific permit or approval applications]**.
 - c. Confer with Owner regarding revisions, if any, to the application(s), and make appropriate revisions to the application(s) for Owner's resubmittal to the authority having jurisdiction.
 - d. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of the authorities having jurisdiction listed above, including applications for review or approval of the final design.
 - e. Identify and indicate in the Construction Contract Documents the permits and approvals for which Contractor will be responsible, including work permits, building permits, and other permits and approvals that will be Contractor's responsibility; and, in addition, indicate those permits initially obtained by Owner for which Contractor will be a co-permittee, together with associated requirements.

- f. Unless expressly indicated otherwise, Engineer's scope and budget includes attending one meeting or conference call with each permit and approval-issuing agency to discuss the Specific Project and receive the agency's comments on the application.
 - g. Engineer does not guarantee issuance of any required permit or approval.
 - h. Fees charged by authorities having jurisdiction for such permits or approvals are the responsibility of Owner.
- 3. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost. Furnish to Owner an updated opinion of probable Construction Cost with the interim and final deliverables of the Drawings and Specifications.
- 4. After consultation with Owner, include in the Front-End Construction Contract Documents any Electronic Document Protocol addressing specific protocols for the transmittal of Specific Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Specific Project website.
- 5. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
- 6. Review the preliminary schedule for the Construction Phase and advise Owner when initial understanding of the Construction Contract Times must or should be revised, and furnish Owner with recommendations on revisions to the proposed Construction Contract Times.
- 7. Engineer's project manager and other appropriate staff will participate in the following meetings and conference calls:
 - a. First draft design review meeting at Owner's office.
 - b. Second draft design review meeting at Owner's office.
 - c. **[Indicate others as appropriate for the Specific Project].**
 - d. Engineer will prepare and distribute minutes of each such meeting and conference call, indicating attendees, topics discussed, decisions made, and action items for follow-up.
- 8. Perform or provide the following other Final Design Phase activities or deliverables:
 - a. **[List any such tasks or deliverables here].**
- G. Engineer shall complete the Final Design Phase as follows:
 - 1. Pursuant to the requirements of the Deliverables Schedule in Exhibit B, furnish for review by Owner, its legal counsel, and other advisors, the final Drawings and Specifications (as set forth in Exhibit A Paragraph 1.04.B.3 above); assembled drafts of other Construction Contract Documents including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost; and any other Final Design Phase deliverables, and review the deliverables with Owner.

2. Revise the final Design Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
3. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications; assembled drafts of the Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; and any other Final Design Phase deliverables, as revised.

1.05 Bidding/Proposal Phase

- A. After acceptance by Owner of the final Drawings and Specifications; assembled drafts of other Construction Contract Documents, including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and any other Final Design Phase deliverables, and upon written authorization by Owner to proceed, Engineer shall:
 1. Assist Owner in advertising for and obtaining bids or proposals for the Work; assist Owner in issuing assembled Bidding/Proposal Documents and proposed Construction Contract Documents to prospective contractors; if applicable, maintain a record of prospective contractors to which documents have been issued; attend pre-bid conferences, if any; and receive and process contractor deposits or charges, if any, for the issued documents.
 - a. **[List method (such as Owner's procurement website, commercial plan room or web service, distribution by Engineer, etc.) that Owner will use for distributing Bidding Documents here]**
 2. Prepare and issue addenda as appropriate to clarify, correct, or change the issued documents.
 3. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Exhibit A Paragraph 2.01.A.2.
 4. Attend the bid opening; prepare bid tabulation sheets; and assist Owner in evaluating bids or proposals, assembling final Construction Contracts for the Work for execution by Owner and Contractor, and in preparing notices of award to be issued by Owner for such contracts.
 5. Provide information or assistance needed by Owner in the course of any review of bids, proposals, or negotiations with prospective contractors.
 6. Consult with Owner as to the qualifications of prospective contractors.
 7. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.

9. Perform or provide the following other Bidding/Proposal Phase tasks or deliverables:
 - a. **[List any such tasks or deliverables here].**
10. The Bidding/Proposal Phase will be considered complete upon award of Construction Contracts for the Work and commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors.

1.06 Construction Phase

- A. After completion of the Final Design Phase and concurrent with the Bidding/Proposal Phase, and after issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, design, schedule, number of prime construction contracts, and other construction requirements of the Specific Project during the Construction Phase desired by Owner, the Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services or compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from specific modifications to the Specific Project.
 1. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified. With the exception of such expressly required services, Engineer shall have no design, Submittal (including Shop Drawing) review, or other obligations during construction, and Owner assumes all responsibility for providing or arranging for all other necessary Construction Phase administrative, engineering, and professional services.
 2. Owner waives all claims against Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A. Notwithstanding the foregoing waiver, Engineer shall be responsible for any professional opinions and interpretations provided by Engineer to Owner during the Construction Phase or Post-Construction Phase, including interpretations or clarifications of the Construction Contract Documents.
- B. Upon successful completion of the Bidding/Proposal Phase, and upon written authorization from Owner, Engineer shall provide the following services:
 1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in this Agreement and the Construction Contract. Unless otherwise set forth in the scope of Basic Services (as duly modified), the extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2018) or other construction general conditions specified in this Agreement. Except as otherwise provided in the Construction Contract, Owner's communications to Contractor will be issued through Engineer.
 - a. If the responsibilities of Engineer as set forth in the Construction Contract are greater than those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified, then Owner shall either (1) expand the scope of the Construction Phase services to match those of the Construction Contract, and compensate Engineer for any related increases in the cost to provide

Exhibit A—Engineer's Services Under Task Order.

Exhibits to Task Order. EJCDC® E-505, Agreement between Owner and Engineer for Professional Services—Task Order Edition.

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Construction Phase services, pursuant to the provisions for compensating Additional Services, or (2) identify a qualified individual or entity (other than Engineer) responsible for the additional responsibilities in the Construction Contract.

- b. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, or if Owner requires Engineer's services for construction that extends longer than the anticipated Construction Contract Times, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services.
 - c. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.
2. Field Office: **[Delete or edit as applicable to the Specific Project]** Engineer and Resident Project Representative (if any) will be based in a field office at the Site. The field office will be furnished and maintained at Owner's expense, and will include reasonable furnishings, all required temporary utilities (including internet service) and facilities, and be secured for Engineer's (and RPR's) exclusive use.
3. Resident Project Representative (RPR): Provide the services of an RPR at the Site to assist Engineer and to provide more extensive observation of Contractor's Work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D. **[If Engineer will not be providing RPR services under the specific Task Order, then delete this Paragraph 3 by inserting the word "DELETED" after the paragraph title; do not include Exhibit D as an exhibit to the specific Task Order; and do not include RPR compensation in Paragraph 7 of the Exhibit specific Task Order.]**
4. Selection of Independent Testing Laboratory: Assist Owner in the selection of an independent testing laboratory to perform required testing services.
5. Pre-Construction Conference: Participate in a pre-construction conference prior to commencement of Work at the Site; prepare and distribute agenda for the conference and prepare and distribute minutes of such conference.
6. Electronic Transmittal Protocols: If the Construction Contract does not establish protocols for transmittal of Electronic Documents by Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
7. Original Documents: If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.

8. Schedules: Receive, review, and, and, subject to the criteria of the Construction Contract, determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the progress schedule, schedule of submittals, and schedule of values. Advise Contractor in writing of Engineer's comments or acceptance of schedules.
 - a. Schedules will be acceptable to Engineer as to form and substance:
 - 1) Progress Schedule: if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2) Contractor's Schedule of Submittals: if it provides a workable arrangement for reviewing and processing the required Submittals.
 - 3) Contractor's Schedule of Values: if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
9. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
10. Permits: Provide Owner with copies of technical information and supporting data previously obtained or developed by Engineer for Owner's use, or for Owner to provide to Contractor, in obtaining required permits and licenses delegated to Contractor by Owner.
11. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of the Work, as Engineer deems necessary, to observe as an experienced and qualified design professional, the progress of Contractor's executed Work. Such visits and observations by Engineer, including its RPR, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by its RPR, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work. Engineer will make a report of Engineer's visit, summarizing Engineer's general observations and any significant findings.
 - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to by this Agreement and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of

Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Specific Project as a functioning whole as indicated in the Construction Contract Documents. Engineer will not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor will Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

12. Defective Work: If, on the basis of Engineer's observations or as indicated in documentation available to Engineer, Engineer believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, Engineer will promptly issue written notice to Contractor (with copy to Owner) of such defective Work. Such notice will communicate the scope, extent (to Engineer's understanding) of defect, and associated provisions of the Construction Contract Documents.
 - a. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting the defective Work in accordance with the provisions of the Construction Contract Documents. Engineer shall give notice to Contractor regarding whether the defective Work should be repaired, replaced, or will be accepted by Owner.
 - b. However, Engineer's authority to provide this information to Owner or Engineer's decision to exercise or not exercise such authority will not give rise to a duty or responsibility of the Engineer to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility for Contractors' or Subcontractors' safety precautions and programs incident to the Work.
13. Compatibility with Design Concept: If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Specific Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
14. Clarifications and Interpretations: Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents.

With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

15. Non-reviewable Matters: If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (a) the performance or acceptability of the Work under the Construction Contract Documents, (b) the design (as set forth in the Drawings, Specifications, or otherwise), or (c) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
16. Field Orders: Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
17. Change Orders and Work Change Directives: Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
18. Change Proposals and Claims
 - a. Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal.
 - b. Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.
19. Differing Site Conditions: Respond to any notice from Contractor of differing site conditions, including conditions relating to Underground Facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use subject to limitations of Engineer's obligations under this Agreement.
20. Contractor's Submittals: Review and approve or take other appropriate action with respect to required Contractor Submittals, but only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Construction Contract Documents, and for compatibility with the design concept of the completed Specific Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's Submittal schedule that Engineer has accepted.
21. Substitutes and "Or-equals": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Exhibit A Paragraph 2.01.A.2.

Exhibit A—Engineer's Services Under Task Order.

Exhibits to Task Order. EJCDC® E-505, Agreement between Owner and Engineer for Professional Services—Task Order Edition.

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22. Inspections and Tests

- a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining whether the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
- b. Reply to Contractor requests for written concurrence that specific portions of the Work that are to be inspected, tested, or approved may be covered.
- c. Issue written requests to Contractor that specific portions of the Work remain uncovered.
- d. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
- e. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

23. Contractor's Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set offs) based on the provisions for set offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, within the limits of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
- b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the

purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

24. Contractor's Completion Documents: Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Exhibit A Paragraph 1.06.B.20. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents will be to check that Contractor has submitted a complete set of those documents that Contractor is required to submit.
25. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, visit the Site in company with Owner and Contractor to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
26. Other Tasks: Perform or provide the following other Construction Phase tasks or deliverables:
 - a. **[List any such tasks or deliverables here].**
27. Completion and Acceptability of the Work: After notice from Contractor that the Work is complete:
 - a. visit the Site with Owner and Contractor to determine if the Work is in fact complete and acceptable;
 - b. notify Contractor of any part of the Work that is found during the visit to be incomplete or defective, and subsequently confirm that Contractor has corrected any such deficiencies;
 - c. follow the procedures in the Construction Contract regarding review and response to Contractor's application for final payment and accompanying documentation; and

- d. if Engineer is satisfied that the Work is complete and acceptable, provide a notice to Owner and Contractor using EJCDC® C-626, Notice of Acceptability of Work (attached as Exhibit E), stating that the Work is acceptable (subject to the provisions of the Notice and this Exhibit A) within the limits of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
- 28. Standards for Certain Construction-Phase Decisions: Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- C. Duration of Construction Phase: The Construction Phase will commence with the execution of the first Construction Contract for the Specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractor. If the Specific Project involves more than one prime contract as indicated in Exhibit A Paragraph 1.04.A.1, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

1.07 Post-Construction Phase

- A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:
 - 1. Together with Owner, visit the Specific Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
 - 2. Together with Owner, visit the Specific Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
 - 3. Perform or provide the following other Post-Construction Phase tasks or deliverables:
 - a. **[List any such tasks or deliverables here].**
- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate 12 months after the commencement of the Construction Contract's correction period.

ARTICLE 2—ADDITIONAL SERVICES

2.01 Additional Services Not Requiring Owner's Written Authorization

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Paragraph 7 of the governing Task Order.
1. Substantive design and other technical services in connection with Work Change Directives, Change Proposals, and Change Orders to reflect changes requested by Owner.
 2. Services essential to the orderly progress of the Bidding/Proposal and Construction Phases and not wholly quantifiable prior to those Phases or otherwise dependent on the actions of prospective individual bidders or contractors and including:
 - a. making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items;
 - b. services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Specific Project;
 - c. evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract; and
 - d. providing to the Contractor or Owner additional or new information not previously prepared or developed by the Engineer for their use in applying for or obtaining required permits and licenses, in responding to agency comments on such applications, or in the administration of any such permits or licenses.
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
 5. Implement coordination of Engineer's services with other parts of the Specific Project that are not planned or designed by Engineer or its Subconsultants, unless Owner furnished to Engineer substantive information about such other parts of the Specific Project prior to the parties' entry into this Agreement, in the Baseline Information section of this Exhibit A, or otherwise in Exhibit A; if such substantive information has been so provided, coordination of Engineer's services will be part of Basic Services.

6. Implement the specific parts of an Underground Facilities Procedure that are assigned to Engineer, or above-ground utilities tasks that are assigned to Engineer as the Specific Project progresses (but not including the design-related services already assigned to Engineer as a Basic Service).
7. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
8. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
9. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.
11. To the extent the Specific Project is subject to Laws and Regulations governing public or government records disclosure or non-disclosure, Engineer will comply with provisions applicable to Engineer, and Owner will compensate Engineer as Additional Services for Engineer's costs to comply with any disclosure or non-disclosure obligations beyond those identified in the Basic Services.
12. Services directly attributable to changes in Engineer's Electronic Documents obligations after the effective date of the Agreement.

2.02 Additional Services Requiring Owner's Written Authorization

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Paragraph 7 of the governing Task Order.
 1. Obtain or provide specified additional Specific Project-related information and data to enable Engineer to complete its Basic and Additional Services.
 2. Preparation of special and customized reporting, invoicing, and related support documentation in addition to that identified to be provided under Basic Services.
 3. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Specific Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Specific Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Specific Project.
 4. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.

5. Services resulting from significant changes in the scope, extent, or character of the portions of the Specific Project designed or specified by Engineer, or the Specific Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
6. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Exhibit A Paragraph 1.02.A.1.
7. Services required as a result of Owner's providing incomplete or incorrect Specific Project information to Engineer.
8. Providing renderings or models for Owner's use, including development, management, and other services in support of building information modeling or civil integrated management.
9. Undertaking investigations and studies including, but not limited to:
 - a. All-hazards risk assessments and other studies to evaluate the feasibility of enhancing the resiliency of the design;
 - b. detailed consideration of operations, maintenance, and overhead expenses;
 - c. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Specific Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - d. preparation of appraisals;
 - e. with respect to proprietary systems or processes requiring licensing, providing services necessary to assist Owner in obtaining such licensing.
 - f. detailed quantity surveys of materials, equipment, and labor; and
 - g. audits or inventories required in connection with construction performed or furnished by Owner.
10. Furnishing services of Subconsultants or Engineer's Subcontractors for other than Basic Services.
11. Providing data or services of the types described in Article 2, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
12. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Exhibit A Paragraph 1.04.A.1.
 - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.

Exhibit A—Engineer's Services Under Task Order.

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13. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Article 1 of Exhibit A).
14. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
15. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents); preparing pre-qualification procedures and documents, and participating in pre-qualifying prospective Bidders; and preparing Construction Contract Documents for alternate bids.
16. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
17. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all addenda and any amendments negotiated by Owner and Contractor.
18. Services to assist Owner in developing or modifying protocols for transmittal of Electronic Documents by Electronic Means after the effective date of this Agreement, either by revising or adapting Exhibit F to the Specific Project or implementing other Electronic Documents protocols among Specific Project participants.
19. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under Exhibit F Paragraph 1.01.D (see Exhibit F, Electronic Documents Protocol), or any other distribution of a Document to a third party. Such services may include but are not limited to preparing the data contained in the requested Document in a manner deemed appropriate by Engineer; creating or otherwise preparing and distributing the Document in a format necessary to respond to Owner's direction or decision to provide the Document to a requesting party, including Contractor, in a format other than that required for deliverables from Engineer to Owner; and services in connection with obtaining required releases from the third parties to which the Documents will be distributed. Compensation for these Additional Services is not contingent upon Owner's reimbursement from the requesting party.
20. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
21. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
22. Supplementing Record Drawings with information regarding the completed Specific Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
23. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.

24. Preparation of operation, maintenance, and staffing manuals.
25. Protracted or extensive assistance in refining and adjusting of Specific Project equipment and systems (such as initial startup, testing, and balancing).
26. Assistance to Owner in training Owner's staff to operate and maintain Specific Project equipment and systems.
27. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Specific Project equipment and systems, and (b) related recordkeeping.
28. Preparing to serve or serving as a consultant or witness for, or producing documents for or on behalf of, Owner in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Specific Project (but not including disputes between Owner and Engineer).
29. Overtime work requiring higher than regular rates.
30. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Exhibit A Paragraph 1.06.B.9; any type of property surveys or related engineering services needed for the transfer of interests in real property; providing construction and property surveys to replace reference points or property monuments lost or destroyed during construction; and providing other special field surveys.
31. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
32. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
33. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

EXHIBIT B—TASK ORDER DELIVERABLES SCHEDULE

Paragraphs 2.04.E, 3.02.A, and Exhibit A of the Main Agreement are supplemented by the following paragraph and table.

Under the governing Task Order the Engineer shall furnish Documents to Owner as required in Column 2 of the following table (and as further described in Exhibit A), according to the schedule in Column 4. Owner shall comment or take other identified actions with respect to the Documents as indicated in Column 2 (and as further described in Exhibit A), according to the schedule in Column 4.

Party	Action	Exhibit A Reference	Schedule
Engineer	Submit [number] review copies of the Report and other Study and Report Phase deliverables to Owner.	1.02.A.17	Within [number] days of the Effective Date.
Owner	Submit comments regarding the Report and other Study and Report Phase deliverables to Engineer.	1.02.A.18	Within [number] days of the receipt from Engineer of the Report and other Study and Report Phase deliverables.
Engineer	Submit [number] copies of the revised Report and other Study and Report Phase deliverables to Owner.	1.02.A.18	Within [number] days of the receipt of Owner's comments regarding the Report and other Study and Report Phase deliverables.
Engineer	Submit [number] review copies of the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.17	Within [number] days of Owner's authorization to proceed with Preliminary Design Phase services.
Owner	Submit comments regarding Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	1.03.B.18	Within [number] days of the receipt from Engineer of Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit [number] copies of the revised Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.18	Within [number] days of the receipt of Owner's comments regarding the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit [number] copies of the first Final Design Phase draft of Drawings and Specifications to Owner.	1.04.B.1	Within [number] days of Owner's authorization to proceed with Final Design Phase services.
Owner	Submit comments and instructions regarding the first Final Design Phase draft of Drawings and Specifications to Engineer.	1.04.B.1	Within [number] days of the receipt of the first final Design Phase drafts of Drawings and Specifications from Engineer.
Engineer	Submit [number] copies of the second Final Design Phase drafts of Drawings and Specifications to Owner.	1.04.B.2	Within [number] days of the receipt of Owner's comments and instructions regarding the first Final Design Phase drafts of Drawings and Specifications.

Exhibit B—Task Order Deliverables Schedule.

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Party	Action	Exhibit A Reference	Schedule
Engineer	Submit [number] of copies of draft Bidding/Proposal and Front-End Construction Contract Documents, as required, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Owner.	1.04.D.3; 1.04.F.8	Concurrent with submittal to Owner of the second Final Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the second Final Design Phase drafts of Drawings and Specifications to Engineer.	1.04.B.2	Within [number] days of the receipt from Engineer of the second Final Design Phase drafts of Drawings and Specifications.
Engineer	Submit [number] copies of the final, completed, pricing-ready and construction-ready Drawings and Specifications to Owner.	1.04.B.3 and 1.04.G.1	Within [number] days of the receipt of Owner's comments and instructions regarding the second Final Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications to Engineer.	1.04.G.2	Within [number] days of the receipt from Engineer of the final, completed, pricing-ready and construction-ready Drawings and Specifications.
Owner	Submit comments and instructions regarding drafts of Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Engineer.	1.04.D.3; 1.04.F.8	Concurrent with Owner's submittal of comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications.
Engineer	Submit to Owner: [number] copies of the revised final, completed, pricing-ready and construction-ready Drawings and Specifications; and [number] of copies of assembled Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.	1.04.G.2; 1.04.G.3	Within [number] days of receipt of Owner's final comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications, the Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.
Engineer	Submit [number] copies of Bidding/Proposal Phase deliverables (if any) identified in Exhibit A Paragraph 1.05.A.9.a to Owner.	1.05.A.9.a	Within [number] days of written authorization by Owner to proceed with Bidding/Proposal Phase services.
Engineer	Submit [number] copies of Construction Phase deliverables (if any) identified in Exhibit A Paragraph 1.06.B.26.a to Owner.	1.06.B.26.a	Within [number] days of [applicable benchmark event such as commencement of the Construction Contract Times]

Exhibit B—Task Order Deliverables Schedule.

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Party	Action	Exhibit A Reference	Schedule
Engineer	Submit [number] copies of Post-Construction Phase deliverables (if any) identified in Exhibit A Paragraph 1.07.A.3.a to Owner.	1.07.A.3.a	Within [number] days of Substantial Completion.

Exhibit B—Task Order Deliverables Schedule.

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EXHIBIT D—DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE UNDER TASK ORDER

ARTICLE 1—RESIDENT PROJECT REPRESENTATIVE SERVICES

Article 1 of the Main Agreement, Services of Engineer, and Exhibit A, Engineer's Services Under Task Order, are supplemented to include Exhibit D Paragraphs 1.01, 1.02, and 1.03, as follows:

1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to observe progress and quality of the Work. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
- B. The RPR will provide full-time representation **[revise if representation will be less than full time]**.
- C. Subject to the scope of RPR's observations of the Work, which may include field checks of materials and installed equipment, Engineer shall endeavor to identify defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, inspect, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A Paragraph 1.06 are applicable.

1.02 Duties and Responsibilities of RPR

- A. The duties and responsibilities of the RPR are as follows:
 1. General: RPR's dealings in matters pertaining to the Work in general will be with Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. Safety Compliance: Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. Liaison
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. Clarifications and Interpretations: Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.
7. Shop Drawings, Samples, and other Submittals
 - a. Receive Samples that are furnished at the Site by Contractor.
 - b. Receive Contractor-approved Shop Drawings.
 - c. Receive other Submittals from Contractor.
 - d. Record date of receipt of Samples, Contractor-approved Shop Drawings, and other Submittals.
 - e. Notify Engineer of availability of Samples for examination, and forward Contractor-approved Shop Drawings and other Submittals to Engineer. When appropriate recommend distribution of Submittal to specified Subconsultants.
 - f. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. Proposed Modifications: Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. Review of Work; Defective Work
 - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected,

removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work.
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. Inspections, Tests, and System Start-ups

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.
- f. Nothing in this Agreement will be construed to require RPR to conduct inspections.

11. Records

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Proposals, Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Proposals, Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

- d. Record and maintain accurate, up-to-date lists of the company names and points of contact for Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to designated recipients.

12. Reports

- a. Furnish periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft responses to or make recommends on Change Proposals, Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform appropriate parties of the occurrence of any Site accidents, emergencies, natural catastrophes endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. Completion

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

1.03 Limitations of Authority

A. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

NOTICE OF ACCEPTABILITY OF WORK (EJCDC® C-626 2018)

Owner: _____ Owner's Project No.: _____
Engineer: _____ Engineer's Project No.: _____
Contractor: _____ Contractor's Project No.: _____
Project: _____
Contract Name: _____
Notice Date: _____ Effective Date of the Construction Contract: _____

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated **[date of professional services agreement]** ("Owner-Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner-Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner-Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By (signature): _____
Name (printed): _____
Title: _____

Exhibit F—Reserved.

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Exhibit G—Reserved.

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Exhibit I—Reserved.

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TO: Mayor Ross
Members of the City Council

FROM: Lance Meyer, City Engineer

DATE: August 19, 2024

**SUBJECT: BURDICK EXPRESSWAY VIADUCT IMPROVEMENTS - FINAL
PAYMENT (4563)**

I. RECOMMENDED ACTION

1. It is recommended City Council approve the final payment to the NDDOT in the amount of \$8,010.42; and
2. Approve the budget amendment in the amount of \$3,224 on first reading; and
3. Authorize the Mayor and Finance Director to sign the final certification of local match.

II. DEPARTMENT CONTACT PERSONS

Lance Meyer, City Engineer, 701-857-4100
Emily Huettl, Asst. City Engineer, 701-857-4132

III. DESCRIPTION

A. Background

Burdick Expressway viaduct was constructed in 1979 and needs rehabilitation. The project rehabilitated three bridges in the Minot area. This is the only bridge with a direct City cost share. The project was bid in 2022 and constructed in 2023.

B. Proposed Project

The work on the Burdick Viaduct included repairing spalled concrete piers, beams, and deck, replacement of deck expansion seals, new lighting, new fencing, new paint and surface finish, and foam jacking the approach slabs.

C. Recommendation Detail

Industrial Builders Inc, from Fargo, ND was the low bidder on the project with a bid of \$3,569,925.94 which is below the engineer's estimate of \$3,670,933.50. The City of Minot has a cost share for the Burdick Viaduct of \$191,697.16.

IV. IMPACT

A. Aspirations

Resilient and Prepared

B. Service/Delivery Impact:

Burdick Expressway Viaduct is a key transportation bridge within the City. The bridge carries vehicle traffic over the CP Rail tracks, and it is the only grade separation until the 27th St bridge over a mile away. This project has improved the bridge's pedestrian safety and esthetics and has extended its lifespan.

C. Fiscal Impact

The NDDOT is using a combination of funding to pay for the state and federal portions of this project. The City has a 10% cost share in this project for the Burdick Viaduct only.

Project Costs

The final payment due to the NDDOT is \$8,010.42 but only \$4,255.59 is currently available in the 2024 budget for this project.

Project Funding

The City had budgeted \$300,000 for this project in the 2022 budget and \$191,697.16 was encumbered that year based on the bid awarded. A budget amendment of \$3,224 is necessary to move additional funds into the 2024 budget to cover the small overage during construction.

VI. ALTERNATIVES

N/A - Prompt approval of the payment is needed to reimburse the NDDOT.

JULY 24, 2024

DAVID LAKEFIELD
CITY OF MINOT
PO BOX 5006
MINOT ND 58702-5006

PROJECT: NHU-4002(136)906 PCN 22910 – BURDICK EXPRESSWAY EAST – CP RAILWAY

Pursuant to the agreement entered into between the City of Minot, and the ND Department of Transportation on April 11, 2022, we are submitting a final billing in the amount of \$8,010.42.

The above amount was calculated as follows:

Construction Subproject 1	$\$2,593,795.73 \times 100\% =$	<u>\$2,593,795.73</u>
Less CVD Limit		<u>(1,697,000.00)</u>
Subtotal		896,795.73
City Share	$896,795.73 \times 10\% =$	89,679.57
Construction Subproject 2	$567,887.74 \times 100\% =$	567,887.74
Subproject 2 Houston PE		
Est 18-22 Final billed as CE, CE		
Aecom Est 1-8 Final & DOT CE	$78,237.12 \times 100\% =$	78,237.12
Less Fed/State limit Subproject 2		<u>(579,541.50)</u>
City Share		66,583.36
Preliminary Engineering –		
Houston Eng. Est 1-17	$183,010.53 \times 10\% =$	18,301.05
DOT PE Costs	$10,534.83 \times 10\% =$	1,053.48
Subproject 1 Houston PE Est		
18-22 Final billed as CE, CE Aecom		
Est 1-8 Final & DOT CE	$357,343.72 \times 10\% =$	<u>35,734.37</u>
Total		211,351.83
Less Previous Billings		<u>(203,341.41)</u>
Total Due to NDDOT		<u>\$ 8,010.42</u>

A copy of the contractor's final payment estimate 12, and back up for the pro-rated CE is enclosed.

Julie Fleck

JULIE FLECK
FEDERAL AID ACCOUNTANT

50/jf/cpm
Enclosures

DEPARTMENT OF TRANSPORTATION
INVOICE

Please Remit Payment To:
Department of Transportation
Financial Management Division
608 East Boulevard Avenue
Bismarck, ND 58505 - 0700

For Any Questions
Please Contact:
701-328-2635

Customer: MINOT

<u>Invoice#</u>	<u>Invoice Date</u>	<u>Project Description</u>	<u>Project</u>	<u>Amount</u>
0002454537	06/30/2024	PROJECT: NHU-4002(136)906 BURDICK EXPWY E - CP RAILWAY FINAL BILLING	NHU4002136906	8,010.42

Please include Invoice # along with Payment.

FINAL CERTIFICATION OF LOCAL MATCH

North Dakota Department of Transportation, Local Government
SFN 60973 (1-2019)

Project Number NHU-4002(136)906	PCN 22910
------------------------------------	--------------

LPA
CITY OF MINOT

It is hereby certified that the LPA above has provided non-federal funds, whose source is identified below, as match for the amount the LPA was obligated to pay for the above reference project with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

Non-Federal Match Funds provided by LPA. Please designate the source(s) of funds that were used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

SOURCE

Executed at:
 , North Dakota, the last date below signed.

ATTEST:

Auditor Name (Type or Print)

Signature

Date

APPROVED: LPA of

Mayor/President/Chairperson Name (Type or Print)

Signature

Date

Title (Type or Print)

Return this completed form to:

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
LOCAL GOVERNMENT DIVISION
608 E BOULEVARD AVE
BISMARCK ND 58505
Phone: (701)328-2540

North Dakota Department of Transportation
Claim for Payment - **Final** Progressive Estimate Number 12

4-26-24

Project: CVD-NHU-4-002(136)906

PCN: 22910

Type: CONCRETE PAVING, LIGHTING, BRIDGE REPAIRS & INCIDENTALS

Contractor
INDUSTRIAL BUILDERS INC
PO BOX 406
FARGO ND 581070406

Covering Period From 01/29/2024 To 01/31/2024
Length: 0.19
Contract Cost \$2,885,428.69
Change Orders Estimated: \$164,306.72
County: Ward

Vendor Number: 12556
Funding Doc No: P400213A 100
P400213A 100

Assignment

Funding Sources	CVD FEDERAL FUNDS	NHU FEDERAL FUNDS	Totals
Total Work Done to Date	2,593,795.73	567,887.74	3,161,683.47
Retainage	0.00	0.00	0.00
Previous Retainage	25,937.95	5,678.88	31,616.83
Retainage this Period	-25,937.95	-5,678.88	-31,616.83
Liquidated Damages			
0.0 Days to Date	0.00	0.00	0.00
0.0 Days to Previous	0.00	0.00	0.00
0.0 Days this Period	0.00	0.00	0.00
Total Due to Date	2,593,795.73	567,887.74	3,161,683.47
Previous Payments	2,567,857.78	562,208.86	3,130,066.64
Payment Due this Estimate	25,937.95	5,678.88	31,616.83

NP Funding Sources	CVD FEDERAL FUNDS	NHU FEDERAL FUNDS
Total Work Done to Date	0.00	0.00
Retainage	0.00	0.00
Previous Retainage	0.00	0.00
Retainage this Period	0.00	0.00
Liquidated Damages		
0.0 Days to Date	0.00	0.00
0.0 Days to Previous	0.00	0.00
0.0 Days this Period	0.00	0.00
Total Due to Date	0.00	0.00
Previous Payments	0.00	0.00
Payment Due this Estimate	0.00	0.00

Engineer: Roger D Hille, AECOM

District Engineer: Chad Beggs

Construction Engineer: Phillip Murdoff

Pay Quantities Date Range From 10/27/2023 To 01/29/2024

DEPARTMENT APPROVAL AND ESTIMATE CERTIFICATE (SEC.24-02-13 NDCC)

I hereby certify that the within estimate or claim is just and true, that the contractor herein named has rendered the services and furnished the material herein charged, that they are of the value claimed, that no part thereof has been paid, and that the foregoing estimate or claim is supported by a proper contract and bond on file in the department or that the purpose of the payment to a clerk of district court is pursuant to law and for the taking of property by condemnation.

Approved for payment by Murdoff, Phillip on 5/04/2024

Director, Department of Transportation

5/2/2024

North Dakota Department of Transportation Progressive Estimate Details

Project: CVD-NHU-4-002(136)906

PCN: 22910

Date Submitted For Payment: 04/25/2024

Letting Date: 10/14/2022

SubProject: 1 CONCRETE PAVING, LIGHTING, BRIDGE DECK CRACK SEALING, DECK GROOVING, DECK SPALL REPAIR, STRUCTURAL STEEL, EXPANSION JOINT MODIFICATION

Spec. Code No.	C.O. No.	Description	Original Quantity	Unit	Unit Price	BID Amount	QUANTITIES Current / Total to Date	AMOUNT Current / Total to Date	Projected Quantity
Bid Items and Change Orders									
103	100	CONTRACT BOND	0.700	L SUM	19,230.000	13,461.00	0.700	13,461.00	100.00
107	103	RAILWAY PROTECTION INSURANCE-SI	1.000	EA	10,000.000	10,000.00	1.000	10,000.00	100.00
107	141	RAILROAD COORDINATION - COMPANY	0.700	L SUM	60,000.000	42,000.00	0.700	42,000.00	100.00
202	99	9 Removal of Concrete	1.000	L SUM	4,500.000	4,500.00	1.000	4,500.00	100.00
202	111	REMOVAL OF CONCRETE	1.000	L SUM	290,000.000	290,000.00	1.000	290,000.00	100.00
202	132	REMOVAL OF BITUMINOUS SURFACING	414.000	SY	40.000	16,560.00	414.000	16,560.00	100.00
203	113	COMMON EXCAVATION-WASTE	98.000	CY	42.000	4,116.00	98.000	4,116.00	100.00
216	100	WATER	4.000	M GAL	52.000	208.00			
302	120	AGGREGATE BASE COURSE CL 5	173.000	TON	68.000	11,764.00	273.870	18,623.16	158.31
550	302	8.5IN NON-REINF CONCRETE PVMT CL	414.000	SY	220.000	91,080.00	414.000	91,080.00	100.00
601	1105	3 Self Consolidating Concrete	23.300	CY	5,805.000	135,256.50	23.300	135,256.50	100.00
602	130	CLASS AAE-3 CONCRETE	100.700	CY	4,015.000	404,310.50	73.310	294,339.65	72.60
602	130	3 CLASS AAE-3 CONCRETE	-32.900	CY	4,015.000	-132,093.50			
602	130	9 CLASS AAE-3 CONCRETE	10.100	CY	4,015.000	40,551.50			
602	1105	6 SELF CONSOLIDATING CONCRETE	2.900	CY	5,805.000	16,834.50	2.900	16,834.50	100.00
602	1250	PENETRATING WATER REPELLENT TR	4,932.000	SY	6.500	32,058.00	6,049.000	39,318.50	122.65
602	1260	BRIDGE DECK CRACK SEALING	4,956.000	LF	4.000	19,824.00	3,963.000	15,852.00	79.96
602	1300	BRIDGE DECK GROOVING	40,776.000	SF	1.500	61,164.00	40,776.000	61,164.00	100.00
602	7000	SPECIAL SURFACE FINISH	32,930.000	SF	4.050	133,366.50	32,930.000	133,366.50	100.00
612	115	3 REINFORCING STEEL-GRADE 60	3,534.000	LBS	6.500	22,971.00	3,534.000	22,971.01	100.00
612	115	6 REINFORCING STEEL-GRADE 60	993.000	LBS	6.500	6,454.50	993.000	6,454.50	100.00
612	116	REINFORCING STEEL-GRADE 60-EPOX	6,569.000	LBS	10.000	65,690.00	6,597.718	65,977.18	100.44
616	5890	STRUCTURAL STEEL	1.000	L SUM	65,000.000	65,000.00	1.000	65,000.00	100.00
624	119	REMOVE PEDESTRIAN RAILING	1,039.800	LF	35.000	36,393.00	1,039.800	36,393.00	100.00
702	100	MOBILIZATION	0.700	L SUM	368,500.000	257,950.00	0.700	257,950.00	100.00
704	100	FLAGGING	100.000	MHR	52.500	5,250.00			
704	1000	TRAFFIC CONTROL SIGNS	1,707.000	UNIT	3.700	6,315.90	1,516.000	5,609.20	88.81
704	1020	1 ATTENUATION DEVICE SPECIAL	2.000	EA	2,100.000	4,200.00	2.000	4,200.00	100.00
704	1036	ATTENUATION DEVICE-TYPE B-30	2.000	EA	2,100.000	4,200.00			
704	1036	1 ATTENUATION DEVICE-TYPE B-30	-2.000	EA	2,100.000	-4,200.00			
704	1052	TYPE III BARRICADE	10.000	EA	105.000	1,050.00	16.000	1,680.00	160.00
704	1054	SIDEWALK BARRICADE	3.000	EA	89.250	267.75	3.000	267.75	100.00
704	1060	DELINEATOR DRUMS	56.000	EA	39.900	2,234.40	53.000	2,114.70	94.64
704	1067	TUBULAR MARKERS	52.000	EA	8.400	436.80	69.000	579.60	132.69
704	1087	SEQUENCING ARROW PANEL-TYPE C	2.000	EA	546.000	1,092.00	2.000	1,092.00	100.00
704	1500	OBLITERATION OF PAVEMENT MARKIN	311.000	SF	3.150	979.65	324.144	1,021.05	104.23
704	3510	PRECAST CONCRETE MED BARRIER-S	109.000	EA	365.000	39,785.00	107.000	39,055.00	98.17

5/2/2024

North Dakota Department of Transportation
Progressive Estimate Details

Project: CVD-NHU-4-002(136)906

PCN: 22910

Date Submitted For Payment: 04/25/2024

Letting Date: 10/14/2022

SubProject: 1 CONCRETE PAVING, LIGHTING, BRIDGE DECK CRACK SEALING, DECK GROOVING, DECK SPALL REPAIR, STRUCTURAL STEEL,
 EXPANSION JOINT MODIFICATION

Spec. No.	Code No.	C.O. No.	Description	Original Quantity	Unit	Unit Price	BID Amount	QUANTITIES		AMOUNT		Projected Quantity
								Current	Total to Date	Current	Total to Date	
704	4011		PORTABLE CHANGEABLE MESSAGE SI	4.000	EA	2,600.000	10,400.00		2.000		5,200.00	50.00
708	1540		INLET PROTECTION-SPECIAL	4.000	EA	200.000	800.00		4.000		800.00	100.00
708	1541		REMOVE INLET PROTECTION-SPECIAL	4.000	EA	30.000	120.00		4.000		120.00	100.00
752	911		TEMPORARY SAFETY FENCE	400.000	LF	12.000	4,800.00		353.000		4,236.00	88.25
754	110		FLAT SHEET FOR SIGNS-TYPE XI REFL	35.000	SF	52.350	1,832.25		35.000		1,832.25	100.00
754	112		FLAT SHEET FOR SIGNS-TYPE IV REFL	6.000	SF	47.900	287.40		6.000		287.40	100.00
762	113		EPOXY PVMT MK 4IN LINE	200.000	LF	5.000	1,000.00		182.000		910.00	91.00
762	120		PREFORMED PATTERNED PVMT MK-M	32.000	SF	31.500	1,008.00		32.000		1,008.00	100.00
762	420		SHORT TERM 4IN LINE-TYPE R	1,347.000	LF	1.900	2,559.30		965.000		1,833.50	71.64
762	1304		PREFORMED PATTERNED PVMT MK 4II	416.000	LF	7.450	3,099.20		474.000		3,531.30	113.94
762	1305		PREFORMED PATTERNED PVMT MK 4II	1,966.000	LF	9.240	18,165.84		2,170.000		20,050.80	110.38
762	1308		PREFORMED PATTERNED PVMT MK 8II	61.000	LF	12.700	774.70		61.000		774.70	100.00
762	1344		PREF PATT PVMT MK 7IN LINE CONTR	570.000	LF	13.750	7,837.50		570.000		7,837.50	100.00
930	3631		POLYURETHANE FOAM	5,200.000	LBS	6.300	32,760.00		6,754.700		42,554.61	129.90
930	8644	8	SILICONE SEALANT	660.000	LF	20.000	13,200.00		660.000		13,200.00	100.00
930	8680		EXPANSION JOINT STRIP SEAL	164.000	LF	850.000	139,400.00		164.000		139,400.00	100.00
930	9610		DECK SPALL REPAIR	75.000	SF	245.000	18,375.00		144.853		35,488.99	193.14
930	9612		SPALL REPAIR	371.100	SF	280.000	103,908.00		646.137		180,918.36	174.11
930	9620		PIER REPAIR	179.300	SF	345.000	61,858.50		256.071		88,344.51	142.82
930	9696		BEAM END REPAIR	17.000	EA	12,400.000	210,800.00		17.000		210,800.00	100.00
930	9930		ANTI-GRAFFITI COATING	18,560.000	SF	1.600	29,696.00		18,560.000		29,696.00	100.00
930	9998	7	Temporary Shoring	1.000	EA	25,695.000	25,695.00		1.000		25,695.00	100.00
950	8673		EXPANSION JOINT MODIFICATION	24.000	LF	185.000	4,440.00		24.000		4,440.00	100.00
990	220		GUARD POST-PERMANENT	78.000	EA	1,000.000	78,000.00		78.000		78,000.00	100.00
Total Current Amount:										\$0.00		
Total Bid Amount							\$2,348,478.19				\$2,364,684.22	
Total Change Orders							\$133,369.50				\$229,111.51	
Total:							\$2,481,847.69				\$2,593,795.73	

5/2/2024

North Dakota Department of Transportation
Progressive Estimate Details

Project: CVD-NHU-4-002(136)906

PCN: 22910

Date Submitted For Payment: 04/25/2024

Letting Date: 10/14/2022

SubProject: 2 AESTHETICS, LIGHTING, PEDESTRIAN RAILING

Spec. Code No.	Code No.	C.O. No.	Description	Original Quantity	Unit	Unit Price	BID Amount	QUANTITIES		AMOUNT		Projected Quantity
								Current	Total to Date	Current	Total to Date	
Bid Items and Change Orders												
109	1	2	PRIME MARKUP	1.000	L SUM	524.600	524.60		1.000		524.60	100.00
109	1	4	Prime Mark-up	1.000	EA	1,192.530	1,192.53		1.000		1,192.54	100.00
109	1	5	Prime Mark-up	1.000	L SUM	1,095.340	1,095.34		1.000		1,095.34	100.00
624	123		PEDESTRIAN RAILING	901.300	LF	425.000	383,052.50		901.300		383,052.50	100.00
624	127		PEDESTRIAN SEMI-CANOPY	138.700	LF	540.000	74,898.00		138.700		74,898.00	100.00
770	4525		REVISE LIGHTING SYSTEM	1.000	EA	79,000.000	79,000.00		1.000		79,000.00	100.00
770	4526	5	Replace Feeds From Feed Point	1.000	L SUM	10,953.420	10,953.42		1.000		10,953.42	100.00
770	8000	2	ADDED FOR GALVANIZED AND BLACK	1.000	L SUM	5,246.000	5,246.00		1.000		5,246.00	100.00
770	9998	4	Conduit Expansion Coupling	1.000	EA	11,925.330	11,925.33		1.000		11,925.34	100.00
Total Current Amount:										\$0.00		
Total Bid Amount							\$536,950.50				\$536,950.50	
Total Change Orders							\$30,937.22				\$30,937.24	
Total:							\$567,887.72				\$567,887.74	
Total Project Current Amount										\$0.00		
Total Project Bid Amounts							\$2,885,428.69				\$2,901,634.72	
Total Project Change Orders							\$164,306.72				\$260,048.75	
Total Project:							\$3,049,735.41				\$3,161,683.47	

**North Dakota Department
INQUIRY ON PROJECT**

**NHU4002136906 - US 2B
BURDICK EXPWAY E TO CP**

Construction Engineering

Expenditure	435,580.84
Pro-rated Subproject 1	357,343.72
Pro-Rated Subproject 2	78,237.12

ORDINANCE NO:

AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE STREET CAPITAL INFRASTRUCTURE EXPENDITURES FOR THE REMAINING PAYMENT FOR THE BURDICK EXPRESSWAY VIADUCT REHABILITATION PROJECT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: Amend the 2024 annual budget to increase the Street capital infrastructure expenditures for the remaining payment for the burdick expressway viaduct rehabilitation project:

41040000-57200	2022400002	\$3,224
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- §2: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING:

PASSED SECOND READING:

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk



TO: Mayor Ross
Members of the City Council

FROM: Bryan Banfill, Public Works Director

DATE: August 19, 2024

**SUBJECT: USE OF A CITY EMPLOYEE'S ONLINE AUCTION SERVICES FOR
SURPLUS VEHICLES ONLINE AUCTION**

I. RECOMMENDED ACTION

- 1. It is recommended City Council approve the utilization of the City of Minot employee for the online auction to dispose of the surplus equipment in accordance with Sec 2-4 of the Minot Municipal code; and**
- 2. Authorize the Mayor to sign the Auction Services auction agreement.**

II. DEPARTMENT CONTACT PERSONS

Bryan Banfill, Public Works Director, 701-857-4112

III. DESCRIPTION

A. Background

On 6 May, 2024, the City Council approved the "Disposal of Excess Equipment Utilizing Either the City Auction or an Online Auction." Of which, the following items still remain on the list of disposal items:

Unit:	Description:	Serial No:
1012	1977 AMG 6935B	9635B000435
1014	1977 AMG 6935B	9635B000437
2120	2014 FORD PI SEDAN	1FAHP2MKXEG175303
313	1986 IDAHO NORLAND SNOWPLOW	011321
3820	2014 FORD PI SEDAN	1FAHP2MK6EG175301
605	2017 FREIGHTLINER SIDE LOAD GARBAGE TRUCK	1FVHCYFE3JHJK1012
7030	1985 GMC 70	1GBL7D1Y3FV111520
7070	1979 IHC	1854 AA185JHA30444
709	1979 IHC	1854 AA185JHA30427
8010	2006 FORD SD F250 XL	1FTSX21556ED10537
P180	2017 FORD PI SEDAN	1FAHP2MK7HG122787

We intend to dispose of the surplus equipment listed above in accordance with Sec 2-4 of the Minot Municipal code through the use of an online auction that will be facilitated by an online auctioneer who happens to be a City Employee. The process to use other service providers such as Gov Deals requires significant additional work to multiple departments City-wide. The tasks required for the online auction include:

1. Taking pictures of and list all equipment on website which also includes adding vehicle details and maintenance issues.
2. Establishing auction parameters.
3. Answering questions daily from prospective bidders.
4. Collect all data, bids, and fees at the end of the auction.
5. Paying Gov Deals for the use of the site.
6. Coordinating with Finance and City Manager Administrative staff on equipment sold, bid data, bid amounts, and bid premiums which will be paid to Gov Deals.
7. Coordinate with buyers on payment and pickup requirements.
8. Finance collects buyers bid amount/payment and fees.
9. City Administrative staff provides title of equipment to pick up purchased item.
10. Buyer picks up purchased item at Public Works.
11. City then pays invoice from Gov Deals for buyers fees.

B. Proposed Project

By utilizing an auctioneer, the City turns over the tasks related to the auction to the individual who will coordinate all requirements and tasks on the City's behalf. Once complete, the individual will provide a check to the City for the amount paid by the buyers for each item. The bid fee (also known as a buyer's fee) is paid by the buyer (not the seller) at the time of purchase, thus providing the City with the actual bid purchase amount for the vehicle. The bid fee is what is used to pay the auctioneer. It is not taken out of the purchase amount of the auctioned equipment item.

C. Recommendation Detail

The decision to recommend a City of Minot employee for the auction was based on the following items:

- The employee already has an auction service established.
- There would be no cost or financial obligation to the City of Minot.
- All costs will be paid by the buyer at a rate of 7% (Buyers Fee). Local rates can increase up to 10% or more.
- If a sale is not made, the City will not incur any financial obligation.
- Auction services in the local area have stated the service they would provide would incur additional fees at a greater rate than what would be required for the City employees' services. The local auction service costs include: \$1,750

minimum online auction fee, advertisement and clerking fees, as well as requiring an additional 60 days of preparation to set up the auction.

IV. IMPACT

A. Aspirations

Excellent and Connected: Based on Minot being fiscally responsible, providing quality services, and engaging with the community.

B. Service/Delivery Impact:

There will not be any financial impact due to the online auction service. City staff will see a reduction of the tasks and time associated with setting up and maintaining the online auction.

C. Fiscal Impact

Project Costs

There will be no cost or financial obligation to the City of Minot. All costs will be paid by the buyer at a rate of 7% (Buyers fees) paid at the time of sale. This cost will be calculated by the bid amount and not taken out of the final bid price. If a sale is not made, the City will not incur any financial obligation for any unsold items.

Project Funding

N/A

VI. ALTERNATIVES

1. Council could reject the utilization of the City of Minot employee's auction services based on services being provided by a City Employee and require utilization of Gov Deals or other local sources (at a greater cost to the City - Time and Money) to be used.



Justin Seifert
780 100th Ave NE
Minot, ND 58703
PH: (701) 833-4450
seifertauction@yahoo.com
seifertauction.com
ND License # 2090

Auction Contract

This agreement entered into this date: _____.

Seller, City of Minot grants Seifert Auction Services the exclusive right to sell at auction the following property listed and located at the following address _____.

Auction Item(s): City of Minot surplus vehicles - Online only auction hosted on HiBid.com

Auction Date: _____ Time: _____

Auction format: Traditional / Online With 7% buyer's premium

Auctioneer's Commission 0% on Personal Property or \$ none minimum, whichever is more

Clerk's Commission none %

Auction will be ABSOLUTE / RESERVE

Buy Backs or No Sales: Yes / No If Yes, buy backs will be charged full commission: Yes / No

Mortgages on any or all properties Yes/No: No

Additional Expenses: Toilet N/A Labor N/A @ \$ _____/hour Miscellaneous: _____

Advertising will be paid for by _____

Terms Seller Agrees:

- A. To furnish all proper deeds, titles, and abstracts to any items listed.
- B. Agrees seller is said owner of any and all property listed.
- C. To prepare all items for sale unless otherwise noted in contract
- D. Agrees to let auctioneers bid for seller or auctioneers.
- E. To pay all expenses from the proceeds unless otherwise noted.
- F. ~~To pay all expenses accrued if sale is canceled for any reason.~~ FS
- G. Help load items when buyer picks them up, if item(s) are at seller's location.
- H. Abide by Seifert Auction Services, LLC Terms and Conditions.

Terms Auctioneers agree:

- A. All proceeds are deposited in custodial account.
- B. To deliver closing within a reasonable time following the sale including a copy of all items sold, price, commission, etc.

ANY ITEMS WITH NO BUYER OR ANY ABBANDONED ITEMS (AFTER 30 DAYS) BECOME THE PROPERTY OF THE LAND OWNER.

SEIFERT AUCTION SERVICES, EMPLOYEES, ASSOCIATES AND AFILIATES SHALL NOT BE HELD RESPONSIBLE FOR ANY FIRE, THEFT, ACCIDENTAL DAMAGE AND/OR BREAKAGE TO PROPERTY UNDER THIS AGREEMENT. INSURANCE COVERAGE SHOULD BE MAINTAINED BY THE SELLER UNTIL ITEMS ARE SOLD.

THIS CONTRACT IS ENFORCEABLE WITHOUT RELIEF FROM VALUATION, APPRAISMENT LAWS AND WITH ATTORNEY FEES. SELLERS AGREE TO THE ABOVE CONDITIONS SET FORTH AND THOROUGHLY UNDERSTAND ALL CONDITIONS AND CONTENT.

☐ I HAVE RECEIVED A COPY, READ AND AGREE TO SEIFERT AUCTION SERVICES, LLC TERMS AND CONDITIONS.

I/WE REPRESENT THAT ALL STATEMENTS MADE ARE TRUE TO THE BEST OF MY/OUR ABILITIES. AS THIS CONTRACT'S HEIRS, ADMINISTRATORS, EXECUTORS, ASSIGNS, AND SUCCESSORS IN TRUST, WE, THE UNDERSIGNED, AGREE TO THE TERMS SET FORTH AND ACCEPT THIS CONTRACT

Seller: _____

Date _____

Spouse: _____

Date _____

Representative: _____

Date _____

Auctioneer: _____

Date _____

Name on check: _____

Address to send check:

Phone: () - _____



TO: Mayor Ross
Members of the City Council

FROM: Doug Diedrichsen, Principal Planner
Brian Billingsley, Community Development Director

DATE: August 19, 2024

SUBJECT: AMENDMENT: MYLA PROPERTY LLC. IRREVOCABLE LETTER OF CREDIT

I. RECOMMENDED ACTION

It is recommended the City Council approve the amendment to Myla Property, LLC. Irrevocable Letter of Credit and authorize the Mayor to sign the document extending the term of the Letter of Credit.

II. DEPARTMENT CONTACT PERSONS

Doug Diedrichsen, Principal Planner, 701-857-4022

III. DESCRIPTION

A. Background

Myla Property LLC. owner and developer of the Popeye's restaurant located at 300 28th Ave Sw submitted an irrevocable line of credit letter as a guarantee for landscaping development standards requirements. The letter has since expired and needs to be amended with a new expiration date of October 31st, 2024. All other terms and conditions of the letter of credit will remain unchanged.

B. Proposed Project

N/A

C. Recommendation Detail

N/A

IV. IMPACT

A. Aspirations

N/A

B. Service/Delivery Impact:

N/A

C. Fiscal Impact

N/A

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

The City Council can approve the amendment and authorize the Mayor to sign on behalf of the City of Minot or reject the amendment and allow the Letter of Credit to expire.



August 01, 2024

City of Minot

515 2nd Ave E

Minot, ND 58701

AMENDMENT (1)

Re: Irrevocable Letter of Credit No. 10023

Current Amount: U.S. \$15,000.00

1. For the account of Myla Property LLC we hereby extend the Letter of Credit Expiration Date from 08/01/2024 to 10/31/2024.
2. Except as specifically provided in the paragraph (1) above, all other terms and conditions of the Letter of Credit remain unchanged and in full force and effect.
3. This Amendment (1) is an integral part of the Letter of Credit.

Dakota Community Bank & Trust, N.A.,

By: _____

Jason Hopfauf, President

Approved () Rejected ()

Beneficiary Name: City of Minot

By: _____

Today's Date: _____



TO: Mayor Ross
Members of the City Council

FROM: Jennifer Eckman, Airport Director

DATE: August 19, 2024

**SUBJECT: CONSENT TO ASSIGN AIRPORT LEASE FROM PERRY WEISBERG
TO KP STUNT PRODUCTIONS**

I. RECOMMENDED ACTION

It is recommended City Council approve the consent to assign lease to Kent Pietsch from Perry Weisberg and authorize the Mayor to sign consent to assign lease.

II. DEPARTMENT CONTACT PERSONS

Jessica Long, Business & Development Man., 701-857-4725

III. DESCRIPTION

A. Background

The City of Minot entered into a ground lease agreement (Airport Lease) on May 7, 2007, leasing Hangar S5 located on Southside First Addition, Lot 5 at the Minot International Airport to Bourgault Industries. The lease was assigned to Perry Weisberg on June 5, 2023. Perry requested an assignment of the lease after bill of sale was provided with the hangar sold to KP Stunt Productions (owned by Kent Pietsch) on August 1, 2024.

B. Proposed Project

Assign the ground lease from Perry Weisberg to Kent Pietsch for the building sold to Kent Pietsch DBA KP Stunt Productions on August 1, 2024.

C. Recommendation Detail

The ground lease will not expire until May 7, 2027 and has 2 periods of five years each for an extended term option; allowing a potential lease extension until 2037 with a positive revenue relationship.

IV. IMPACT

A. Aspirations

City Council aspirations which will be adopted by the proposed

recommendation are to promote excellence and connection with the community.

B. Service/Delivery Impact:

The transfer of the lease will allow for the continuation of a positive relationship with a general aviation tenant that also maintains a positive working relationship with the general aviation community at the Minot Airport and surrounding community.

C. Fiscal Impact

Project Costs

The ground lease is an air revenue account paid at a monthly rate of \$84.24 with an annual C.P.I. increase adjustment of rent.

Project Funding

Air Revenue 11000000-43500

VI. ALTERNATIVES

1. Council can reject the assignment of lease and leave an empty hangar on property
2. Council could take no action and the lease would remain under Perry Weisberg with the hangar owned by KP Stunt Productions.



**CONSENT TO ASSIGN AIRPORT LEASE FROM PERRY WEISBERG
TO KP STUNT PRODUCTIONS**

WHEREAS, the City of Minot entered into a ground lease agreement (Airport Lease) on May 7, 2007, leasing Hangar S5 located on Southside First Addition, Lot 5 at the Minot International Airport to Bourgault Industries. The lease was assigned to Perry Weisberg on June 5, 2023.

WHEREAS, the City of Minot received notice from Perry Weisberg that he would like to assign and transfer their interest in the Airport Lease described in the preceding paragraph to KP Stunt Productions beginning August 1, 2024. The bill of sale for the building was completed with sale presented to Kent Piestch as President of KP Stunt Productions on August 1, 2024; and

WHEREAS, paragraph 24 on page 17 of the Airport Lease states:

24. ASSIGNMENT AND SUBLETTING

Neither Lessee nor any successor of Lessee shall in any manner, directly or indirectly, by operation of law or otherwise, assign, sublet, transfer or encumber any of Lessee's rights in and to this Agreement or any interest therein, nor license or permit the use or the rights herein granted in whole or in part without the prior written consent of the City. Such consent shall not be unreasonably

WHEREAS, MOT staff, City staff, and the Minot City Council have no objection to assignment of the Airport Lease to KP Stunt Productions,

NOW, THEREFORE, be it resolved that the Minot City Council consents to the assignment of the Airport Lease from Perry Weisberg to KP Stunt Productions. The assignment shall be considered effective upon

1. Execution of a written assignment between Perry Weisberg and KP Stunt Productions; and
2. Delivery of the assignment to the City's Airport Director for attachment to the original Airport Lease.

Passed and adopted this _____ day of _____, 2024.

ATTEST:

APPROVED:

Mikayla Williams, City Clerk

Thomas Ross, Mayor

Perry Weisberg
1307 37th Ave SE
Minot, ND 58701

Jessica Long
Business and Development Manager
Minot International Airport
305 Airport Road, Suite 216
Minot, ND 58703

July 12, 2024

Via e-mail

Dear Jessica:

Please be advised that I (Perry Weisberg) wish to sell all of my interest in the 50'x60' hangar situated on Lot 5, South Side Hangar Addition Minot International Airport to KP Stunt Productions Inc.

As such, KP Stunt Productions seeks to assume the airport lease the city of Minot has on file with myself - effective Aug 1, 2024.

KP Stunt Productions Inc
6100 87th ST NW
Burlington, ND 58722.

Please advise if there is any further information you need to make this adjustment to your records.

Respectfully yours,

A handwritten signature in blue ink, appearing to read "Perry Weisberg".

Perry Weisberg

CC: Kent Pietsch, KP Stunt Productions Inc

PROPERTY BILL OF SALE

- I. **THE PARTIES:** This Property Bill of Sale ("Bill of Sale) was created on July 31, 2024 in the County of Ward, State of North Dakota and is made and entered between:

Buyer: A business entity known as KP Stunt Productions Inc, 6100 87th ST NW
Burlington, ND 58722

AND

Seller: One individual(s) known as Perry A. Weisberg (Seller) with a mailing address of
1307 37th Ave SE Minot ND 58701.

- II. **PROPERTY DESCRIPTION:** Sentinel 50 foot x 60 foot Airplane Hangar located on lot 5,
South Side Hangar Addition, Minot International Airport
- III. **TAXES:** Property taxes for 2024 shall be prorated as per the date of sale. All property
taxes after Aug 1, 2024 shall become the responsibility of the buyer.
- IV. **WARRANTIES:** Buyer and Seller acknowledge that the sale is final without any
representations ("AS-IS") and that after the date of the sale the Seller shall not have any
liability other than the details in this Bill of Sale.
- V. **ADDITIONAL TERMS AND CONDITIONS:** All monthly lease installments & utilities shall
become the responsibility of the buyer as of Aug 1, 2024.

Buyer's Signature Kent D. Pietsch Date August 1, 2024

Kent Pietsch acting as President with the legal authority to act on behalf of KP Stunt
Productions Inc

Sellers's Signature P. A. Weisberg Date Aug 1, 2024

Perry A Weisberg

AIRPORT LEASE

**GROUND RENT
NEW CONSTRUCTION**

BY AND BETWEEN

THE CITY OF MINOT, ND

AND

BOURGAULT INDUSTRIES LTD.

For

LOT 5, SOUTH SIDE HANGAR ADDITION

Minot International Airport

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SCHEDULE A MINIMUM INSURANCE REQUIREMENTS

EXHIBIT A LEASED PREMISES

EXHIBIT B LESSEE'S DRAWING AND LAYOUT PLAN

GROUND RENT LEASE AGREEMENT

THIS AGREEMENT, made and entered into by and between the City of Minot, North Dakota, a municipal corporation, hereinafter, the "City", and Bourgault Industries Ltd., hereinafter, the "Lessee".

WITNESSETH THAT:

WHEREAS, the City is the owner and operator of the Minot International Airport, hereinafter, the "Airport", located in the County of Ward, State of North Dakota, and operates the Airport for the promotion, accommodation and development of air commerce and air transportation; and

WHEREAS, the City and Lessee have reached an understanding in principle which envisions the Lessee's construction of a Private General Aviation hangar and support space comprising approximately 5,250 square feet of enclosed space, the "Initial Improvements," in the Southwest quadrant of the Airport, without cost to the City; and

WHEREAS, the parties hereto desire to enter into a Lease Agreement, hereinafter, the "Agreement", granting the Lessee the use of certain premises at the Airport as hereinafter defined, and the use, together with others, of the Airport and its appurtenances;

NOW, THEREFORE, in consideration of the premises provided herein, the rights and privileges and the mutual covenants and agreements hereinafter contained and other valuable consideration, the parties hereto agree, for themselves, their successors and assigns, as follows:

1. TERM

- A. The term of this Agreement shall commence May 7, 2007, and end September 30, 2027, unless sooner terminated as provided herein.
- B. The City hereby grants to the Lessee an option to extend the term of this Agreement for a total of two (2) periods of five (5) years each, the "Extended Terms", under the terms and conditions set by the City Council at the time of renewal. To exercise each option, Lessee (i) shall give the City at least one year's prior written notice and (ii) shall not be in default of any of its obligations hereunder at the time of providing notice to the City or at any time subsequent to providing notice but prior to commencement of the Extended Term.

2. LEASED PREMISES

- A. The Leased Premises consists of: Lot 5, South Side Hangar Addition, specifically:

- 1) The parcel (5,250 sq. ft.) of developed land as shown in Exhibit A, attached hereto.
- 2) All improvements, including the Initial Improvements, now or hereafter constructed on the aforementioned land. The Initial Improvements shall consist of construction of a 50' x 60' hangar with a 3,000 sq. ft. structure and a parking area for vehicles as shown on Lessee's drawings and site plan, which are attached hereto as Exhibit B.

Subject to a reservation of easement rights by City for the installation, maintenance, repair, and replacement, if necessary, of such public utilities or Federal Aviation Administration installations as may now traverse the leased premises, or as may be necessary to be installed during the term of this agreement.

- B. It is hereby understood and agreed that any hangar and other improvements or fixtures placed and erected by the Lessee on the premises leased herein shall be and remain the property of the Lessee and may be removed by him within sixty (60) days after the expiration or cancellation of this lease, provided all rentals under this lease or other charges due the City have been paid. If the building cannot be removed because a mover cannot be arranged for during the 60 day time frame or the Lessee would suffer a severe economic impact attempting to meet that time frame, then the Airport Director may grant an extension not to exceed 60 additional days. Lessee shall be liable for any damage to the premises resulting from any such removal. Any property not so removed within the 60 day period shall become the property of City to be disposed of in such a way as it may deem fit. If Lessee elects to remove the building improvements, the land shall be left in a clean and graded condition.

3. RENT, FEES AND CHARGES

- A. For use and occupancy of the Leased Premises and privileges herein granted, the Lessee agrees commencing May 7, 2007, to pay to the City an initial monthly rent for the demised premises the sum of Fifty-Eight and 19/100ths Dollars (\$58.19) per month, in advance, upon the first day of each month and every month of said term at the office of the Airport Director, Minot International Airport, 25 Airport Road, Suite 10, Minot, North Dakota 58703-1457. Rent shall be adjusted annually as provided in Section 4 below.
- B. The Lessee hereby agrees to pay all rent, fees and charges as imposed by the City from time to time when due. The acceptance of rent, whether in a single instance or repeatedly, after it falls due, or after knowledge of any breach of this lease, by Lessee, or the giving or making of any notice of demand, whether according to any statutory provision or not, or any act or series of acts except an

express written waiver, shall not be construed as a waiver of any right here given to City, or as an election not to proceed under the provisions of this lease.

- C. The Lessee shall pay additional rent for the said demised premises the sum of 5% of the gross income or equivalent thereof derived from sources under any approved agreement to be paid on a monthly basis, based on the previous month's revenues.

4. ADJUSTMENT OF RENT

- A. During the term of this Agreement (and any extended term), the monthly rent payable hereunder shall be adjusted each year on March 1, by multiplying the rent payable in the preceding month by a fraction, the numerator of which shall be the C. P. I. (as hereafter defined) published for the immediately preceding January, and the denominator of which shall be the C.P.I. published for January a year previously; provided however, that the denominator for the first adjustment shall be the C.P.I. for the month of January, 2006.) In no event shall the monthly rent payable under this Article be less than the amount payable for the last adjustment period.
- B. The term "C.P.I." as used herein shall mean the Consumer Price Index for all Urban Consumers, in the Midwest Region, National Index, published by the Bureau of Labor Statistics of the United States Department of Labor, 1982-84 base = 100. In the event the base year is changed, the C.P.I. shall be converted to the equivalent of the base year 1982-84 = 100.

5. FAILURE TO PAY RENT

Failure to pay all rent, fees and charges when due or to comply with any other of the Lessee's financial obligations to the City under this Agreement, hereinafter, "monetary default", shall entitle the City to re-enter and take possession of the Leased Premises upon giving the Lessee ten (10) days advance written notice of its intention to do so, if said monetary default is not remedied within said (10) day period. However, the City may extend the time period to correct the default if it determines, in its sole discretion, that due diligence is shown by the Lessee in curing the default. All amounts not paid by the Lessee when due shall bear interest at the maximum rate allowed by law. If the Lessee does not cure the default within the 10-day period and the period is not extended by the City, the Agreement is terminated, and the Lessee must, vacate and surrender the Leased Premises.

6. USE OF LEASED PREMISES

- A. Lessee shall use the said premises for the following purposes only: Storage of Aircraft. The Leased Premises is for general aviation related storage only and no commercial operations (including but not limited to any aeronautical service

provided to the public and Fixed Base Operator ("FBO") activities) are permitted without a separate lease with the City.

- B. The Lessee may sublease any hangars or buildings or space contained therein constructed or to be constructed upon approval of the City Council. The Lessee shall not sublease any of the building or hangars constructed or to be constructed upon the demised premises unless the sublease is in writing and a copy of the same is provided to, and approved by, the City. The Sublease is invalid unless first approved by the City.
- C. Nothing contained in this Agreement shall give or be construed to give the Lessee any right to sell aviation fuel of any kind at the Airport, or to use the premises as a residence of temporary living quarters.
- D. Lessee, its agents, employees, suppliers and invitees shall have the right of ingress and egress to and from the Leased Premises and the public use areas/facilities used in connection therewith, over the Airport property and roadways, subject to the Rules and Regulations governing the use of the Airport as promulgated by the City from time to time.
- E. Lessee agrees for itself, its agents and employees that it will not perform any acts or carry on any practices which could result in the necessity to repair or replace Airport property, normal wear and tear excluded, or be a nuisance or menace to other users of the Airport.
- F. City covenants that upon paying the rent and performing the covenants and conditions herein contained, Lessee shall peacefully and quietly have, hold and enjoy the Leased Premises.
- G. City covenants and agrees that it is in lawful possession of the Leased Premises and has good and lawful authority to execute this Agreement.

7. LESSEE'S RIGHTS AND OBLIGATIONS

- A. Subject to and in accordance with all applicable laws and ordinances and such Rules and Regulations as may be adopted by the City for the operation thereof, Lessee may, together with others, use the Airport and its appurtenances together with all public use areas/facilities for the purpose of conducting its business as authorized in accordance with Article 6 hereof. The privileges granted hereby shall be non-exclusive, and include, without limiting the generality thereof the use of the Airport and its appurtenances for the purpose of landing, take-off, loading and unloading, taxiing, and parking of its aircraft or support equipment. Parking areas are those as designated by the City from time to time.
- B. Personnel conducting business at the Airport shall be neat, clean and courteous. Lessee shall not permit its agents, servants or employees to conduct business in

a loud, noisy, boisterous, offensive or objectionable manner. Lessee agrees to require its employees or approved sublessees to wear suitable attire and, if the City shall so request, to wear or carry badges or other suitable means of identification, which shall be subject to the prior and continuing approval of the City.

- C. Lessee shall observe and comply with any and all applicable Federal, State and local laws, statutes, ordinances and regulations and shall abide by and be subject to all Rules and Regulations and Minimum Standards which are now or may be promulgated by the City concerning operation and use of the Airport.
- D. Lessee shall be responsible for all its expenses in connection with its operation at the Airport and the rights and privileges herein granted, including without limitation taxes, permit fees, license fees and assessments lawfully levied or assessed upon the Lessee, and to secure all such permits and licenses.
- E. To the extent of its capabilities, Lessee agrees to cooperate with the City and/or any other airport user in dealing with aircraft or airline related emergencies at the Airport.
- F. Lessee or its agents shall coordinate with the City and the control tower and promptly remove any of its disabled aircraft and those of its approved sublessees from any part of the Airport, including without limitation, runways, taxiways, aprons and aircraft parking position and place any such aircraft in such storage areas as may be designated by the City. Such storage of disabled aircraft may be subject to a storage fee. Should Lessee fail to remove any of its disabled aircraft promptly, the City may, but shall not be obligated to, cause the removal and Lessee shall reimburse the City for all costs of such removal. Lessee hereby releases the City from any and all claims for damages to the disabled aircraft or otherwise from or in any way connected with such removal by the City. This section shall be subject to the jurisdiction, rules and regulations of the National Transportation Safety Board or its successor agency.

8. CITY'S RIGHTS AND OBLIGATIONS

- A. The City agrees that it will operate the Airport in a manner consistent with standards established by the Federal Aviation Administration, or any successor Federal agency exercising similar powers for airports of comparable size and in accordance with rules and regulation of the Federal Aviation Administration and any other governmental agency having jurisdiction thereof.
- B. From time to time, the City may adopt and enforce Rules and Regulations and Minimum Standards pursuant to FAA Advisory Circular 150/5190 1A, "Minimum Standards for Commercial Aeronautical Activities on Public Airports." with respect to the occupancy and use of the Airport, hereinafter, "Minimum Standards". Lessee agrees to observe and obey any and all such Rules and

Regulations and Minimum Standards and all other Federal, State and municipal rules, regulations and laws and to require its officers, agents, employees, contractors and invitees, to observe and obey the same. This provision will include compliance with the Airport's Noise Abatement Plan as promulgated.

- C. The City reserves the right to deny access to the Airport and its facilities to any person, firm or corporation that fails or refuses to obey and comply with such Rules and Regulations, Minimum Standards and applicable laws.

9. UTILITIES AND MAINTENANCE

- A. The Lessee shall, at its expense, contract with and obtain all required permits from the appropriate City departments for any utility services to be provided to the Leased Premises, paying any required connection fees, including those to be paid by owners, and all such services will be provided at rates and on terms and conditions established by the providers of such utilities.
- B. The Lessee will also, at its expense, contract with the furnishers of all other utilities for the furnishing of such services to the Leased Premises and shall pay for all water, gas, electricity, sanitary sewer service, other utilities, telephone, burglary and fire protection services furnished to the Leased Premises. The location and routing of all utilities on the Airport must have the written approval of the City. The City shall allow the providers of such utilities reasonable access to the boundaries of the Leased Premises for the installation and maintenance of their utility systems.
- C. The City shall not be responsible for bringing any utilities to the Leased Premises.

10. CONSTRUCTION, MAINTENANCE AND REPAIR OF LEASEHOLD IMPROVEMENTS/TRADE FIXTURES

- A. Lessee may, after obtaining necessary permits, construct or install, at its own expense, any equipment, improvements and facilities, including the Initial Improvements and additions thereto, communication, meteorological and navigational equipment, and any additions thereto, on all or any part of the Leased Premises, under the conditions as hereinafter set forth. Lessee shall keep and maintain all such improvements and facilities and additions thereto constructed or installed by it in good condition, reasonable wear and tear excepted.
 - 1) No improvements, structures, alterations, or additions shall be made in, to, or upon the Leased Premises without the prior written consent of the City, and all such improvements, structures, alterations, additions and work shall be in accordance with any conditions relating thereto then stated in writing by the City.

- 2) At the time of requesting approval by the City, the Lessee shall submit preliminary plans for such improvements, which shall conform to the general architectural scheme and overall plans adopted by the City for the Airport. Upon approval of said preliminary plans, the Lessee shall prepare and obtain the City's approval of working drawings and specifications which shall be a true and accurate reflection of the preliminary plans so approved. All construction shall conform to the approved working drawings and specifications. No substantial change, addition or alteration shall be made in said working plans or specifications or in the construction called therefor without the City's prior written approval. When construction work is commenced, it shall be completed with reasonable dispatch. Upon completion of said improvements, the Lessee shall furnish the City, at no charge, two (2) complete sets of "as built" drawings of the improvements, as constructed, on CAD.
 - 3) All improvements constructed by the Lessee pursuant to this Section shall conform in all respects to all applicable building codes, ordinances, statutes, rules and regulations of all governmental agencies having jurisdiction.
- B. No trade fixtures shall be installed without the prior written consent of the City and all such installations shall be in accordance with any conditions relating thereto then stated in writing by the City.
- C. The Lessee shall throughout the term of this Agreement assume the entire responsibility, cost and expense, for all repair and maintenance whatsoever on the Leased Premises and all improvements and all repairs and maintenance shall be made thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. The City shall not have any obligation to repair, maintain or restore, during the term of this Agreement, any improvements placed upon the Leased Premises by the Lessee, its successors and assigns.
- D. Additionally, the Lessee shall:
- 1) Keep the Leased Premises, and all improvements thereon and all of the Lessee's fixtures, equipment and personal property which are located on any part of the Leased Premises, at all times, in a clean and orderly condition and appearance.
 - 2) Provide and maintain on the Leased Premises all obstruction lights and similar devices, and safety equipment required by law.

- 3) Repair any damage caused by Lessee to paving or other surface of the Leased Premises caused by any oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon.
- 4) Be responsible for the maintenance and repair of all utility services lines placed on the Leased Premises and used by the Lessee exclusively, including, but not limited to, water lines, gas lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers.
- 5) Be responsible for snow removal on the Leased Premises including the aircraft parking ramp and the vehicle parking area.
- 6) Comply with all City direction regarding the location and placement of personal property on Airport property. In that regard there shall be no outside storage except upon written approval of the City.

E. During construction of the Initial Improvements, the Lessee shall:

- 1) Be responsible for all damage to life and property due to the activities of Lessee, its agents, employees and contractors. Lessee specifically agrees that its agents, employees and contractors shall possess the experience and knowledge necessary to qualify them for the particular duties they perform.
- 2) Require individuals, firms or corporations providing professional services or undertaking the Initial Improvements pursuant to this Agreement, hereinafter, "Contractor", to procure and maintain insurance for liability for damages naming the City as additional-named insured, in the kinds and in the amounts hereinafter provided, with insurance companies authorized to do such business in the State of North Dakota covering all operations or services necessary for the conduct of the construction of the Initial Improvements. Copies of insurance certificates for such coverage shall be delivered to the City prior to the commencement of the construction of the Initial Improvements.
- 3) Obtain Workers' Compensation Insurance with the policy covering the obligations of Lessee and its Contractors in accordance with the provisions of the Laws of North Dakota and the City, covering all operations under this Agreement, whether performed by Lessee or its Contractors. This Agreement and any contract hereunder shall be void and of no effect unless the person or corporation making or executing same shall secure compensation and disability benefits coverage for the benefit of, and keep insured during the life of said contract, such employees in compliance with the provisions of North Dakota Workers' Compensation Law.

- 4) Obtain Liability and Property Damage Insurance as specified herein, and unless otherwise specifically required by special specifications, each policy shall have limits of not less than:

Bodily Injury Liability
Each Occurrence \$500,000

Property Damage Liability
Each Occurrence \$500,000

- (i) Contractor's Liability Insurance issued to and covering the liability for damages imposed by law upon the Contractor with respect to all work performed by it;
- (ii) Contractor's Liability Insurance issued to and covering the liability for damages imposed by law upon each subcontractor with respect to all work performed by said subcontractor;
- (iii) Contractor's Protective Liability Insurance issued to and covering the liability for damages imposed by law upon the Contractor with respect to all work under this Agreement performed for the Contractor by subcontractors;
- (iv) Protective Liability Insurance issued to and covering the liability for damages imposed by law upon all employees, agents and contractors of the City both officially and personally, with respect to all operations by the Contractor or by its subcontractors, including omission and supervisory acts of the City;
- (v) Completed Operations Liability Insurance issued to and covering the liability for damages imposed by law upon the Contractor and each subcontractor arising, between the date of final cessation of the work and the date of final acceptance thereof, out of that part of the work performed by each.

11. INSURANCE, DAMAGE OR DESTRUCTION

- A. The Lessee, at its expense, shall procure and maintain, throughout the term of this Agreement, insurance protection for fire and extended coverage on the Initial Improvements and other improvements to the Leased Premises for eighty percent (80%) of their actual replacement cost. Such insurance shall be issued by insurers of recognized financial standing and authorized to conduct business in the State of North Dakota. If said insurers become financially incapable of performing under the terms of said policy, the Lessee will promptly obtain a new policy issued by a financially responsible carrier and shall submit revised evidence of insurance as previously provided. If the Lessee is, at any time, unable to obtain such insurance to the extent required, this Agreement shall

automatically terminate unless the City is able and elects to insure the Initial Improvements and other improvements and Lessee is willing to pay the City the requisite insurance premiums and administrative charges therefor.

- B. The Lessee shall settle all losses directly with the insurance carrier. The proceeds of all insurance shall be paid jointly to the City and the Lessee and shall be made available by the City to the Lessee for the repair and reconstruction of the improvements to the Leased Premises upon Lessee's presentation to the City of valid receipts evidencing Lessee's expenditures for the repair and reconstruction of the Leased Premises.
- C. Lessee shall, at its expense, replace and repair any and all of Lessee's fixtures, equipment and other personal property necessary to properly and adequately continue its operations on the Airport, but in no event shall Lessee be obligated to provide equipment and fixtures in excess of those existing prior to such damage or destruction except for requirements of construction codes existing at the time of repair or replacement.
- D. In the event Lessee elects not to repair and reconstruct the Initial Improvements and other improvements, the Lessee shall restore the Leased Premises to its original condition at the commencement of the term hereof and the insurance proceeds shall be retained by the City.
- E. In the event of damage or destruction of Airport property caused by the Lessee, its agents, employees, aircraft or other equipment, Lessee agrees to repair, reconstruct, or replace the affected property to the condition which existed prior to such damage or destruction. Lessee further agrees to cause such repair, reconstruction or replacement of affected property with due diligence and to the satisfaction of the City.

12. PURCHASE OF SUPPLIES AND SERVICES

- A. Should the Lessee contract with a third party to provide maintenance and service upon its aircraft or to furnish other services which might otherwise be performed by Lessee under this Agreement, such third party shall be deemed to be conducting a business at the Airport. The Lessee shall be responsible to the City for any third party performing for or contracted by the Lessee, shall assume all responsibility and liability in connection with such contracting and shall promptly obtain written approval of the City prior to the third party performing any maintenance or services. The City may impose charges and fees and impose Minimum Standards upon such third parties for services provided and rentals for facilities used.
- B. Subject to the above, Lessee may select suppliers, purveyors and furnishers of materials, supplies, equipment and services of its own choosing. Nothing in this Section shall be construed as in any way limiting the general powers of the City

to fully exercise its governmental or proprietary functions, or its obligations under any bond covenants, or Federal, state or local laws, rules or regulations.

13. SECURITY

- A. Lessee acknowledges its obligations for security on the Leased Premises as prescribed by the Federal Aviation Administration (FAA) and Transportation Security Administration (TSA) Regulations, and agrees to employ such measures as are necessary to prevent or deter the unauthorized access of persons or vehicles to or on its Leased Premises and any aircraft operations area connected therewith.
- B. Lessee further agrees to abide by the rules and regulations adopted by the City in carrying out the City's obligations under the FAA and TSA Regulations and other security measures the City deems necessary from time to time for the proper identification of persons and vehicles entering the aircraft operations area.
- C. Lessee shall reimburse the City in full for any fines or penalties levied against the City for security violations as a result of any actions or omissions on the part of the Lessee, its agents, suppliers, or employees for any violation occurring at any airfield access point under the control of the Lessee.

14. CITY'S RIGHT TO ENTER LEASED PREMISES

The City reserves the right to enter the Leased Premises and improvements at any reasonable time, with prior notification, throughout the term of this Agreement. When, for any reason, an entry is deemed necessary, and Lessee is not present to permit such entry, the City, its agents and employees, shall be permitted to enter the Leased Premises and improvements. The City's agents or employees shall not be liable for any civil or criminal claim or cause of action for damage because of entering the Leased Premises or improvements at reasonable times and in a reasonable manner for purposes consistent with its responsibilities as owner and operator of the Airport.

15. INDEMNITY AND WAIVER OF DAMAGES

- A. The Lessee shall indemnify, protect, defend and hold harmless the City of Minot, its elected and appointed officials, agents and employees, from and against any and all claims, demands, actions, loss, damages, expense or cost, including attorneys fees (where allowable by law), arising by reason of injury, or death or damage to persons or property sustained, or allegedly sustained, as a result of the Lessee's use of the Leased Premises and operations at the Airport, excluding only claims (a) for City's acts or omissions covered by City's general liability insurance or (b) caused by the gross negligence or willful misconduct of

the City, its elected and appointed officials, agents and employees, or the negligence of said parties in concert with a third party, provided, that, the City shall give the Lessee prompt and reasonable notice of any such claim or action made or filed against it, and shall tender the defense thereof to Lessee. In the event that the Lessee does not settle or compromise such claim, then the Lessee shall undertake the legal defense of such claim both on behalf of the Lessee and behalf of the City. It is specifically agreed, however, that the City at its own cost and expense, may participate in the legal defense of any such claim. Any judgment, final beyond all possibility of appeal, rendered against the City for any cause for which the Lessee is liable hereunder shall be conclusive against the Lessee as to liability and amount upon the expiration of the time for appeal.

- B. Lessee expressly waives and releases any right it might otherwise have to make any claim against City by reason of damage to any of the property of Lessee or by reason of injury or damage to the person or property of its customers or employees even though such injury or damage occurs by reason of the condition of the building or any other part of the Leased Premises. Moreover, Lessee hereby waives any right it might otherwise have to recover from City, by reason of damages to Lessee's property, or by reason of injury or damage to the persons or property of its customers or employees caused by any actions of other lessees or the employees, customers or independent agents of other lessees, regardless of whether such actions are intentional, negligent or otherwise.
- C. City shall not be liable to Lessee, or to Lessee's agents, representatives or employees, for any injury to, or death of, any of them or of any other person or for any damage to any property of Lessee or loss of revenue, caused by any third person in the maintenance, construction, or operation of facilities at the Airport, or caused by any third person using the Airport, or caused by any third person navigating any aircraft on or over the Airport, whether such injury, death, or damage is due to negligence or otherwise.
- D. City shall not be liable to Lessee or to Lessee's agents, representatives or employees, for any injury to, or death of, any of them or any other person or for any damage to any property of Lessee or any loss of revenues to Lessee resulting from City's acts or omissions in the maintenance and operation of the Airport except those caused by the gross negligence of the City.

16. ENVIRONMENTAL CONSIDERATIONS

In order to assure that the Leased Premises described in Section 2.A hereof are environmentally acceptable, the City shall conduct Phase I and, if required, Phase II Environmental Baseline Studies consistent with protocols approved by the City, the "First Studies", to ascertain whether adverse environmental conditions or hazardous materials exist on the Leased Premises. The costs of such First Studies shall be borne by the City. If the First Studies reveal the

presence of adverse environmental conditions or hazardous materials on the Leased Premises, appropriate remedial action as is required by law shall be undertaken. The City shall be responsible for all costs of such remedial action relating to adverse conditions, provided, however, that nothing herein shall be construed as a limitation of the City's rights to pursue contributions from third parties who might have caused or contributed to such adverse conditions. Upon expiration or earlier termination of this Agreement, additional Phase I and Phase II Environmental Baseline Studies shall be conducted by the City and paid for by the Lessee, the "Second Studies", to determine if the Lessee has caused or allowed adverse environmental conditions to occur. If so, Lessee shall be liable for, and be required to immediately undertake, at its sole cost and expense, all remedial actions as required by applicable law.

17. INSURANCE - LIABILITY

- A. Lessee shall, at its expense, maintain insurance in full force and effect during the term of this Agreement in such amounts as to meet the minimum limits of liability specified in Schedule A attached hereto, and insurance shall be placed with companies or underwriters satisfactory to the City. The insurance policy(ies) shall be the standard commercial general liability insurance coverage, covering all operations of the Lessee within the City of Minot and shall include, but not by way of limitation, personal injury, property damage, hangar keepers, products liability, automobile, aircraft and contractual coverage. The City of Minot, its elected and appointed officials, agents and employees shall be named as additional insureds with respect to Lessee's use of the Airport and the Leased Premises which are the subject of this Agreement. Lessee understands that insurance protection furnished by Lessee shall not limit its responsibility to indemnify City pursuant to the terms of this Agreement.
- B. Lessee shall promptly upon execution of this Agreement, furnish to the City appropriate certificates of insurance evidencing coverage effected and to be maintained for the term of this Agreement. The coverage shall not be less than the amounts specified in Schedule A; such limits are subject to periodic adjustments upward by Lessee based on Lessee's own assessment of the risks associated with its operations at the Airport. City shall not in any event be liable for any shortfall in Lessee's coverage. The insurance policies shall not be subject to cancellation or material change except after notice to the City by registered mail at least thirty (30) days prior to the date of such cancellation or material change. Where any policy(ies) has (have) normal expirations during the term of this Agreement, written evidence of renewal shall be furnished to the City at least thirty (30) days prior to such expiration. "Endeavoring to provide" thirty (30) days notice of cancellation or change in the policy is not an acceptable endorsement.

18. SIGNS

Lessee shall have the right, at its own expense, to install and maintain a sign solely for the purpose of address identification. Prior to installation of such sign, the Lessee shall submit plans and obtain the approval of the City Council. Said approval shall not be unreasonably withheld. In the event signs are removed and not replaced, Lessee shall repair or restore the affected areas to their original condition, including removal of any structural and electrical elements used in conjunction therewith. At the expiration or earlier termination of this Agreement, the Lessee shall, at its sole cost and expense, remove all signs and supporting structural and electrical elements and restore the affected areas to their original condition.

19. TAXES

Lessee agrees to pay all lawful property and sales taxes and assessments which, during the term of this Agreement may be levied or charged by the State, County, City or other tax-levying body upon the Lessee or the Leased Premises. Nothing herein shall prevent the Lessee from protesting, through due process, any taxes levied. Upon expiration or termination of this Agreement, the Lessee shall pay all property taxes prorated to the ending date of this Agreement. Failure to pay property taxes or special assessments when due, prior to delinquency, will be considered a breach of this lease.

20. GOVERNMENT RESERVATIONS AND RESTRICTIONS

The Leased Premises and rights granted by this Agreement shall be subject to all enforced reservations and restrictions, including but not limited to, the following:

- A. It is understood and agreed to by Lessee that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right forbidden by Section 308 of the Federal Aviation Act of 1958 and as amended.
- B. During the time of war or national emergency, City shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use and, if such lease is executed, the provisions of this Agreement insofar as they are inconsistent with the provisions of the agreement or lease with the Government, shall be suspended.
- C. This Agreement shall be subject to the terms of any Sponsor's Assurances and agreements now required or imposed in the future, between the City and the Federal Aviation Administration or any successor Federal agency.

- D. This Agreement shall be subordinate to the provisions of any existing or future agreement between the United States Government and the City relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. Failure of Lessee to comply with the requirements of any existing or future agreement between the City and the United States Government, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Lessee's rights hereunder, subject to Lessee's right of appeal and condemnation rights.

21. CITY'S RIGHT OF TERMINATION

In addition to any conditions as specified herein and all other remedies available to the City, this Agreement shall be subject to termination by the City should any one or more of the following occur:

- A. If, by or pursuant to any order or decree of court or governmental authority, board, agency or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Lessee for the benefit of creditors, provided that if such order or decree be stayed or vacated within sixty (60) days after the entry thereof or during such longer period in which Lessee diligently and in good faith contests the same, any notice of cancellation shall be and become null, void and of no effect.
- B. If Lessee shall voluntarily abandon or discontinue the conduct and operation of its activity at the Airport for a continuous period of ninety (90) days, except when such abandonment is caused by fire, earthquake, war, strike or other calamity beyond the Lessee's control.
- C. If Lessee shall fail to perform, keep and observe any of the applicable covenants and conditions contained in this Agreement, provided that Lessee shall be given written notice to correct or cure such default, failure to perform or breach. Except as otherwise provided in this Agreement, if, within thirty (30) days from the date of receipt of such notice, the default, breach or complaint shall not have been corrected in a manner satisfactory to the City, then and in such event, the City shall have the right at once to declare this Agreement terminated. The City does, however, reserve the right to extend the time period to correct the default if, in its opinion, due diligence is shown by Lessee in curing the default.
- D. If under any of the foregoing provisions of this Article, the City shall have the right to re-enter and take possession of the Leased Premises, the City may enter and eject Lessee and those claiming through or under it, and

remove their property and effects (using reasonable force, if necessary) without any liability therefore; without prejudice to any remedies of the City in the event of default by the Lessee; and without liability for any interruption of the conduct of the affairs of Lessee or those claiming through or under it.

22. LESSEE'S RIGHT OF TERMINATION

A. In addition to all other remedies available to the Lessee, this Agreement shall be subject to termination by Lessee should any one or more of the following occur:

- 1) The issuance of any order, rule or regulation by the Department of Transportation, the Federal Aviation Administration, or its or their successor Federal agency, or the issuance by any court of competent jurisdiction of an injunction, materially restricting for a period of at least ninety (90) days, the use of the Airport provided, that, none of the foregoing has been initiated, caused or contributed to by the Lessee;
- 2) The breach by the City of any covenants, terms or conditions of this Agreement to be kept, performed and observed by the City and the failure to remedy such breach for a period of sixty (60) days after written notice from Lessee of the existence of such a breach;
- 3) The assumption by the United States Government or any authorized agent of the same, of the operation, control or use of the Airport and its facilities in such a manner as to substantially restrict Lessee from conducting its business, if such restrictions be continued for a period of ninety (90) days or more;
- 4) The inability of Lessee to conduct its business at the Airport in substantially the same manner and to the same extent as theretofore conducted, for a period of at least ninety (90) days, because of (1) any law, or (2) any rule, order, judgment, decree, regulation or other action or nonaction of any governmental authority, board, agency or officer having jurisdiction thereof, without fault of the Lessee;
- 5) The taking of the whole or any part of the Leased Premises by the exercise of any right of condemnation or eminent domain.

B. In the event any of the contingencies described in this Article 22, Section A, Paragraphs 1, 3, 4 and 5 herein occur, the rent shall be abated for those portions of the Leased Premises which are rendered untenable from the time of such happening until the affected premises are returned for Lessee's use.

23. AGREEMENT SUBORDINATE TO BOND INSTRUMENTS

This Agreement and all rights of the Lessee hereunder are expressly subordinated and subject to the lien and provisions of any pledge or assignment made by the City of Minot to secure any bonds authorized by law to be issued for the development or improvement of Minot International Airport, and the City and the Lessee agree that the holders of the said Bonds shall possess, enjoy and may exercise all rights of the City hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by Lessee and the City with the terms and provisions of the bond covenant. Lessee shall receive notification of any new bonding ordinance affecting City's Airport operations.

24. ASSIGNMENT AND SUBLETTING

Neither Lessee nor any successor of Lessee shall in any manner, directly or indirectly, by operation of law or otherwise, assign, sublet, transfer or encumber any of Lessee's rights in and to this Agreement or any interest therein, nor license or permit the use or the rights herein granted in whole or in part without the prior written consent of the City. Such consent shall not be unreasonably withheld, provided, that, any such assignee shall be professionally qualified to do business on the Airport, acceptable to the City, possess sufficient financial resources and security to assure compliance with all the terms and conditions of this Agreement and the Airport's Minimum Standards. This Agreement must be included in, and made a part of, any sublease agreement and the sublessee must agree in writing to comply with all the terms and conditions of this Agreement as they may apply to a sublessee. If Lessee is other than a natural person, prior to the commencement of this Lease, Lessee shall submit to City a copy of its governing documents, including the names and addresses of its present principal owners and the percentage of such entity owned by each owner. During the term of this Lease, if one or more of such principal owners shall no longer be a principal owner of such entity, then this Lease shall terminate at the option of City, unless written approval of such change in ownership is granted by City. "Principal Owner" is defined as any one who owns at least thirty percent (30%) of the entity.

25. ADVANCES BY THE CITY

If the Lessee should fail to do anything required to be done under the terms and conditions of this Agreement, except for the payment of rents, fees or charges, the City may, at its sole option and after giving written notice to the Lessee, perform such act on behalf of the Lessee. Upon notification to the Lessee of the cost thereof by the City, the Lessee shall promptly pay the City the amount due, including fees and service charges as additional rent.

26. LEGAL CLAIMS AND ATTORNEY FEES

- A. Each party hereto shall promptly report to the other any claim or suit against it arising out of or in connection with the Leased Premises or the operation of the Lessee's business at the Airport. The City and Lessee shall each have the right to settle and/or defend the same to the extent of its own interest; provided the defense of the same has not been tendered and accepted by the other party. The Lessee is an independent contractor in every respect, and not the agent of the City.
- B. If any legal action is instituted by the parties hereto to enforce this Agreement, or any part thereof, the prevailing party shall be entitled to recover reasonable attorney's fees and court cost. Any such legal action shall be commenced and maintained in Ward County, North Dakota, regardless of Lessee's residence or place of business.

27. ENCUMBRANCES AND LIENS

- A. The fee interest in the Leased Premises may not be encumbered by the Lessee for any purpose.
- B. Subject to the prior written consent by the City, Lessee may encumber this Agreement, its leasehold estate and its improvements thereon by deed of trust, leasehold mortgage, chattel mortgage or other security instrument to assure the payment of a promissory note or notes of Lessee, upon the express condition that the net proceeds of such loan or loans be devoted exclusively to the purpose of developing the Leased Premises and the Initial Improvements thereon.
- C. In the event any such approved deed of trust, mortgage or other security-type instrument, should, at any time, be in default and be foreclosed, or transferred in lieu of foreclosure, the City will accept the approved mortgagee or beneficiary thereof as its new tenant under this Agreement with all the rights, privileges and duties granted and imposed in this Agreement, subject to the conditions set forth in Article 24 of this Agreement.
- D. Any default, foreclosure or sale pursuant to said deed of trust, leasehold mortgage or other security instrument, shall be invalid with respect to this Agreement without prior notice thereof to, and approval by, the City. Upon prior written approval by the City, said mortgagee or beneficiary may assign this Agreement to its nominee, if nominee is a reputable, professionally qualified and financially responsible person in the opinion of the City. Any deed of trust, leasehold mortgage or other security instrument shall be subject to all the terms, covenants and conditions of this Agreement and shall not be deemed to amend or alter any of the terms, covenants or conditions of this Agreement.

28. NONDISCRIMINATION

- A. Lessee, for it, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises, for a purpose for which a United States Government program or activity is extended, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- B. Lessee, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, creed, color, sex, national origin, age, disability or marital status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, disability or marital status shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- C. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, sex, age, disability or marital status be excluded from participation in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart E. Lessee assures that it will require that its covered suborganizations provide assurances to Lessee that they similarly will undertake an affirmative action program and that they will require assurances from their suborganizations, to the extent required by 14 CFR Part 152, Subpart E, to the same effect.
- D. Lessee agrees to comply with Section 296 and all other pertinent provisions of Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions. In addition, Lessee agrees to comply with all pertinent provisions of the Americans with Disabilities Act of 1990, P.L. 101-336, July 26, 1990, 42 USC

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12101, et seq.; and all pertinent regulations pursuant thereto. Lessee shall not discriminate in the use of the Leased Premises or any access thereto if such Leased Premises are used as a public accommodation or in connection with a public service. Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status.

- E. In this connection, the City reserves the right to take whatever action it might be entitled by law to take in order to enforce this section. This section is to be considered as a covenant on the part of Lessee, a breach of which, continuing after notice by the City to cease and desist and after a determination that a violation exists made in accordance with the procedures and appeals provided by law, will constitute a material breach of this Agreement and will entitle the City, at its option, to exercise its right of termination as provided for herein, or take any action that it deems necessary to enforce compliance herewith.
- F. Lessee shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than Lessee, operates any facility on the Leased Premises providing service to the public and shall include thereon a provision granting the City a right to take such action as the United States may direct to enforce such covenant.
- G. Lessee shall indemnify and hold harmless the City from any claims and demands of third persons including the United States of America resulting from Lessee's noncompliance with any of the provisions of this Article and Lessee shall reimburse the City for any loss or expense incurred by reason of such noncompliance.

29. PRIOR AND COLLATERAL AGREEMENTS

This Agreement shall constitute the entire Agreement between the parties and no other stipulation, agreement or understanding, written or oral, expressed or implied of the parties hereto or of their agents, relating to the Agreement and use of the Leased Premises demised in Section 2 herein, shall limit or modify its terms. This Agreement shall, as of the commencement date hereof, cancel and supersede all prior agreements, written or oral, expressed or implied, between the parties for the rights granted herein. This Agreement shall not be subject to modification or change except by written instrument duly signed.

30. SEVERABILITY

If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, but each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

31. NON-WAIVER OF BREACH

The waiving of any of the covenants, terms, or conditions of this Agreement by either party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenants, terms, or conditions. The consent by the City to any act by Lessee requiring City's consent shall not be deemed to constitute consent to any subsequent similar act by Lessee.

32. CHOICE OF LAW AND VENUE

This Agreement is to be construed in accordance with the applicable laws, rules and regulations of the State of North Dakota and the County of Ward and the venue for any civil action shall be the Ward County, North Dakota.

33. TIME OF ESSENCE

It is mutually agreed that time is of the essence in the performance of all covenants and conditions to be kept and performed under the terms of this Agreement.

34. HOLDOVER POSSESSION OF LEASED PREMISES BY LESSEE

Any holding over at the expiration of this Agreement shall constitute a month-to-month tenancy.

35. APPROVAL OR DIRECTION BY CITY

Wherever consent, approval or direction by the City is required under this Agreement, such consent, approval or direction by the City shall be effective if given by the Airport's Director or his/her designee in writing in the manner set forth in this Agreement. Nothing requiring consent, approval or direction from the City shall be unreasonably requested by Lessee nor shall such consent, approval or direction be unreasonably withheld by the City.

36. NOTICES

All payments, demands and notices required herein shall be deemed to be properly served if hand-delivered, or if sent by certified or registered mail, postage prepaid, or courier, via Airborne, DHL, FedEx, UPS to the last address previously furnished by the parties hereto. Until hereafter changed by the parties, in writing, notices shall be addressed as follows:

City: Airport Director
Minot International Airport
25 Airport Road, Suite 10
Minot, ND 58703-1457

Lessee:

The date of service of such notice shall be the date such notice is delivered by hand or is deposited in a Post Office of the U.S. Postal Service or with a courier service.

37. HEADINGS

Paragraph headings contained herein are for convenience in reference only, and are not intended to define or limit the scope of any provisions of this Agreement.

38. ENTIRE AGREEMENT

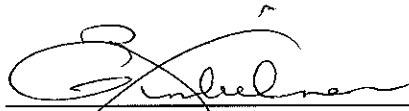
This Agreement consists of Sections 1 to 38, inclusive, Schedule A and Exhibits A, and B.

IN TESTIMONY WHEREOF, witness the signature of the parties hereto the day and year written.

ATTEST:


Witness

CITY OF MINOT, NORTH DAKOTA


Curt Zimbelman, Mayor

Date: May 7, 2007

ATTEST:


Witness

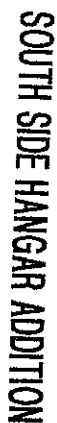
LESSEE



Date: April 30, 2007

SCHULE A

MINIMUM INSURANCE REQUIREMENTS



Rwy 4, Runway TAXIWAY NAMING SCHEDULE AIRPORT INTERNATIONAL AIRPORT AIRPORT, NORTON AIRFIELD	SHEET NO. 1
TAXIWAY NAMING SCHEDULE POST 2002 AIRPORT CONSTRUCTION (SEPTEMBER 2002)	
K&Dmmas Lee & Jackson Consulting Engineers and Surveyors	
DESIGN NO. 1501101	CONTRACT NO. 1501101
DATED 03/09/02	DATE 03/09/02
15/09/2001 1501101/1501101/2002.dwg	
C COPY PRINT	

EXHIBIT A

SOUTH SIDE ADDITION





TO: Mayor Ross
Members of the City Council

FROM: Stefanie Stalheim, City Attorney
Chris Plank, NDR Program Administrator

DATE: August 19, 2024

SUBJECT: SPECIAL ASSISTANT CITY ATTORNEY APPOINTMENT - JOHN WARCUP

I. RECOMMENDED ACTION

- 1. It is recommended City Council appoint John Warcup as a special city attorney to represent the City and respond to the attached foreclosure complaint; and**
- 2. Appoint John Warcup as a special city attorney to assist with any similar federal grant compliance matters.**

II. DEPARTMENT CONTACT PERSONS

Stefanie Stalheim, City Attorney, 701-857-4190
Chris Plank, NDR Program Administrator, 701-857-1553

III. DESCRIPTION

A. Background

On August 5, 2024, the City was served a Summons and Complaint by First Western Bank & Trust initiating a home foreclosure action. The City is identified as a Defendant in the Complaint because the homeowner received funds under the Homeowner Rehabilitation and Reconstruction Program, and the City could claim a lien against the Property.

The City's federal grant compliance staff reports there are 5 homeowners left between the City's Homeowner Rehabilitation and Reconstruction Program and Short Term Rental Rehabilitation Program that have not yet fulfilled their grant requirements. While the City has not yet received any foreclosure actions on these other matters, the potential for those properties to also fall into a foreclosure situation does exist.

B. Proposed Project

The City Attorney's Office recommends retaining John Warcup with Swanson &

Warcup, Ltd. to represent the City in this foreclosure matter and similar matters relating to federal grant compliance. John Warcup has experience assisting the City in other matters relating to its federal grant programs, is familiar with City staff and contractors, and is familiar with much of the City's software used to track grant compliance. Attorney Warcup has reviewed the complaint, is willing to help the City, and has already attended a meeting with City staff and HUD regional representatives to discuss the file and next steps.

C. Recommendation Detail

The City has twenty-one (21) days from the date of service (August 5) to respond to the Complaint - so time is of the essence. Mr. Warcup is ready, prepared, and willing to assist the City in this matter at his regular City rate (\$290/hour), which can be reimbursed through CDBG-DR Allocation 1 funds. Given his experience and the potential for similar situations to arise, City staff is recommending that the City Council authorize City staff to retain Mr. Warcup to represent the City in this matter and any similar matters.

IV. IMPACT

A. Aspirations

Retaining John Warcup's expertise to assist with this foreclosure complaint and any similar matters aligns with the Council's 'Resilient and Prepared' aspiration.

B. Service/Delivery Impact:

The City Attorney's Office has not historically handled the City's civil litigation files. Appointing contract counsel to step in and respond, monitor, and represent the City in this matter and similar matters aligns with past practices. It will allow City staff adequate time to continue to focus on their day-to-day activities and Council directives and the attorney fees are eligible for reimbursement through CDBG-DR Allocation 1 funds.

C. Fiscal Impact

The City has funding remaining in CDBG-DR Allocation 1 and can be used to pay for legal fees relating to the two programs.

Project Costs

Contract Attorney	\$290/hr.
Contract Paralegal	\$200/hr.
Contract Research Assistant	\$135/hr.
Contract Clerical Service	\$125/hr.

Project Funding

CDBG-DR 1st Allocation

VI. ALTERNATIVES

1. The Council could decline to appoint a special assistant attorney and direct the City Attorney's Office to respond to the Complaint, which would divert their

attention from other City projects; or

2. The Council could recommend City staff take other action.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WARD

NORTH CENTRAL JUDICIAL DISTRICT

First Western Bank & Trust,

Plaintiff,

vs.

Bradford Caldwell,

Blake Caldwell, as Personal Representative
of the Estate of Don Caldwell, City of Minot,
ProCollect Services, LLC, AR Audit
Services Inc., and Credit Bureau of
Bismarck, Inc.

Defendants.

Case No. _____

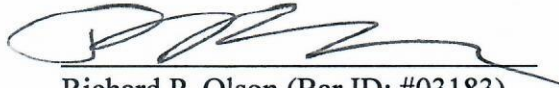
SUMMONS

THE STATE OF NORTH DAKOTA TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED And required to appear and defend against the Complaint in this action, a copy of which is herewith served upon you by serving upon the undersigned an Answer or other proper response within twenty-one (21) days after the service of this Summons upon you, exclusive of the day of service. If you fail to do so, Judgment by Default will be taken against you for the relief demanded in the Complaint.

Dated this 5th day of August, 2024.

OLSON & BURNS P.C.

A handwritten signature in black ink, appearing to read 'R. Olson', is written over a horizontal line.

Richard P. Olson (Bar ID: #03183)
Attorneys for First Western Bank & Trust
17 First Avenue SE
P. O. Box 1180
Minot, ND 58702-1180
(701) 839-1740
rpolson@minotlaw.com

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WARD

NORTH CENTRAL JUDICIAL DISTRICT

First Western Bank & Trust,

Plaintiff,

vs.

Bradford Caldwell,

Blake Caldwell, as Personal Representative
of the Estate of Don Caldwell, City of Minot,
ProCollect Services, LLC, AR Audit Services
Inc., and Credit Bureau of Bismarck, Inc.

Defendants.

Case No. _____

COMPLAINT

COMES NOW the Plaintiff and for its Complaint against the Defendants states as follows:

1.0 That Plaintiff First Western Bank & Trust ("Bank"), is a banking corporation chartered under the laws of North Dakota and having its principal office and place of business at Minot, North Dakota.

2.0 Defendant Bradford Caldwell is an individual who resides in Minot, North Dakota.

3.0 Defendant Don Caldwell is a deceased individual. Blake Caldwell is the Personal Representative of the Estate of Don Caldwell.

4.0 That this is an action to foreclose a mortgage in certain real property located in Ward County, North Dakota.

5.0 That on September 3, 2003, Carol L. Caldwell and Don K. Caldwell executed and delivered to the Bank a promissory note in writing, known as Loan No. 81623223, dated on said date, wherein and whereby it promised and agreed to pay to the order of the Bank the sum of \$83,000, with a fixed interest rate of 7.000%. A true and correct copy of the note is attached hereto as Exhibit A and incorporated herein by reference.

6.0 That to secure the payment of the promissory note referred to in ¶5.0, Don K. Caldwell, executed and delivered to the Bank a mortgage dated September 3, 2003, given upon and describing the following tracts of land lying in Ward County, North Dakota, to-wit:

Lots 67 and 68, Rearrangement of Green Valley Addition to the City of Minot, North Dakota

("the subject property"). This mortgage was duly filed for record in the office of the Recorder of Ward County, North Dakota, on September 8, 2002, at 2:01 p.m., as Document No. 2823582. A true and correct copy of the mortgage is attached hereto as Exhibit B and is incorporated herein by reference.

7.0 That on or about May 22, 2019, Carol Caldwell, Don Caldwell and Brad Caldwell executed and delivered to the Bank a Loan Extension Agreement for Loan No. 81623223, dated on said date, wherein and whereby it extended the due date of the original obligation to February 15, 2024. A true and correct copy of the Loan Extension Agreement is attached hereto as Exhibit C and incorporated herein by reference.

8.0 That under the terms and conditions of the notes and the mortgage, the Bank is entitled to advance monies for unpaid taxes and insurance premiums; such advances are then part of the debt secured by the note and mortgage.

9.0 That the mortgage contains a power of sale upon default of any of its terms and conditions, under which the owner and holder thereof is empowered to foreclose the personal property collateral situated thereon and the lands therein described, to satisfy the debts secured thereby, including all costs and expenses allowed by law in the case of any foreclosure or commencement of foreclosure. By the terms of the mortgage and the notes, it was further agreed and provided that if default occurred in the payment of the principal sum of money, or interest or taxes or any part thereof, at the time and in the manner set forth in the mortgages specified for the payment thereof, the owner and holder of the mortgage was authorized to have the personal property collateral and the premises sold to a purchaser in fee simple under the laws of the State of North Dakota. Further, the owner and holder of the notes was authorized and empowered to declare the whole amount due and payable, all in accordance with the power of sale set forth in the mortgage.

10.0 That the Defendant failed to comply with the terms of the notes and mortgage herein described by failing to pay past due principal and interest payments.

11.0 That by reason of the defaults hereinbefore set forth, the Bank has elected to and hereby does declare the whole amount of the unpaid principal sum of the notes and mortgage with interest thereon to be due and payable as follows:

<u>Note 81623223</u>	
Due on principal of note	\$57,610.37
Interest through 06/12/24	\$20,075.71
Late fees	\$ 425.00
 TOTAL	 \$78,111.08

together with a daily interest accrual of \$8.68101

12.0 That the Bank is still the lawful owner and holder of the notes, guaranty, commercial security agreement, and mortgage.

13.0 Defendant City of Minot may attempt to claim a lien under the Homeowner Rehabilitation and Reconstruction Program (HRR),; however that lien, UCC Financing Statement 2977460, was never filed against the property and, even if filed, would be junior and inferior.

14.0 Defendant ProCollect Services, LLC may claim an interest by virtue of a judgment against Brad Caldwell docketed 07/24/2015, as Case No. 51-2015-CV-01004 in the original sum of \$553.79.

15.0 Defendant AR Audit Services Inc. may claim an interest by virtue of a judgment against Don K. Caldwell docketed 01/24/2020, as Case No. 51-2019-CV-02116 in the original sum of \$10,933.01.

16.0 Defendant AR Audit Services Inc. may claim an interest by virtue of a judgment against Bradford Caldwell docketed 12/30/2019, as Case No. 51-2019-CV-02159 in the original sum of \$359.89.

17.0 Defendant Credit Bureau of Bismarck Inc. may claim an interest by virtue of a judgment against Bradford Caldwell docketed 05/25/2021, as Case No. 51-2021-CV-00706 in the original sum of \$2,446.17.

18.0 Defendant ProCollect Services, LLC may claim an interest by virtue of a judgment against Don K. Caldwell docketed 02/01/2023, as Case No. 51-2023-CV-00214 in the original sum of \$3,257.24.

19.0 That no proceedings have been had at law or otherwise for recovery of the debts memorialized by the notes and secured by the mortgage or any part thereof.

20.0 That not less than 30 days nor more than 90 days prior to the commencement of this action, the Bank as owner and holder of the mortgage did duly serve in the manner provided by law, a written notice its intention to foreclose the mortgage, which notice contained the information required by statute. A true and correct copy of the notice and proof of service is attached hereto as Exhibit D and is incorporated herein by reference.

21.0 That Defendants Bradford Caldwell and Blake Caldwell, as Personal Representative of the Estate of Don Caldwell, is entitled to redemption rights as provided in N.D.C.C. Chapter 32-19-18.

WHEREFORE, Plaintiff prays for judgment as follows:

22.0 Determining and adjudging the amount due the Bank under the terms and conditions of the notes, mortgage, and guaranty, including principal, interest, advances for taxes if any, abstract continuation costs, and any other advances required to preserve the subject property and personal property collateral, and costs and disbursements of the action.

23.0 That it be decreed for the payment of the amount so adjudged to be due and owing on the notes, guaranty, and mortgage, together with the costs and expenses of sale, that the Bank has a valid and subsisting lien on the personal property collateral and upon the above-described premises; that unless otherwise stated above, the liens are prior, superior and paramount to the estates, interests, liens, and encumbrances of the Defendants and of all persons claiming from, through, or under any of them,

subsequent to execution and recording of the Bank's mortgage and subsequent to the commencement of this action.

24.0 That the usual decree of foreclosure be made and entered for the foreclosure of the above-described mortgage and that the Court order and decree a sale of the aforementioned mortgaged premises, or any part thereof as may be sufficient to pay the amount adjudged to be due, and the costs of the sale, and the payment out of the proceeds thereof of the amount of the judgment and the costs of the sale so far as the proceeds will pay the same; that the sale be made by the Sheriff of Ward County, or one of his duly-appointed deputies according to law and the usual course and practice of this Court.

25.0 That it be adjudged that the premises constituted and were secured and mortgaged as one tract and that it be sold as one parcel and without division; that the Bank may purchase the premises at the sale; and that the Defendants and all persons claiming under them or any of them subsequent to the commencement of this action shall be forever barred and foreclosed of all right, claim, lien and equity of redemption in the mortgaged premises and every part thereof, except the right of redemption given by law.

26.0 That the security interest be declared a lien of first priority upon the personal property collateral described herein, that the commercial security agreement covering the personal property collateral be foreclosed and that the Bank be granted an order granting it possession of the personal property collateral and authorizing to liquidate the same, by public or private sale, as authorized by Chapter 41-09 of the North Dakota Century Code, and that the proceeds applied upon said indebtedness.

27.0 That the Bank may have any other or further relief that the Court deems just and equitable

Dated this 5th day of August, 2024.

OLSON & BURNS P.C.



Richard P. Olson (ID #03183)
Attorneys for First Western Bank & Trust
PO Box 1180
17 1st Avenue SE
Minot, ND 58702-1180
(701) 839-1740
rpolson@minotlaw.com



TO: Mayor Ross
Members of the City Council

FROM: Lance Meyer, City Engineer

DATE: August 19, 2024

**SUBJECT: DRIVEWAY APPEAL AND REQUEST FOR SPECIAL PERMIT - 1109
HIAWATHA ST SE**

I. RECOMMENDED ACTION

City Council may choose from the options below:

1. Approve the special permit for 1109 Hiawatha St SE and allow a driveway width to a maximum of 51 feet at the curb line to be constructed in conformance with Chapter 28 of the Code of Ordinances.
2. Deny the special permit

II. DEPARTMENT CONTACT PERSONS

Lance Meyer, City Engineer, 701-857-4100
Emily Huettl, Asst. City Engineer, 701-857-4132

III. DESCRIPTION

A. Background

At the June 17th council meeting, the owner at 1109 Hiawatha St SE appealed the decision of the engineering department to the council to request a special permit for a wider driveway than the maximum allowed by ordinance. The appeal was denied by the council.

B. Proposed Project

The property owner has requested staff review the request again and forward the request for a special permit to council for review.

C. Recommendation Detail

In order to assist the council in making a determination whether to grant the special permit or deny the special permit, staff offers these points of consideration:

- 1109 Hiawatha St has an existing building on the property, so is able to ask for the special permit as allow in Section 28-217 of the ordinance.
- Neighborhood average driveway width is slightly over 40 feet. 1109 Hiawatha owner is asking for a total width of 51 feet.
- Hiawatha has a flat grade, has no view obstructions, and meets corner clearance requirements from an intersection.
- There is not a segment accident history on Hiawatha where access restrictions should be enforced.
- Public works will have to push an additional 13 feet of snow with snow gates.
- In the city's current system of road reconstruction funding, the city pays for driveway replacements. The additional width will someday be paid for by the city when Hiawatha is reconstructed, hopefully decades from now.

Considering all of the points above, and as stated at the June 17th meeting, staff does not have a strong opinion on the extra width of this driveway. Engineering staff will always inform the council if we feel driveways will present safety issues to the public. However, those issues are usually related to location and not necessarily width. Generally, width requirements are grounded in community aesthetic and operational considerations.

IV. IMPACT

A. Aspirations

Excellent and Connected

B. Service/Delivery Impact:

Owner will be able to back his camper into his garage.

C. Fiscal Impact

There is no immediate or direct budget impact to approving or denying this request. In the distant future there may be a budget impact if the city has to replace an expanded driveway.

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

Council can either approve or deny the special permit request from the owner.



PROPOSED
DRIVEWAY EXPANSION
1109 HIAWATHA ST
ATTACHMENT A

06/12/2024

City of Minot



TO: Mayor Ross
Members of the City Council

FROM: Lance Meyer, City Engineer

DATE: August 19, 2024

**SUBJECT: STORM SEWER DISTRICT 124 CONTRACT AMENDMENT AND
PROJECT UPDATE**

I. RECOMMENDED ACTION

- 1. It is recommended City Council approve the contract amendment with Ackerman Estvold and authorize the Mayor to sign the amendment; and**
- 2. Approve the attached reimbursement resolution.**

II. DEPARTMENT CONTACT PERSONS

Lance Meyer, City Engineer, 701-857-4100
Emily Huettl, Asst. City Engineer, 701-857-4132

III. DESCRIPTION

A. Background

Storm sewer district 124 is a project that has been planned as far back as the late 1990s to solve street flooding issues generally around Broadway between 24th and 27th Avenues NW. Staff has been calling this area the Polaris Park watershed as it extends west to include land around Polaris Park. In reality, the watershed is substantially larger than this and actually extends west of the 83 Bypass.

During minor storm events, ditches along Broadway fill and the frontage road can become overtopped. It can take the system hours to catch up depending on the rainfall intensity. During very large events, Broadway can become overtopped, closing the roadway.

In addition to these issues, severe downstream erosion is taking place due to the City's outfall and ditch improvements along 30th Avenue NW. The Stonebridge Farms detention pond is also having outlet works erosion issues and the pond is having maintenance issues due to the wetland in the bottom.

B. Proposed Project

This project has taken the path of many infrastructure projects as it starts with an identified problem, is studied further in a high level concept plan where potential solutions and high level costs are developed, a project is programmed in the capital improvement plan, and then preliminary engineering begins.

During the preliminary engineering process, high level concepts are developed into feasible design alternatives. For this project, several alternatives had to be explored until the right combination could be found to solve the complex hydraulic issues in the watershed. Ackerman's scope had to be expanded to handle additional tasks such as right of way acquisitions, additional alternative analysis, and additional construction engineering for eventual construction activities due to the expanded size of the project.

C. Recommendation Detail

Staff has reviewed the request by Ackerman Estvold for additional compensation for services outside the original scope of work. Their request is reasonable for the additional time and effort needed to bring the project through to completion. The fees are in line with and conform to the City's fee compensation policy.

IV. IMPACT

A. Aspirations

Resilient and Prepared

B. Service/Delivery Impact:

The project will reduce flooding and property damage along Broadway, its frontage roads, and private property along 30th Avenue NE and downstream.

C. Fiscal Impact

The project will be funded like other storm sewer assessment districts the City has constructed over the last couple decades with half the cost being special assessed and half being paid by the storm sewer utility through storm sewer development funding.

The costs below outline the current and requested engineering costs.

Project Costs

Original Agreement Amount	\$234,000
Amendment Amount	\$190,000
Adjusted Agreement Amount	\$424,000

Project Funding

50% Special Assessment
50% Storm Sewer Development

VI. ALTERNATIVES

Alternative 1: Council could choose not to approve the contract amendment. This will stop the project as there are no engineering funds available. Ackerman is currently holding invoices at this time until council decides how to move forward on this request.

**REIMBURSEMENT RESOLUTION
DECLARING OFFICIAL INTENT**

BE IT RESOLVED by the 19th day of August of 2024 (the "City"), as follows:

1. Recitals.

(a) The Internal Revenue Service has issued Section 1.150-2 of the Income Tax Regulations (the "Regulations") dealing with the issuance of obligations, all or a portion of the proceeds of which are to be used to reimburse the City for project expenditures made by the City prior to the date of issuance.

(b) The Regulations generally require that the City make a prior declaration of its official intent to reimburse itself for such prior expenditures out of the proceeds of a subsequently issued borrowing no later than 60 days after payment of such expenditure, that the borrowing occur and the reimbursement allocation be made from the proceeds of such borrowing within eighteen months of the payment of the expenditure or, if longer, within eighteen months of the date the project is placed in service, but in no event more than three years after the date the original expenditure was paid and that the expenditure must either be a capital expenditure, or a cost of issuance of the obligation.

2. Official Intent Declaration.

The City desires to comply with requirements of the Regulations with respect to the following capital projects (the Projects) in order to preserve the option of the City to finance the costs of the Projects with tax-exempt obligations:

A. Polaris Park Watershed Storm Sewer District #124 (Construction Cost: Approximately \$4,000,000.

The City reasonably expects to reimburse all or a portion of the expenditure made for costs of the Projects out of the proceeds of an obligation, as defined in the Regulations.

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk

1907 17th ST SE

MINOT, ND 58701

701.837.8737

WWW.ACKERMAN-ESTVOLD.COM

MEMORANDUM

To: City of Minot
From: Ackerman-Estfold
Date: May 29th, 2024
Re: Storm Sewer District 124 – Contract Amendment

1. Introduction

The intent of this memorandum is to outline additional work performed by Ackerman-Estfold as part of the professional consulting services contract with the City of Minot for Storm Sewer District 124. Areas that are anticipated to require extra work beyond initial scope are as follow:

- Preliminary Engineering
 - Hydraulic Modeling
 - Alternatives Analysis
- Design Engineering
 - Right of Way Acquisition
- Construction Administration

2. Preliminary Engineering

The initial project scope included the creation of both a 1D XP-SWMM model and a 2D XP-SWMM hydraulic model for the Polaris Park Watershed. The watershed features several sub basins that feature existing storm water detention ponds. The sub basins along with the existing detention ponds were modeled and analyzed to more completely understand how the system operates. The existing detention ponds were also analyzed for additional storage capacity. The following alternatives were identified during the initial contract scoping process and were during the modeling effort.

- Do Nothing
- Conveyance Alternatives
 - Installation of a crossing culvert parallel to the existing one and improvements to the airport ditch to reduce runoff breaking out to the south
 - Installation of a closed pipe system to eliminate the open channel on the airport property
 - Installation of crossing pipe near 30th Avenue NW that connects directly into 48" before entering airport property

- Examination of increased storage with the Polaris Park watershed
 - Expansion of existing pond near St. Alexis
 - Expansion of existing detention area on Bourgault / Falkas Properties
 - Weir plate overflow with orifice in crossing culverts downstream of airport (Ness Property)
- Combinations of the options mentioned above

The initial modeling exercise was able to provide solutions to the conveyance alternatives; however, no obvious solutions for increased storage were found in the existing storm water detention ponds. The City suggested reviewing the existing storm water detention pond in the Stonebridge Farms subdivision for additional capacity. That alternative proved to be beneficial, and a design was developed to expand the existing pond.

3. Design Engineering

Plans and specifications for the project were developed that included the following improvements:

- Installation of 30-inch storm sewer across Broadway
- Extension of existing 48-inch storm sewer along 30th Ave
- Restoration of the 30th Ave ditch
- Expansion of the Stonebridge Farms storm water detention pond
- Grading and restoration of disposal location
- Replacement of the Stonebridge Farm storm water detention pond outlet
- Installation of dual 48-inch culverts across 30th Ave
- Installation of triple 42-inch culverts across 13th Street
- Installation of triple 42-inch culverts across 30th Ave

The proposed work related to the expansion of the existing Stonebridge Farms storm water pond not included in the original scope. Along with the pond expansion additional design work was required for the extension of the existing 48-inch storm sewer into the pond, the new pond outlet structure, and grading of area where excavated pond material will be disposed. Additional work is also required in order to acquire the property from the existing Owner. Surveying and plating work for the proposed storm water property is anticipated. These costs are considered to be additional services and would be passed through to the City per the original contract. The downstream culverts along the drainage route at 13th Street and the two 30th Avenue locations were also not included for improvement in the original contract.

The permitting effort for the proposed project has been as expected. Coordination with the Minot Airport and the airport consulting engineer revealed a cultural investigation was not required. A wetland delineation was completed in 2023 that included the project area along 30th, but did not include the proposed pond expansion. Additional delineation work was required to incorporate the pond and disposal area.

Although the proposed project scope has expanded, bid administration is expected to follow the initial project scope. Engineer will provide assistance to the City during the bidding period including responding to questions from bidders, issuing addenda, participating in pre-bid conference, compiling and review bid summaries, and assisting the City with a recommendation for award.

4. Construction Administration

Construction administration and observation budget for the original project scope was estimated based on a 2-month continuous construction period. The additional proposed improvements will require a greater effort during construction and will include the following task: oversee and document construction activities, witness testing, document quantities, prepare pay application, review submittals, process change orders, participate in meetings, and coordinate sub-consultants, agencies, and Owner during construction. The additional improvements will also require more construction surveying and field staking. It is anticipated that construction surveying will be required for the following: survey control, demolitions and removals staking, staging areas, construction limits, erosion control, storm sewer and culverts, wetlands, grading, restoration, and post construction as-built survey.

Post construction services are not anticipated to increase. Upon project completion the construction team will submit survey quality as-builts consistent with the City of Minot's record plan policy. As-builts will be CAD drafted and submitted electronically in .dwg, .pdf and 11x17 paper copy. Utility information will be submitted in GIS format to be incorporated in the City's GIS. The storm sewer model will be updated based on post-construction survey and will be provided to the City.

5. Budget

Work completed to date includes preparation of the preliminary plan, specifications and construction estimate. The preliminary documents are considered to be 99% complete, pending any revision required after City review. The Basis of Design Report that summarizes the hydraulic modeling effort and analysis of alternatives has also been submitted for review. Other items completed to date include topographic survey, coordination with the Minot Airport and preparation Construction Safety and Phasing plan, coordination with NDDOT on required permitting, completion of the Aquatic Resource Delineation Report, initial easement coordination with property owners, and drafting of easements. In total the bill value for this works totals \$288,356.88 as shown on the attached billing.

Anticipated work required to complete the project include finalizing and certifying the plans and specification after City requested revisions, acquisition of property for pond expansion, finalizing easements, bidding, and construction of the project. The estimated costs for the anticipated remaining work totals \$135,021.12.

The total compensation for engineering services with the requested amendment is estimated to be \$424,000. The estimated fees are based on the City of Minot's Consulting Engineering Fee Schedule of 12.5% of estimated construction costs (\$2,393,725.00) along with the additional costs for hydraulic modeling, alternative analysis, public information, NEPA compliance, and permitting (\$124,163.29) as

identified in the original agreement. The following is the amended estimated distribution of compensation for each phase:

a. Study and Report Phase	N/A
b. Preliminary Engineering	\$145,000
c. Final Design Phase	\$160,000
d. Bidding / Proposal Phase	\$5000
e. Construction Phase	114,000
f. Post-Construction Phase	N/A

6. Summary

Ackerman-Estvold is requesting an amendment to the professional consulting services contract for the City of Minot's Storm Sewer District 124 project. The project design has expanded beyond the initial scope and is anticipated to require additional engineering efforts for preliminary engineering, design engineering, and construction administration. The requested contract amendment of \$192,000 would result in a total contract amount of \$424,000.

EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. 1

Owner: **City of Minot**
Engineer: **Ackerman-Estvold Engineering & Management Consulting**
Project: **Storm Sewer District 124**
Effective Date of Owner-Engineer Agreement: **May 1, 2023**

Nature of Amendment: (Check those that apply)

- ☒ Additional Services to be performed by Engineer
- ☒ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☒ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

As part of the professional consulting services contract with the City of Minot for Storm Sewer District 124, Ackerman Estvold has performed extra work beyond the initial scope in the following areas:

- Preliminary Engineering – Hydraulic Modeling and Alternatives Analysis
- Design Engineering – Right of Way Acquisition
- Construction Administration

See attached Memorandum for full description of additional work and compensation.

Agreement Summary:

Original agreement amount: \$232,000.00
Net change for prior amendments: \$0
This amendment amount: \$192,000.00
Adjusted Agreement amount: \$424,000.00
Change in time for services (days or date, as applicable):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is **August, 19, 2024**.

Owner	Engineer
City of Minot	Ackerman-Estvold
(typed or printed name of organization)	(typed or printed name of organization)
By: _____	By: <u>St. Eberle</u>
(individual's signature)	(individual's signature)
Date: _____	Date: <u>08-14-2024</u>
(date signed)	(date signed)
Name: _____	Name: <u>Steven Eberle</u>
(typed or printed)	(typed or printed)
Title: _____	Title: <u>VP / COO</u>
(typed or printed)	(typed or printed)



Storm Sewer District 124

August 19th, 2024

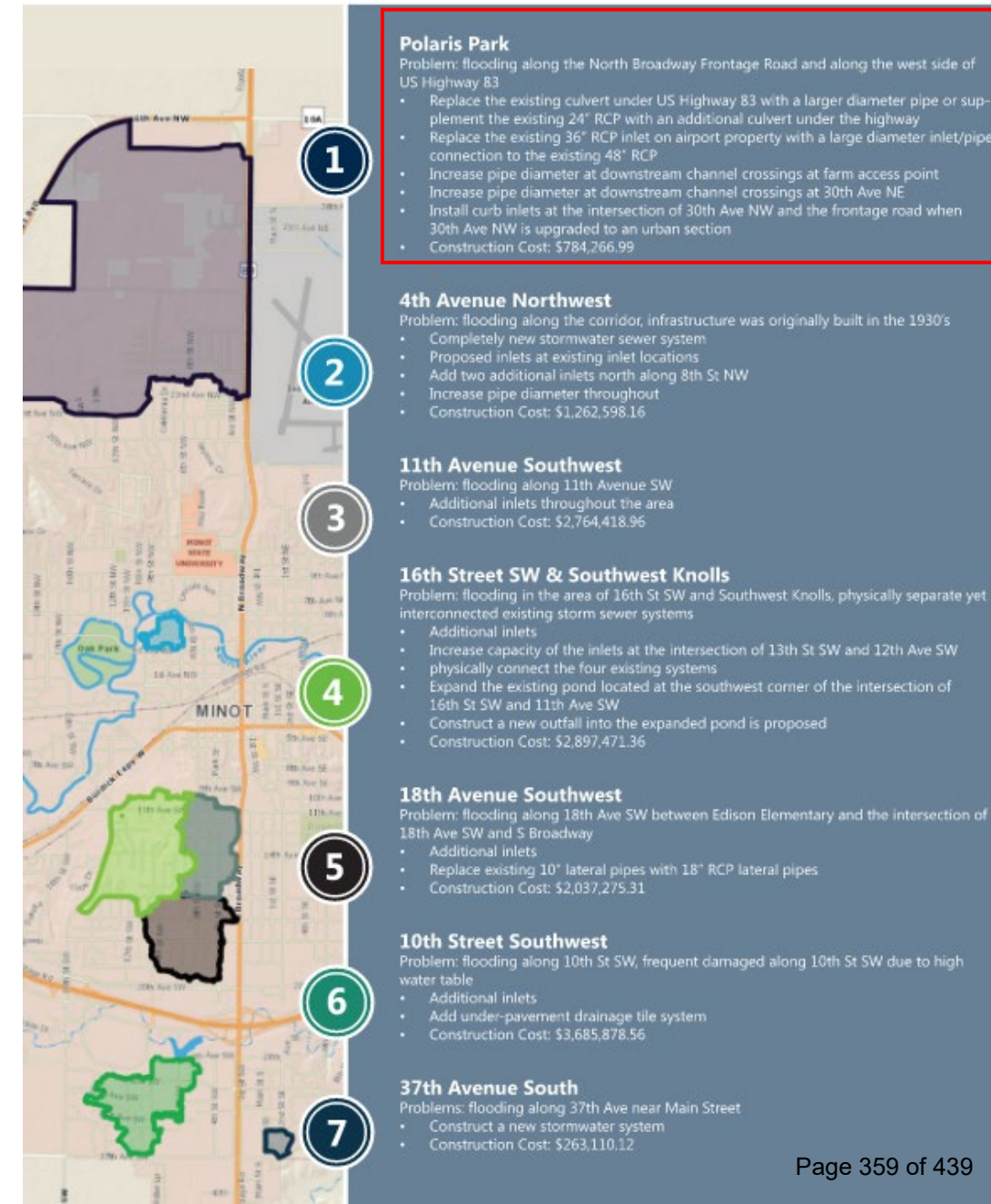
Project Background

Project identified as a part of the 2015 City-wide Storm Water Management Plan. Polaris Park area improvements were also identified in previous versions from 1998.

Flooding issues continue to occur.

Previous storm sewer districts include:

- SSD 117 – 21st Ave NW (2011)
- SSD 118 – S Broadway/4th St SW (2013)
- SSD 119 – Downtown* (2015)
- SSD 120 – Idlewild (2013)
- SSD 122 - 18th Ave SW (2017)
- SSD 123 - 10th Street SW



Project Need

Extended and frequent flooding in the west US-83 ditch between 27th Avenue and 30th Ave NW results in long term flooding of the west Frontage Road.

Downstream flows are causing erosion issues along 30th Avenue NE

Undersized stream crossings downstream along 13th Street NE and 30th Ave NE.



Project Location

Northwest Area: 1295 Acres

Stonebridge Area: 237 Acres

Downstream Area: 90 Acres

Total Area: 1622 Acres

Subdrainages: 85

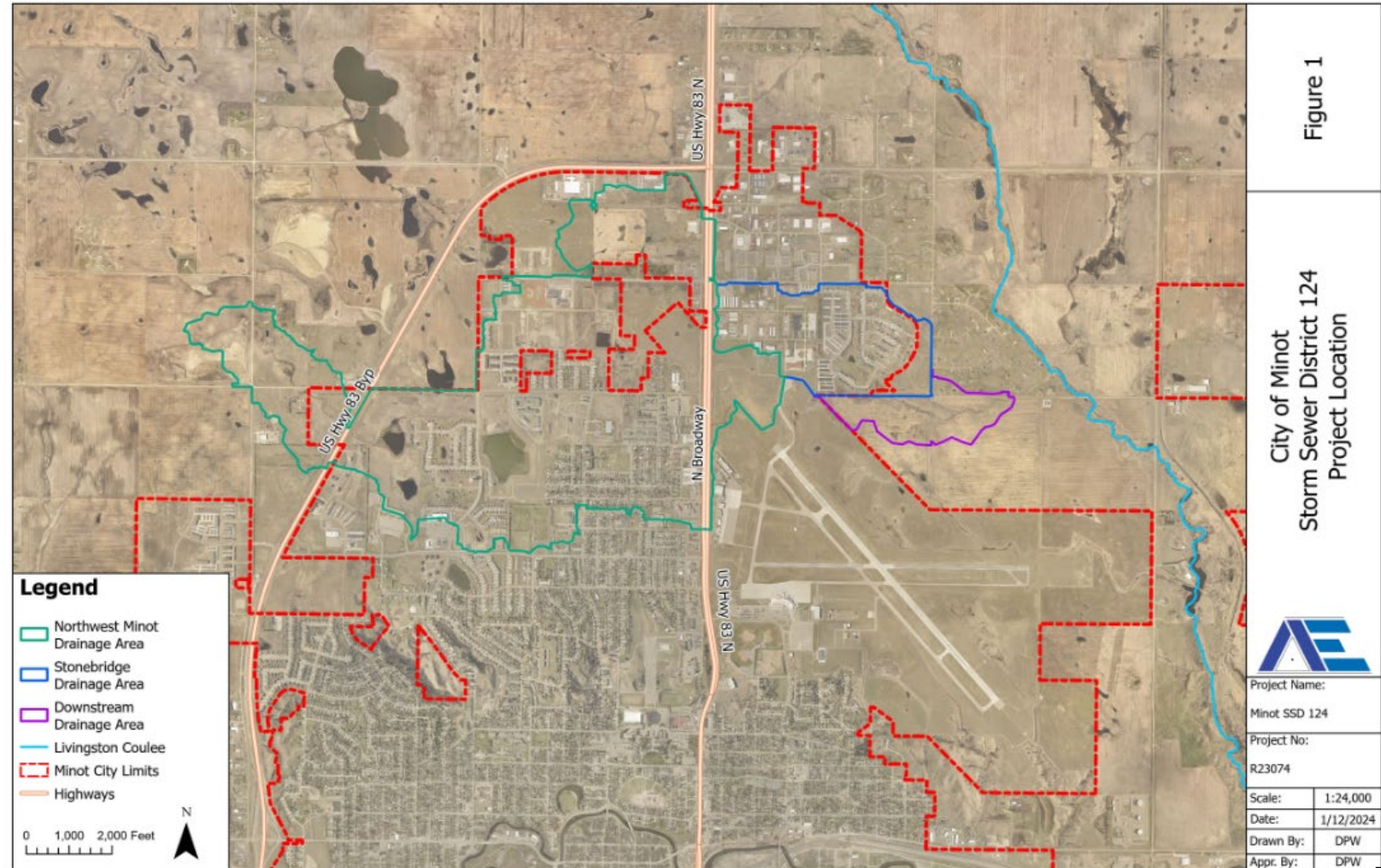


Figure 1

City of Minot
Storm Sewer District 124
Project Location



Design Standards

City of Minot Storm Water Management Plan

- XP-SWMM – hydrologic and hydraulic modeling.
- NRCS Curve Number, USGS Soil Groups, NOAA rainfall depths.
- Headwater does not exceed dia. of the culvert during 10-year storm.
- Headwater does not exceed 1-foot over top of the culvert during 50-year storm.

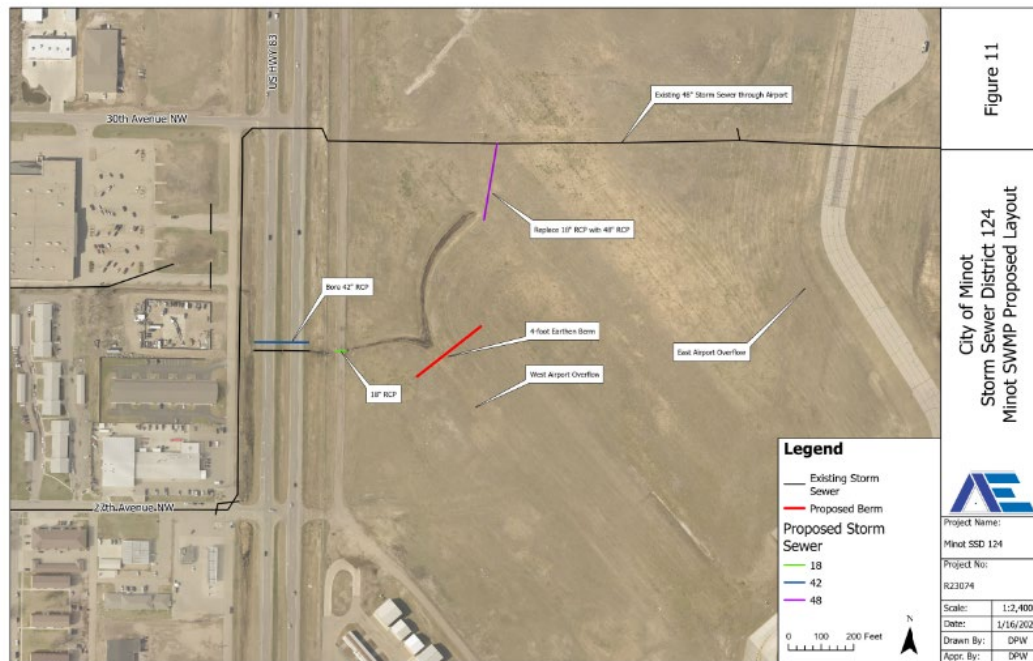
NDDOT

- Headwater meets NDAC 89-14-01-05.
- 25-year design event based on NDAC 89-14-01-03.

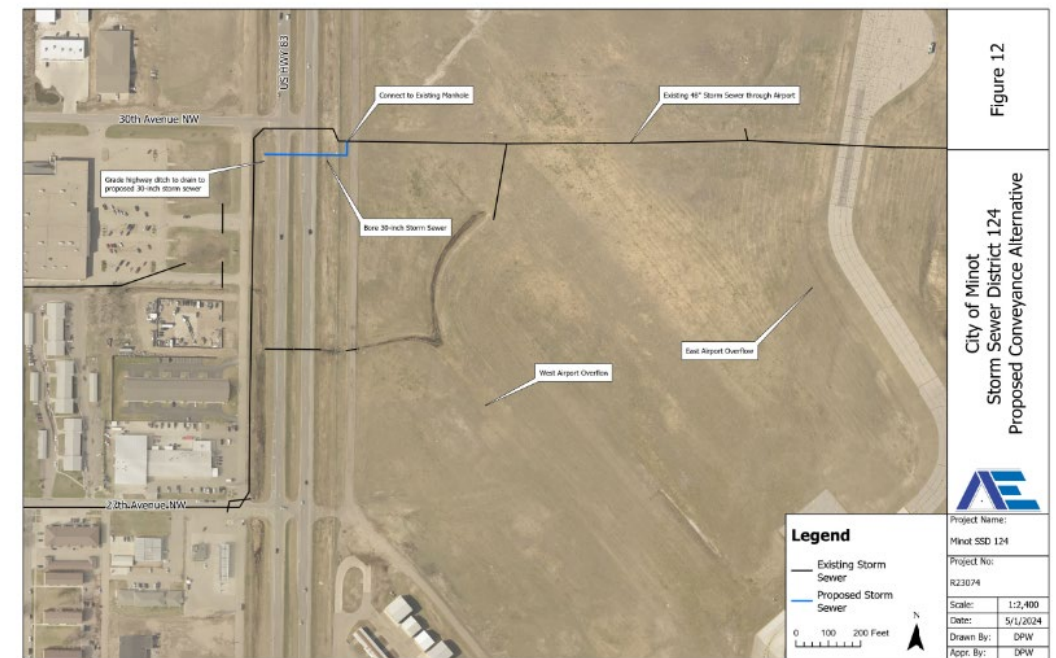
FAA

- Advisory Circular 150/5200-33B.

Alternatives Analysis - Conveyance



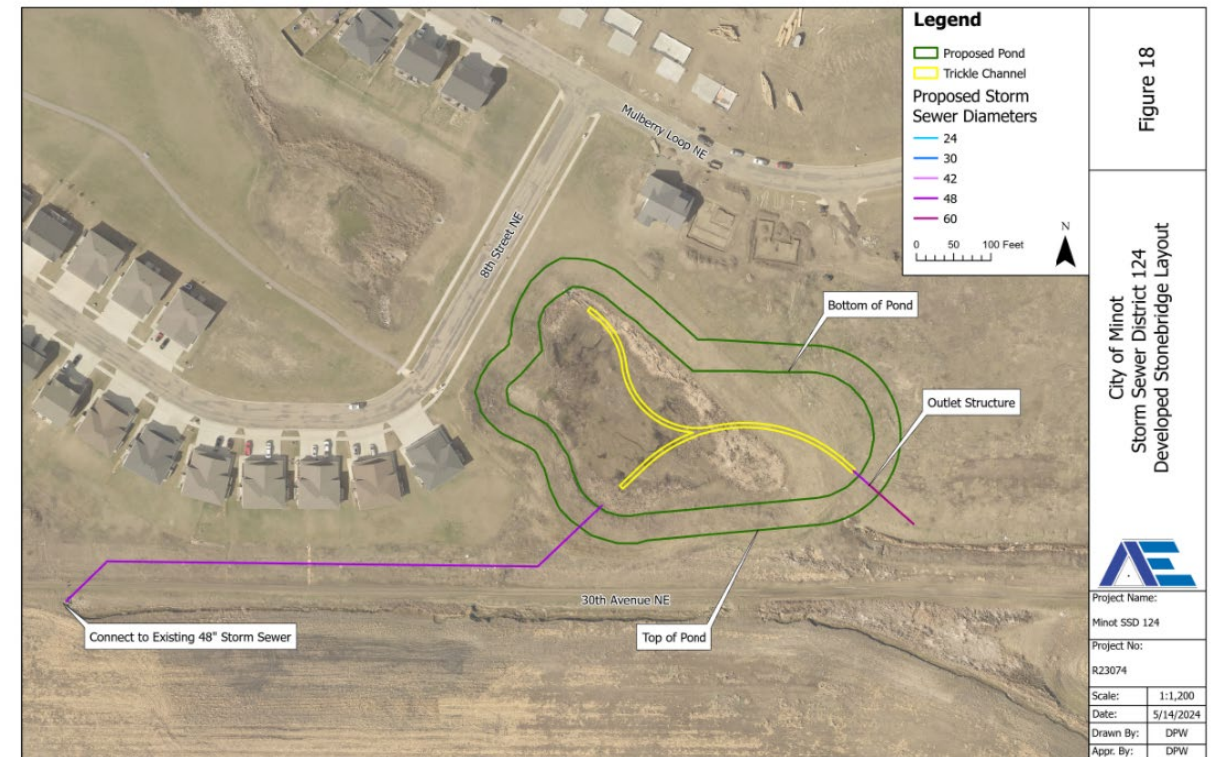
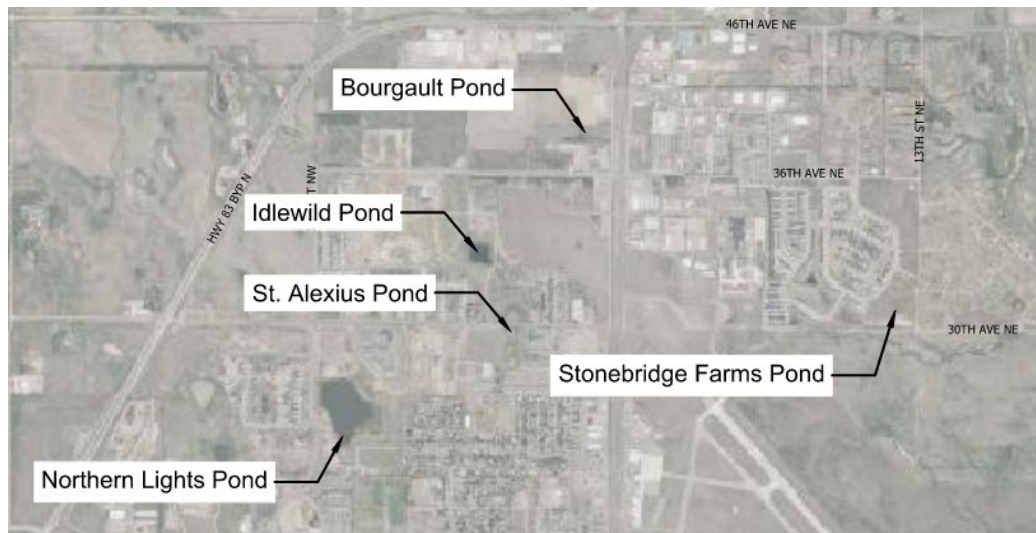
- 42-inch RCP at 2800 block.
Includes 48-inch RCP replacement



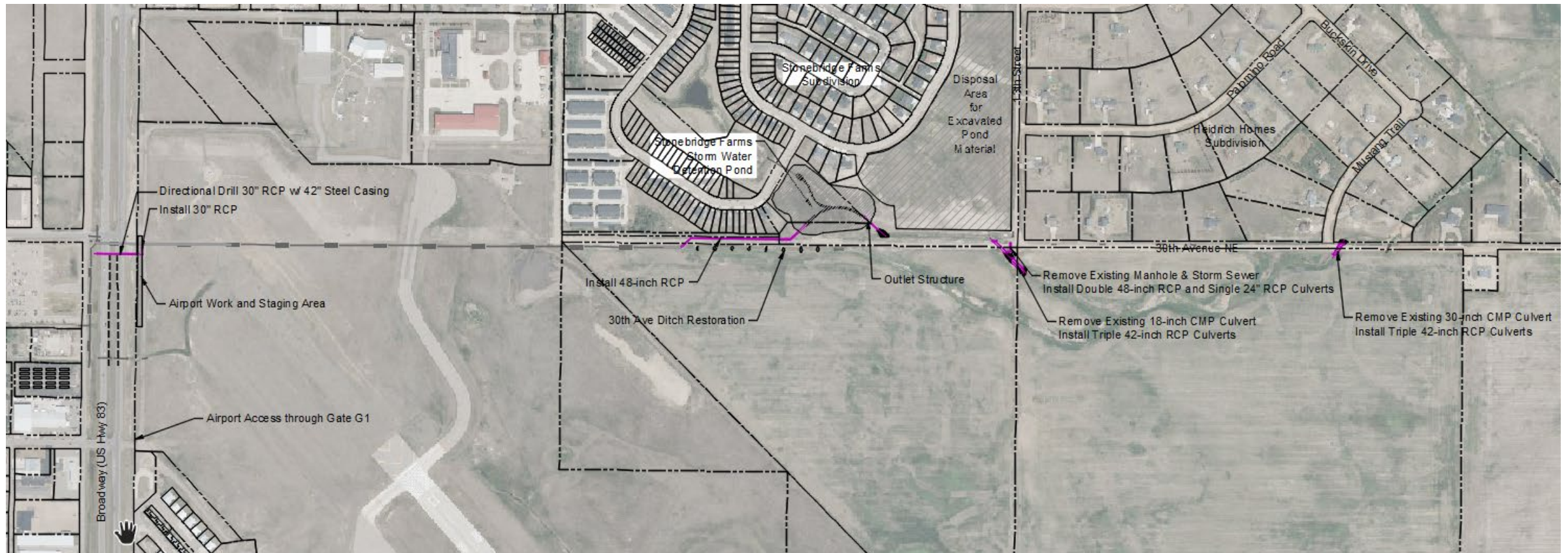
- 30-inch RCP at 30th Ave NE.

Alternative Analysis – Storage

- St. Alexis, Northern Lights, Idlewild, and Bourgault Pond modifications were not effective.
- Stonebridge Farms Pond
 - Increase Storage Capacity
 - No increase in downstream flows
 - Decreases flooding near Broadway



Proposed Improvements



Proposed Improvements

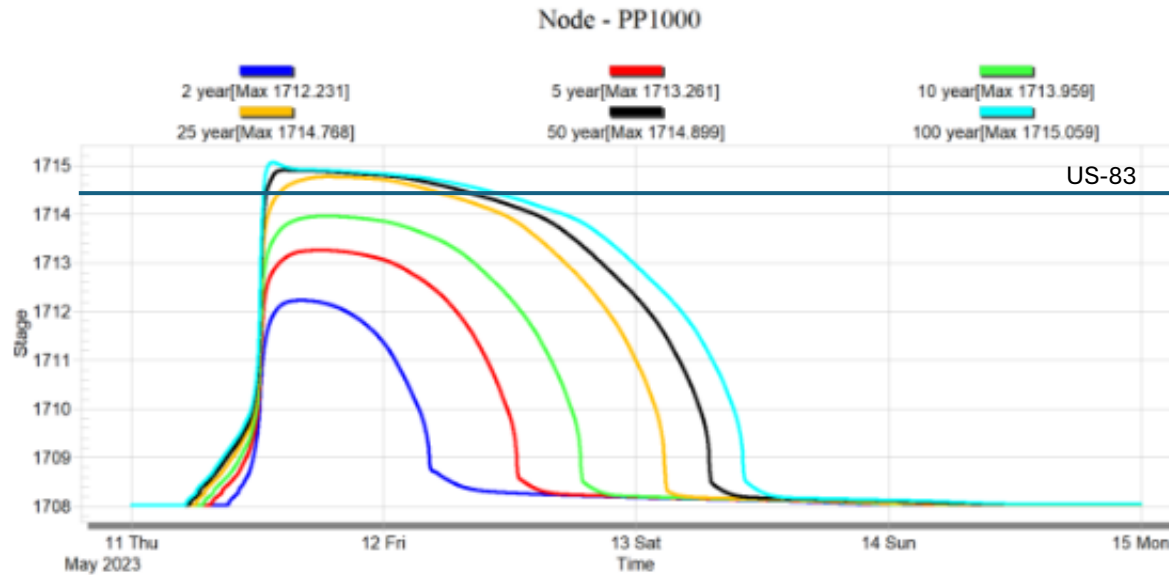


Figure 13: Existing Inundation Elevations in the US-83 Ditch

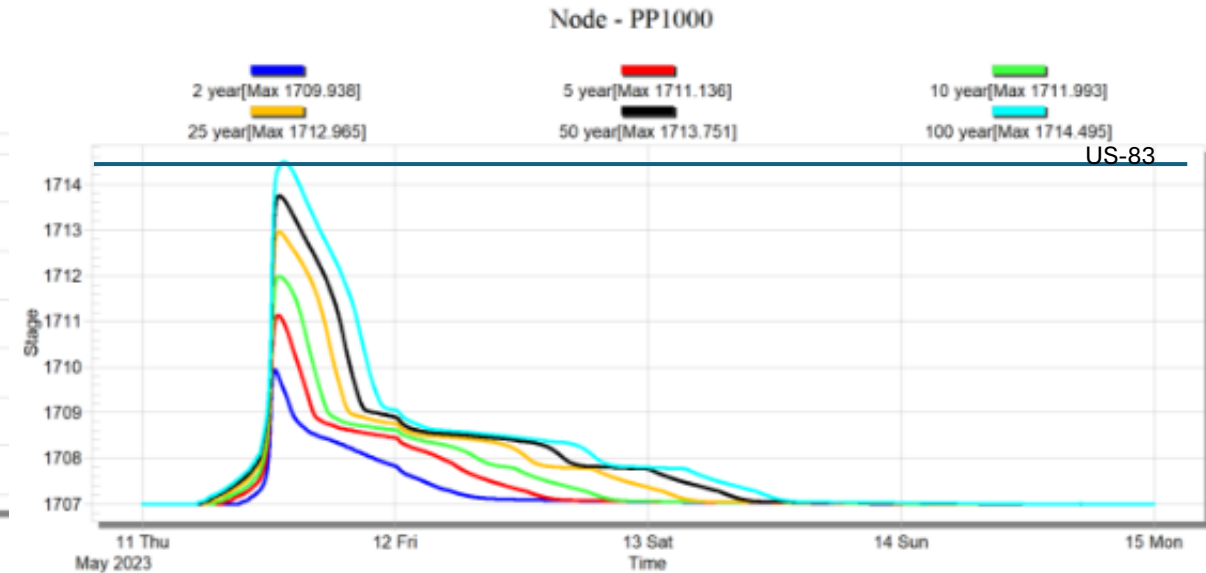


Figure 14: Proposed Inundation Elevations in the US-83 Ditch

- Reduces height and duration of flooding at US-83

Proposed Improvements

Table 17: Comparison of Predevelopment and Future Peak Flow Rates

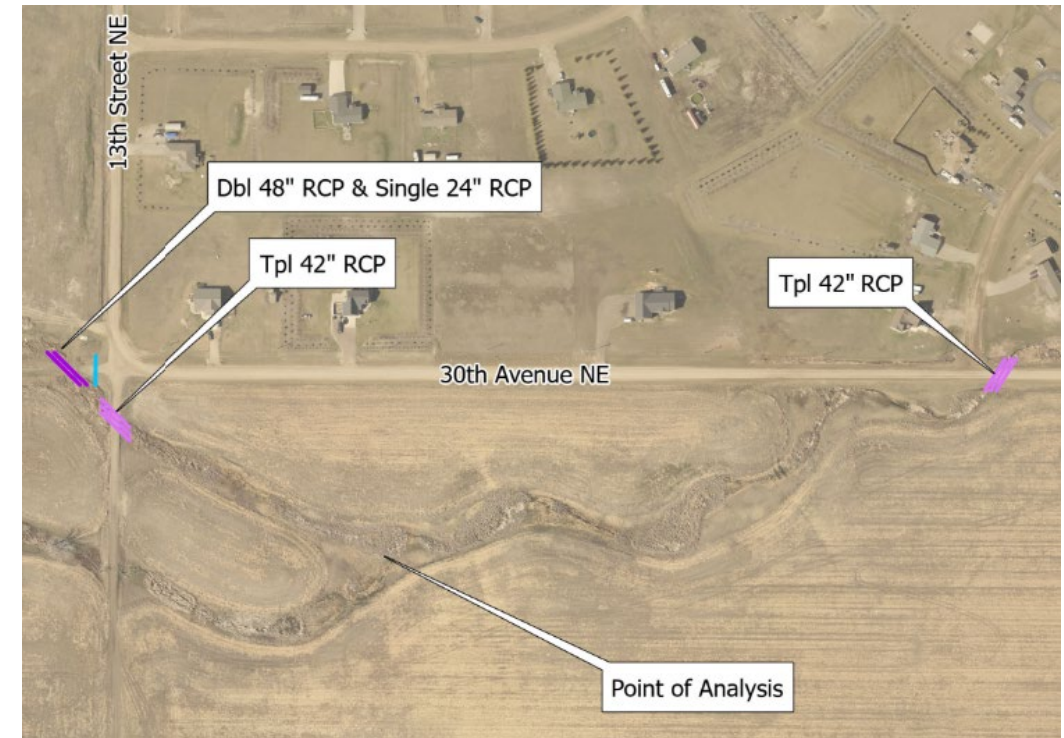
Condition	2-year (cfs)	5-year (cfs)	10-year (cfs)	25-year (cfs)	50-year (cfs)	100-year (cfs)
Predevelopment	43.3	95.7	142.9	216.6	290.5	363.2
Future	42.7	80.6	102.3	162.2	201.5	240.0
Difference	-0.6	-15.1	-40.6	-54.4	-89.0	-123.2

- Expansion of the Stonebridge Farms Ponds reduces downstream flows.

Table 14: Stonebridge Pond Hydraulics

Storm Event	Peak Water Surface Elevation	Drawdown Time (hr)
2-year	1672.39	12.5
5-year	1674.33	18.0
10-year	1675.05	25.4
25-year	1675.76	34.4
50-year	1676.11	41.3
100-year	1676.44	48.0

- Meets FAA 48-hour drawdown time.



Project Costs



Construction Estimate **\$2,393,725**

Earthwork - \$450,000

Storm Sewer - \$1,250,000

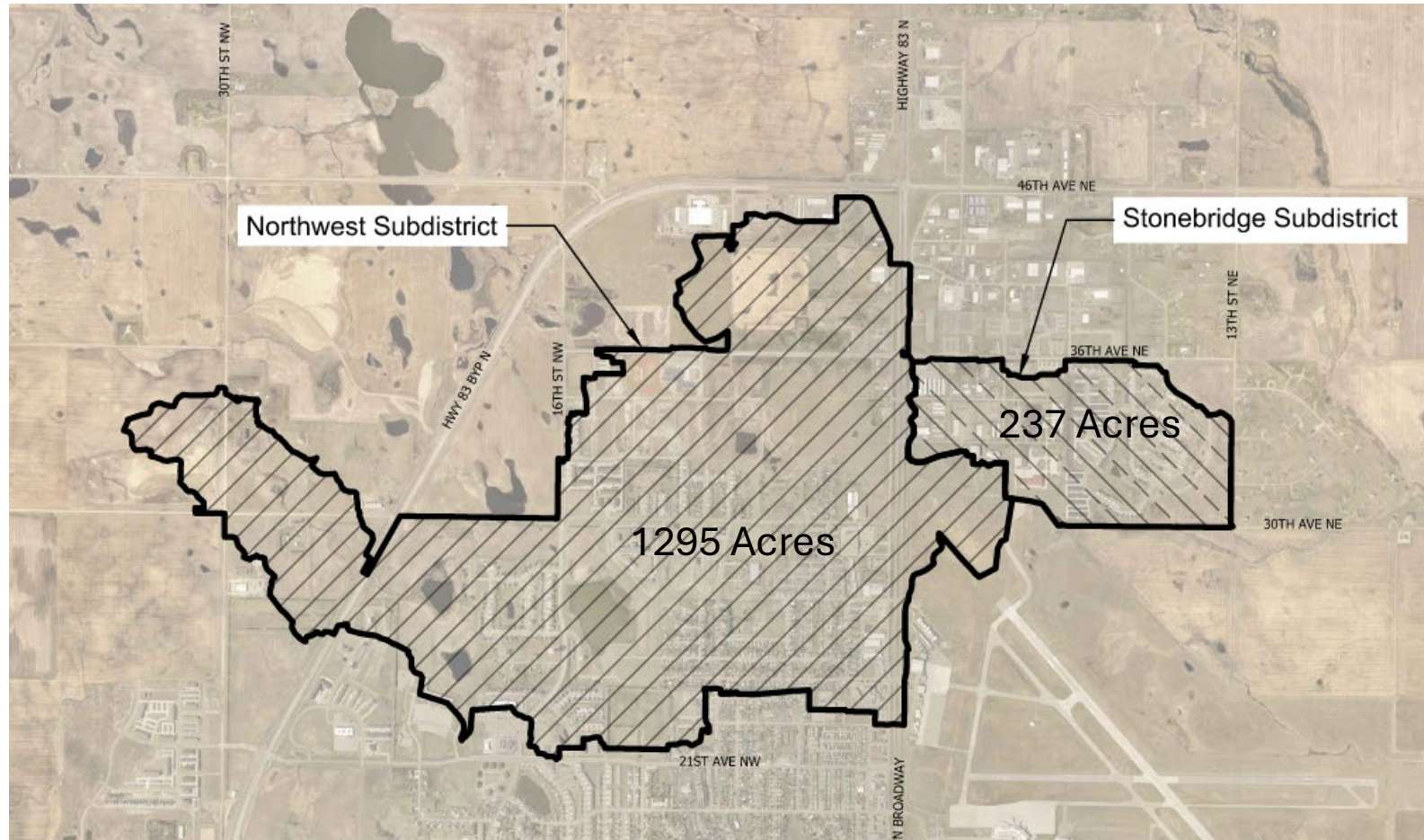


Engineering Fees

Current – \$232,000

Proposed Amendment - \$424,000

Special Assessment District



Special Assessment District

NW Minot Watershed Section

- 1295 acres
- 1424 parcels in city/ 75 out of city
- Est. assessment \$18.00 to \$99,000
- \$206,000 in assessments held in abeyance

Stonebridge Watershed Section

- 237 acres
- 394 parcels in city/ 1 out of city
- Est. assessment \$120.00 to \$20,000
- \$37,000 in assessments held in abeyance

Project Budget

Estimated Total Construction Cost \$	2,400,000.00
Contingency, 10% \$	240,000.00
Total of All Construction \$	2,640,000.00
Engineering \$	424,000.00
City Administration, 8% \$	211,200.00
City Finance, 6% \$	158,400.00
Miscellaneous, 1% \$	26,400.00
Right-of-Way and Easement Acquisition \$	200,000.00
Total Costs \$	3,660,000.00
50% Storm Sewer Development \$	1,830,000.00
50% Special Assessment \$	1,830,000.00
NW Minot Assessment Amount 81% \$	1,482,300.00
Stonebridge Assessment Amount 19% \$	347,700.00
Total \$	1,830,000.00

Next Steps



PROJECT APPROVAL



SPECIAL ASSESSMENT DISTRICT



FINALIZE PLANS
LAND ACQUISITION
PERMITTING APPROVAL
BID / AWARD CONTRACT



CONSTRUCTION IN 2025



TO: Mayor Ross
Members of the City Council

FROM: Jason Sorenson, Utilities Director

DATE: August 19, 2024

**SUBJECT: NW AREA WATERMAIN REPLACEMENT - CONTRACT AMENDMENT
(4656)**

I. RECOMMENDED ACTION

- 1. It is recommended City Council approve the contract amendment in the amount of \$76,890.35 for Houston Engineering for additional services performed during the NW Area Watermain Replacement Project; and**
- 2. Approve a budget amendment to allocate funds from cash reserves on first reading.**

II. DEPARTMENT CONTACT PERSONS

Jason Sorenson, Utilities Director, 701-857-4768

III. DESCRIPTION

A. Background

In January of 2023, the NW Area Watermain Replacement project was awarded for construction in 2023. The project was a combination of watermain replacement along 7th Ave NW between 16th St and 10th St and full road reconstruction of 7th Ave NW in the same area. Wagner Construction, Inc was awarded the project in the amount of \$3,793,297.50. Houston Engineering was selected to design and provide construction management for the duration of the project.

B. Proposed Project

The NW Area Watermain Replacement project is complete and nearing project closeout. Houston Engineering has submitted a contract amendment in the amount of \$76,890.35 in order to be compensated for additional work that was not contemplated in their original contract. The project was supposed to be substantially complete by the end of October of 2023. Wagner Construction ended up finishing the project in June of 2024 which required Houston Engineering to provide construction management longer than contractually

obligated. Additionally, Houston was subpoenaed by OSHA for some safety violations, which required Houston Engineering to respond to requests for information. Liquidated damages are being withheld in the amount of \$36,111.40. The remaining \$40,000 is due to additional design and construction management. Houston was requested to perform for some storm sewer extensions, ADA ramp modifications and other changed conditions during the project. The amendment will also cover the costs to perform project closeout and assemble record drawings.

C. Recommendation Detail

The additional engineering services performed were outside of the original contract. The contract amendment is warranted.

IV. IMPACT

A. Aspirations

Resilient and Prepared

B. Service/Delivery Impact:

Watermain replacement projects improve water quality and provide better conveyance for flows from hydrants.

C. Fiscal Impact

Project Costs

Original Engineering Contract	\$646,492.00
Contract Amendment	\$76,890.35

Project Funding

Funds will be withheld from Wagner Construction's final payment in the amount of \$36,111.40. It is recommended the remaining funds come from cash reserves.

VI. ALTERNATIVES

N/A

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated May 7, 2019.

Amendment To Task Order No. 8

1. Background Data:

- a. Effective Date of Task Order: March 21, 2022
- b. Owner: City of Minot
- c. Engineer: Houston Engineering, Inc.
- d. Specific Project: NW Area Water System Replacement

2. Description of Modifications

- a. Engineer shall perform the following Additional Services: **Coordination with the Bismarck OSHA office for questions and subpoenaed documents as part of their investigation involving the project's Contractor.**
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Task Order and previous amendments, if any, is modified as follows: **The Engineer shall continue to provide construction and post-construction services as described in Task Order 8 into 2024 for the remaining portions of the work that were not completed by the Contractor before the contract's 2023 completion deadline.**
- c. ~~The responsibilities of Owner with respect to the Task Order are modified as follows: []~~
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:

Phase	Task	Description	Amendment No. 1 Amount	Amendment No. 2 Change	Amended Total
1		Basic Services			
	a	Preliminary and Final Design	\$ 356,250.00	(\$ 153,303.99)	\$ 202,946.01
	b	Bidding Services	\$ 18,750.00	(\$ 16,093.00)	\$ 2,656.50
	c	CMS Engineering Services	\$ 56,250.00	\$ 75,000.00	\$ 131,250.00
	d	Resident Project Representative	\$ 112,500.00	\$ 155,000.00	\$ 267,500.00
	e	Post Construction and Commissioning Services	\$ 18,750.00	\$ 9,250.00	\$ 28,000.00
	f	7 th Ave Road Reconstruction	\$ 83,992.00	(\$ 462.16)	\$ 83,529.84
2		Additional Services (OSHA Investigation)	\$ 0.00	\$ 7,500.00	\$ 7,500.00
		Totals:	\$ 646,492.00	\$ 76,890.35	\$ 723,382.35

Exhibit K – Amendment to Task Order

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and American Society of Civil Engineers. All rights reserved.

- e. ~~The schedule for rendering services under this Task Order is modified as follows: []~~
- f. ~~Other portions of the Task Order (including previous amendments, if any) are modified as follows: []~~

~~**{List other Attachments, if any}**~~

3. Task Order Summary (Reference only)

a.	Original Task Order amount:	\$ 562,500.00
b.	Net change for prior amendments:	\$ 83,992.00
c.	This amendment amount:	\$ 76,890.35
d.	Adjusted Task Order amount:	\$ 723,382.35

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Task Order as set forth in this Amendment. All provisions of the Agreement and Task Order not modified by this, or previous Amendments remain in effect. The Effective Date of this Amendment is July 30, 2024.

OWNER:

By: _____

Title: _____

Date _____

Signed: _____

ENGINEER:

By:  _____

Title: Principal

Date 07/30/2024

Signed: _____

Exhibit K – Amendment to Task Order

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Page 2

ORDINANCE NO:

AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE WATER DISTRIBUTION CAPITAL INFRASTRUCTURE EXPENSE FOR THE NORTHWEST MINOT WATER REPLACEMENT PROJECT AND APPROVE THE USE OF WATER SEWER CASH RESERVES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: Amend the 2024 annual budget to increase the Water Distribution capital infrastructure expense for the Northwest Minot Water Replacement project:

14061000-57200		\$76,891
----------------	--	----------

- §2: Approve the transfer of Water Sewer cash reserves:

14061000-49106		\$42,036
14000000-39106	2021610002	(42,036)

- §3: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING:

PASSED SECOND READING:

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk



TO: Mayor Ross
Members of the City Council

FROM: Stephen Joersz, Traffic Engineer

DATE: August 19, 2024

SUBJECT: TRANSIT CENTER - 1ST ST SW PARKING REVISION (4741)

I. RECOMMENDED ACTION

It is recommended that Council pass the following parking related ordinances for the Transit Center relocation:

- A. Remove the parking restriction on the west side of 1st Street SW between Burdick Expwy W and 3rd Avenue SW.**
- B. Restrict parking on the west side of 1st Street SW for 170-feet south of the center of 3rd Avenue SW.**

II. DEPARTMENT CONTACT PERSONS

Stephen Joersz, Traffic Engineer, 701-857-4111
Lance Meyer, City Engineer, 701-857-4100

III. DESCRIPTION

A. Background

Public Works is in the midst of relocating the transit transfer station from the Minot Municipal Auditorium to Renaissance Parking Structure located at 205 1st Street SW in downtown Minot with an anticipated opening in mid-August.

In December 2023, city staff approached Council with the following parking restrictions to accommodate the Transit Center operations:

- 1. Restrict parking on the west side of 1st Street SW between Burdick Expwy W and 3rd Avenue SW
- 2. Restrict parking on the west side of 1st Street SW between 3rd Avenue SW and 2nd Avenue SW
- 3. Restrict parking on the west side of 1st Street SW for 210-feet north of 2nd Avenue SW

4. Restrict parking to transit vehicles only for the east side of 1st Street SW between 3rd Avenue SW and 2nd Avenue SW

B. Proposed Project

City staff is proposing a parking restriction change to the 1st Street SW block between Burdick Expwy W and 3rd Avenue SW. Instead of restricting parking for the entire length of the west side of the block, city staff is now recommending restricting parking on the west side of 1st Street SW for 170-feet south of the center of the 3rd Avenue SW intersection. This revision, along with a change in pavement marking layout, will result in approximately four additional parking spaces on the west side of 1st Street SW near Burdick Expwy W.

C. Recommendation Detail

After further internal discussion and discussion with subcontractors, city staff is proposing a revision to the parking restriction on 1st Street SW between Burdick Expwy W and 3rd Avenue SW. Compared to the previous recommendation, the revised striping and parking arrangement should make traffic operations more clear along adjacent to Burdick Expwy W with provide additional parking spots on the edge of downtown.

IV. IMPACT

A. Aspirations

Safe and Welcoming
Resilient and Prepared

B. Service/Delivery Impact:

This parking modification on 1st Street SW will provide safe and efficient pick-up and drop-off operations for the new transit transfer station in downtown Minot.

C. Fiscal Impact

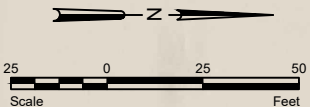
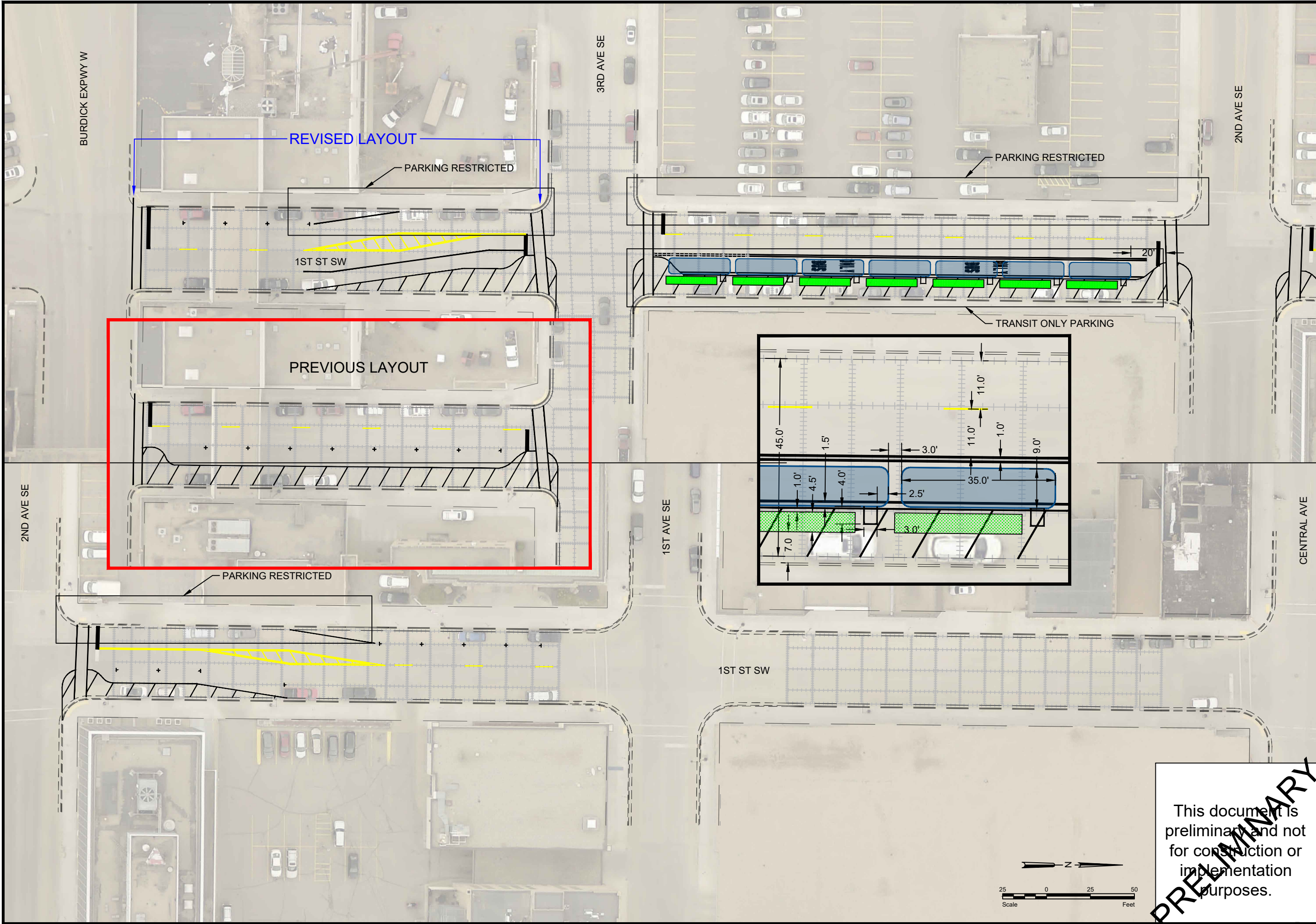
All project material and labor costs will be absorbed by the City of Minot Engineering - Traffic Division.

VI. ALTERNATIVES

Alternative 1: Council could elect to reject the proposed parking restriction revision for 1st Street SW between Burdick Expwy W and 3rd Avenue SW. The parking restriction approved by council in December 2023 would then be implemented.

Alternate 2: Council could choose to modify all, or parts, of the parking restrictions for the Transit Center. It is important to factor in layouts, both vehicle and transit operations as well as safety in any parking restriction modifications.

P:\PROJECTS\741 - Transit Transfer Center\Design\Plans\1st St SW Parking.dwg-ParkingLayout8/14/2024 10:13 AM-(alicia romann)



PRELIMINARY

This document is preliminary and not for construction or implementation purposes.

City of Minot					
-	-	-	-	-	By
-	-	-	-	-	Date
-	-	-	-	-	Revision
-	-	-	-	-	No.
DOWNTOWN PARKING					
1ST ST SW BETWEEN BURDICK EXPWY W & CENTRAL AVE					
-	AR	-	-	-	Surveyed by
-	SJ	-	-	-	Drawn by
08/14/2024	-	-	-	-	Designed by
-	-	-	-	-	Date
-	-	-	-	-	Project No.
SHEET					
1 OF 1					

ORDINANCE NO. _____

AN ORDINANCE ADDING TO THE LIST OF CITY COUNCIL CREATED TRAFFIC RESTRICTIONS PROVIDED FOR IN CHAPTER 20, ARTICLE 1, SECTION 20-2 OF THE CITY OF MINOT CODE OF ORDINANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

Section 1. The following described zone is hereby removed to the list of City Council created traffic restrictions provided for in **SECTION 20-2 (a) (3): NO PARKING ZONES**

- 1. West side of 1st Street SW between 3rd Avenue SW and Burdick Expressway W**

Section 1. The following described zone is hereby added to the list of City Council created traffic restrictions provided for in **SECTION 20-2 (a) (3): NO PARKING ZONES**

- 1. West side of 1st Street SW for 170-feet south of 3rd Avenue SW**

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

Section 4. Penalty Clause: The penalty for any violation of the provisions of the ordinance shall be in accordance with Section 1-8 of the City of Minot Code of Ordinances.

PASSED FIRST READING:

PASSED SECOND READING:

APPROVED:

Thomas Ross, Mayor

ATTEST:

Mikayla McWilliams, City Clerk



TO: Mayor Ross
Members of the City Council

FROM: Brian Billingsley, Community Development Director

DATE: August 19, 2024

SUBJECT: STAFF DIRECTION ON ORNAMENTAL LIGHTING ORDINANCE

I. RECOMMENDED ACTION

It is recommended City Council adopt Alternative #2: "Ornamental lighting that interferes with local aviation operations is not permitted and must be removed. The Minot International Airport Director will provide direction to citizens and staff regarding whether or not ornamental lighting will interfere with local aviation operations."

II. DEPARTMENT CONTACT PERSONS

Brian Billingsley, Community Development Director, 701-857-4022
Harold Stewart, City Manager, 701-857-4721
Stefanie Stalheim, City Attorney, 701-857-4190
Corbin Dickerson, Asst. City Attorney, 701-857-4175

III. DESCRIPTION

A. Background

At the August 5, 2024, Minot City Council meeting, Council discussed the ornamental lighting ordinance listed in Section 3.1-10.D.3 of the Minot Land Development Ordinance. Council asked staff to bring alternatives back to the Council for further consideration.

B. Proposed Project

Per the direction of the City Council, staff has prepared four alternatives for the Council to consider. The first alternative is take no action. Brian Billingsley's letter to the DBPA dated March 26, 2024 will remain in effect if this option is selected. Alternative #2 is to eliminate Section 3.1-10.D.3 and replace it with language that protects flights using the Minot International Airport. Alternative #3 is to delete Section 3.1-10.D.3 and replace it with a time limitation for ornamental lighting. Alternative #4 is to delete Section 3.1-10.D.3 and create a new section 3.1-10.F (Lighting Trespassing Standards), which is a model ordinance taken from Park City, Utah.

C. Recommendation Detail

Staff believes Alternatives #3 and #4 make sense, but staff is recommending the adoption of Alternative #2. The lack of staffing in the Community Development Department hinders our ability to uniformly enforce lighting standards after dark. We do not have a night shift that can adequately enforce these standards. Pushing this responsibility on the Police Department will only increase their workload while they are facing major staffing shortages. Should the Council adopt Alternative #2, staff will respond to any lighting issues that impact flights using the airport. Lighting disputes between neighbors will become a civil issue.

IV. IMPACT

A. Aspirations

Prepared and Resilient - Minot is prepared to take effective action when faced with challenges.

B. Service/Delivery Impact:

Staff won't need to spend time late at night enforcing city ordinances.

C. Fiscal Impact

N/A

Project Costs

N/A

Project Funding

N/A

VI. ALTERNATIVES

Staff provided three other alternatives that can be considered by the Council.

The Council may select their own alternative.

The Council may direction staff to come back with more alternatives.

Ornamental Lighting Ordinance Alternatives

Alternative #1: Take no action

Alternative #2: Delete Section 3.1-10.D.3 of the Land Development Ordinance (LDO) and replace with the following:

Ornamental lighting that interferes with local aviation operations is not permitted and must be removed. The Minot International Airport Director will provide direction to citizens and staff regarding whether or not ornamental lighting will interfere with local aviation operations.

Alternative #3: Delete Section 3.1-10.D.3 of the Land Development Ordinance (LDO) and replace with the following:

Ornamental and thematic lighting in the Minot downtown area, planned unit developments, and other special projects in excess of sixteen feet (16') in height or higher shall be shut off by (11 pm to 2 am). Council should select a time. Council also may pick hours for summer and winter usage.

Alternative #4: Delete Section 3.1-10.D.3 of the Land Development Ordinance (LDO) and create Section 3.1-10.F with the following ordinance from Park City, Utah:

3.1-10.F Lighting Trespassing Standards

1. Full Cutoff Fixture Requirements:

- a. Outdoor Lighting: Unless specifically exempted by this section, all outdoor lighting shall use full cutoff fixtures and shall be installed so light is directed downward with no light emitted above the horizontal plane of the fixture.
- b. Location: Lighting must not be placed at a location, angle, or height that directs illumination or horizontal trespass outside the property boundaries where the light fixtures are located.
- c. Qualification: In order to qualify as a "full cutoff" fixture, a light fixture must have the top and sides made of completely opaque material so that light only escapes through the bottom of the fixture. Fixtures with translucent or transparent sides, or sides with perforations or slits, do not qualify as full cutoff. Any glass or diffuser on the bottom of the fixture must be flush with the fixture (no drop lenses). Merely placing a light fixture under an eave, canopy, patio cover, or other similar cover does not qualify as full cutoff.

2. Light Trespass Standard: All light fixtures, including security lighting, shall be aimed and shielded so that the direct illumination shall be confined to the property boundaries of the source. Motion sensing light fixtures shall be fully shielded and properly adjusted, according to the manufacturer's instructions, to turn off when detected motion ceases.

3. Prohibited Lighting:

- a. Flashing, blinking, intermittent or other lights that move or give the impression of movement.



TO: Mayor Ross
Members of the City Council

FROM: Jason Sorenson, Utilities Director

DATE: August 19, 2024

**SUBJECT: 2024 WATERMAIN REPLACEMENT - BUDGET AMENDMENT
(4816/4817)**

I. RECOMMENDED ACTION

It is recommended City Council approve a budget amendment on first reading to appropriate funds for the two projects that were awarded in May.

II. DEPARTMENT CONTACT PERSONS

Jason Sorenson, Utilities Director, 701-857-4768

III. DESCRIPTION

A. Background

On May 6, 2024 two watermain replacement projects were awarded by Minot City Council. The University Ave project was awarded to Strata Corporation in the amount of \$3,996,985.00 and the Westfield project was awarded to Dig It Up Backhoe Service in the amount of \$4,774,694.00. Both projects received a pre-construction grant from ND Department of Water Resources for 60% of the design costs. Grant funding is currently being requested for the construction of both projects. The City share of the projects will be funded using a State Revolving Fund loan. The design of these projects was originally budgeted in 2024. Staff recommended moving up the design to 2023 where a budget amendment was approved by Council on October 16, 2023 to move the budgeted design dollars from 2024 to 2023. Construction would have been originally anticipated for the 2025 budget but since the timeline was moved up, construction was not included in the 2024 budget. The proposed budget amendment is to appropriate the construction and contingency dollars and increase the associated revenue sources that will be funding the project.

B. Proposed Project

When the projects were awarded in May, staff inadvertently missed the need for a budget amendment to appropriate funds for the awarded projects. The attached budget amendment allocates those funds to ensure work can proceed and bills can be paid.

C. Recommendation Detail
N/A

IV. IMPACT

A. Aspirations

Resilient and Prepared

B. Service/Delivery Impact:

Replacement projects such as this will improve water quality and fire flows to areas they occur in.

C. Fiscal Impact

Project Costs

University WMR	\$3,996,985.00
Westfield WMR	<u>\$4,774,694.00</u>
Subtotal	\$8,771,679.00
Plus 10% contingency	<u>877,167.90</u>
Total BA	\$9,648,846.90

Project Funding

Projects will be funded using a combination of Department of Water Resources grant and a Drinking Water SRF loan.

VI. ALTERNATIVES

N/A

ORDINANCE NO:

**AN ORDINANCE AMENDING THE 2024 ANNUAL BUDGET TO INCREASE THE
WATER DISTRIBUTION CAPITAL INFRASTRUCTURE REVENUES AND
EXPENSES FOR THE WESTFIELD AND UNIVERSITY WATERMAIN
REPLACEMENT PROJECTS.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

- §1: Amend the 2024 annual budget to increase the Water Distribution capital infrastructure revenues and expenses for the Westfield and University Watermain Replacement projects:

14000000-33500		\$5,556,181
14000000-39340		4,092,666
14061000-57200		9,648,847

- §2: This ordinance shall be in effect from and after its passage and approval.

PASSED FIRST READING:

PASSED SECOND READING:

APPROVED:

ATTEST:

Thomas Ross, Mayor

Mikayla McWilliams, City Clerk



City of Minot

Self-Funded Benefit Renewals 2025

Presented By:

Randy Johnson, Jon Heath, Mike Lee, Katie Veidel, Tammy Terras



Agenda



2025 Medical Renewal



2025 Medical Plan Considerations



2025 Dental Renewal



2025 Vision Renewal



Stewardship and Appendix



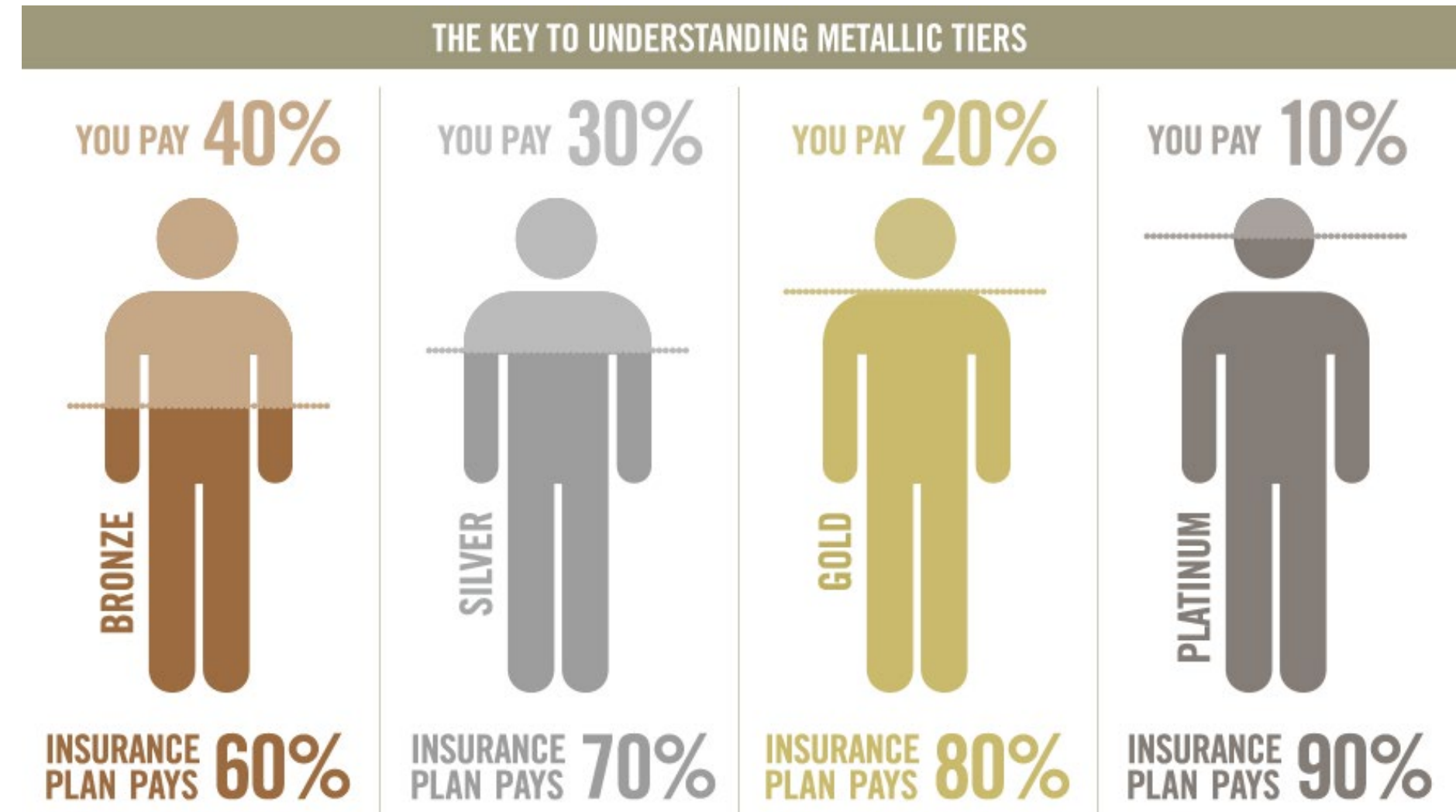
2025 Medical Renewal

Medical Plan Design

Medical Benefits Plan Name	Current	Updated ER for Mental Health Parity Renewal	Updated ER for Mental Health Parity Proposed Option 1 80% Coinsurance & \$5k MOOP	Updated ER for Mental Health Parity Proposed Option 2 80% Coinsurance & \$7500 MOOP
	Classic Blue	Classic Blue	Classic Blue	Classic Blue
	In-Network	In-Network	In-Network	In-Network
Annual Deductible – Individual	\$250	\$250	\$250	\$250
Annual Deductible – EE + Dep(s)	\$375	\$375	\$375	\$375
Annual Deductible – EE + Sp or Fam	\$500	\$500	\$500	\$500
Coinsurance	90%	90%	80%	80%
Annual Out-of-Pocket Limit – Ind.	\$2,250	\$2,250	\$5,000	\$7,500
Annual Out-of-Pocket Limit – EE+Dep(s)	\$3,375	\$3,375	\$7,500	\$11,250
Annual Out-of-Pocket Limit – EE+SP or Fam	\$4,500	\$4,500	\$10,000	\$15,000
Preventive Services				
Wellness & Preventative Visits	100%	100%	100%	100%
Physician Services				
Telehealth	\$0 copay	\$0 copay	\$0 copay	\$0 copay
Office Visit (Physician/Specialist)	\$25 copay / \$40 copay	\$25 copay / \$40 copay	\$25 copay / \$40 copay	\$25 copay / \$40 copay
Diagnostic Lab & X-ray	Included in OV copay	Included in OV copay	Included in OV copay	Included in OV copay
Hospital Services				
Inpatient	90% after deductible	90% after deductible	80% after deductible	80% after deductible
Outpatient	90% after deductible	90% after deductible	80% after deductible	80% after deductible
Emergency Services				
Urgent Care	\$40 copay	\$40 copay	\$40 copay	\$40 copay
Emergency Room	\$150 copay + 10%	90% after deductible	80% after deductible	80% after deductible
Prescription Services				
Generic	\$10 copay	\$10 copay	\$10 copay	\$10 copay
Formulary or Brand	\$10 copay and 20%	\$10 copay and 20%	\$10 copay and 20%	\$10 copay and 20%
Non-Formulary or Non-Brand	\$10 copay and 50% sanction	\$10 copay and 50% sanction	\$10 copay and 50% sanction	\$10 copay and 50% sanction
Specialty	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above
Mail Order	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above
Actuarial Value	90.57%	90.55%	86.57%	84.71%
MOOP Change Singles Effected			12	22
MOOP Change Families Effected			1	4

Actuarial Value-Current

- The percentage of total average costs for covered benefits that a plan will cover.
 - » For example, if a plan has an actuarial value of 90%, on average, you would be responsible for 10% of the costs of all covered benefits.
- City of Minot's current plan's actuarial value is 90.55% making it a Platinum plan



City of Minot

Administration Services Renewal

Medical / Pharmacy Vendors	Current	Renewal
Third-Party Administrator	BCBS	BCBS
Medical Network	BCBS	BCBS
Pharmacy Benefit Manager	BCBS	BCBS
Total Enrollment	426	426
Services Provided	PEPM	PEPM
Medical Administration % of Claims	6.40%	6.40%
Telehealth Program	Included	Included
Telehealth Claims	Included	Included
Rx Administration	Included	Included
Wellbeing Management	Included	Included
Disease Management	Included	Included
Utilization Management	Included	Included
Case Management	Included	Included
Nurse Line	Included	Included
Maternity Management	Included	Included
Stop-loss Interface Fee	Included	Included
FSA Administration	Included	Included
Net Administration Fee	\$69.88	\$70.12
Δ % \$ From Current		0.3% \$0.24
Annual Net Administration	\$357,227	\$358,465
Δ % \$ From Current		0.3% \$1,238
Rate Guarantee	12/31/2024	12/31/2025

Stop Loss- Renewal

	Current	Renewal	Option 1	Option 2
Stop-Loss Carrier	BCBS	BCBS	BCBS	BCBS
Third-Party Administrator	BCBS	BCBS	BCBS	BCBS
Provider Network	BCBS	BCBS	BCBS	BCBS
Enrollment - EE	226	226	226	226
Enrollment - ES	34	34	34	34
Enrollment - EC	70	70	70	70
Enrollment - FAM	96	96	96	96
Total Enrollment	426	426	426	426
Specific Deductible	\$100,000	\$100,000	\$125,000	\$150,000
Specific Contract Basis	Incurred	Incurred	Incurred	Incurred
Specific Advance Funding	Included	Included	Included	Included
Plan Mirroring	Included	Included	Included	Included
No New Laser at Renewal (NNL)	Yes	Yes	Yes	Yes
Rate Cap Guarantee	None	None	None	None
Experience Reward Provision	None	None	None	None
Terminal Liability Option	N/A	N/A	N/A	N/A
Aggregate Contract Basis	Incurred	Incurred	Incurred	Incurred
Aggregate Corridor	120%	120%	120%	120%
Aggregate Accommodation	Included	Included	Included	Included
Annual Aggregate Maximum	Unlimited	Unlimited	Unlimited	Unlimited
Run-In Limitation	None	None	None	None
Claims Required Thru	N/A	N/A	N/A	N/A
Current Laser	None	None	None	None
Claims Factors				
Annual Maximum Claims - EE	\$777.89	\$805.11	\$815.95	\$839.51
Annual Maximum Claims - ES	\$2,022.49	\$2,093.27	\$2,121.47	\$2,182.72
Annual Maximum Claims - EC	\$1,369.04	\$1,416.98	\$1,436.07	\$1,477.54
Annual Maximum Claims - Family	\$2,022.49	\$2,093.27	\$2,121.47	\$2,182.72
Annual Max. Claims PEPM	\$1,254.83	\$1,298.75	\$1,316.25	\$1,354.25
Δ % \$ From Current		3.5% \$43.92	4.9% \$61.41	7.9% \$99.42
Specific Premium EE	\$165.79	\$191.82	\$153.11	\$131.68
Specific Premium ES	\$431.06	\$498.74	\$398.08	\$342.38
Specific Premium EC	\$291.80	\$337.61	\$269.47	\$231.77
Specific Premium FAM	\$431.06	\$498.74	\$398.08	\$342.38
Premiums				
Stop Loss Premium PEPM	\$267.45	\$309.44	\$246.99	\$212.42
Aggregate Premium PEPM	Included	Included	Included	Included
Annual Stop Loss Premium	\$1,367,194	\$1,581,843	\$1,262,594	\$1,085,916
Δ % \$ From Current		15.7% \$214,648	-7.7% (\$104,600)	-20.6% (\$281,278)

See High-Cost Claims Analysis Tool (HCAT) in appendix for premium savings versus claims liability increase

Claims Projections UW – Rest of Year

	Medical			Pharmacy			
	Jan 2022 - Dec 2022	Jan 2023 - Dec 2023	Jan 2024 - Jun 2024	Jan 2022 - Dec 2022	Jan 2023 - Dec 2023	Jan 2024 - Jun 2024	
Medical Claims	\$3,757,276	\$4,056,662	\$1,871,044	\$1,679,481	\$1,679,646	\$643,832	Rx Claims
Claims in Excess of \$100,000 Per Member	(\$1,421,537)	(\$1,180,083)	(\$119,635)	-	-	-	n/a
BlueAlliance (BCBSND Only)	\$132,284	\$4,144	\$696				
Medical Claims Less Pooled Credits ¹	\$2,468,023	\$2,880,723	\$1,752,106	\$1,679,481	\$1,679,646	\$643,832	Rx Claims
Benefit Adjustment ²	1.000	1.000	1.000	1.000	1.000	1.000	Benefit Adjustment ²
Covid-19 Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Covid-19 Adjustment
Network Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Network Adjustment
COBRA Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	COBRA Adjustment
Demographic Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Demographic Adjustment
Network Lag Disparity Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Network Lag Disparity Adjustment
Network Access Fee Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Network Access Fee Adjustment
Deductible Immaturity Adjustment	1.000	1.000	1.030	1.000	1.000	1.000	Deductible Immaturity Adjustment
Benefit Adjusted Medical Claims	\$2,468,023	\$2,880,723	\$1,804,669	\$1,679,481	\$1,679,646	\$643,832	Benefit Adjusted Rx Claims
Member-Months	10,213	10,558	5,523	10,213	10,558	5,523	Member-Months
PMPM	\$241.66	\$272.85	\$326.76	\$164.45	\$159.09	\$116.57	PMPM
Completion Factor ³	1.000	1.000	1.000	1.000	1.000	1.000	Completion Factor ³
Adjusted PMPM	\$241.66	\$272.85	\$326.76	\$164.45	\$159.09	\$116.57	Adjusted PMPM
Trended Months	27	15	6	27	15	6	Trended Months
6.8% Annual Trend	16.0%	8.6%	3.4%	23.7%	12.6%	4.9%	9.9% Annual Trend
Trended Medical Claims	\$280.27	\$296.31	\$337.74	\$203.42	\$179.08	\$122.23	Trended Rx Claims
Incurred to Paid Adjustment Factor	1.000	1.000	1.000	1.000	1.000	1.000	Rebate Adjustment
Projected Medical PMPM	\$280.27	\$296.31	\$337.74	\$203.42	\$179.08	\$122.23	Projected Rx PMPM
Period Weight	20%	30%	50%	20%	30%	50%	Period Weight
Adjusted Membership	2,043	3,167	2,762	2,043	3,167	2,762	Adjusted Membership
Member-Adjusted Period Weight	25.6%	39.7%	34.6%	25.6%	39.7%	34.6%	Member-Adjusted Period Weight
Medical PMPM Claims Projection	\$306.55			\$165.62			Rx PMPM Claims Projection
% of Total PMPM Claims Projection	64.9%			35.1%			% of Total PMPM Claims Projection
Total PMPM Claims Projection	\$472.17						
Current Membership ⁴	934						
Projected Monthly Claims	\$441,011						
Projected Rest of Year Claims	\$2,646,068						
Current Claims Year-to-Date ⁵	\$2,395,242						
Annual Claims Projection	\$5,041,310						
Current Enrollment ⁴	426						
TOTAL PEPM Claims Projection	\$986.17						

1 Claims reflect the removal of high case dollars that exceeded a \$100,000 threshold and the addition of claims liability between the \$100,000 threshold and \$100,000 specific deductible.

2 Adjustments made due to any benefit changes within the analysis period.

3 Adjusted claims for immature plan year.

4 Enrollment and membership based on data from the most recent month.

5 Current eligible claims from the most recent month's reporting package.

Claims Projections UW – Next Year

	Medical			Pharmacy			
	Jan 2022 - Dec 2022	Jan 2023 - Dec 2023	Jan 2024 - Jun 2024	Jan 2022 - Dec 2022	Jan 2023 - Dec 2023	Jan 2024 - Jun 2024	
Medical Claims	\$3,757,276	\$4,056,662	\$1,871,044	\$1,679,481	\$1,679,646	\$643,832	Rx Claims
Claims in Excess of \$100,000 Per Member	(\$1,421,537)	(\$1,180,083)	(\$119,635)	-	-	-	n/a
BlueAlliance (BCBSND Only)	\$132,284	\$4,144	\$696				
Medical Claims Less Pooled Credits ¹	\$2,468,023	\$2,880,723	\$1,752,106	\$1,679,481	\$1,679,646	\$643,832	Rx Claims
Benefit Adjustment ²	1.000	1.000	1.000	1.000	1.000	1.000	Benefit Adjustment ²
Covid-19 Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Covid-19 Adjustment
Network Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Network Adjustment
COBRA Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	COBRA Adjustment
Demographic Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Demographic Adjustment
Network Lag Disparity Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Network Lag Disparity Adjustment
Network Access Fee Adjustment	1.000	1.000	1.000	1.000	1.000	1.000	Network Access Fee Adjustment
Deductible Immaturity Adjustment	1.000	1.000	1.030	1.000	1.000	1.000	Deductible Immaturity Adjustment
Benefit Adjusted Medical Claims	\$2,468,023	\$2,880,723	\$1,804,669	\$1,679,481	\$1,679,646	\$643,832	Benefit Adjusted Rx Claims
Member-Months	10,213	10,558	5,523	10,213	10,558	5,523	Member-Months
PMPM	\$241.66	\$272.85	\$326.76	\$164.45	\$159.09	\$116.57	PMPM
Completion Factor ³	1.000	1.000	1.000	1.000	1.000	1.000	Completion Factor ³
Adjusted PMPM	\$241.66	\$272.85	\$326.76	\$164.45	\$159.09	\$116.57	Adjusted PMPM
Trended Months	36	24	15	36	24	15	Trended Months
6.8% Annual Trend	21.8%	14.1%	8.6%	32.7%	20.8%	12.5%	9.9% Annual Trend
Trended Medical Claims	\$294.39	\$311.24	\$354.76	\$218.29	\$192.17	\$131.17	Trended Rx Claims
Incurred to Paid Adjustment Factor	1.000	1.000	1.000	1.000	1.000	1.000	Rebate Adjustment
Projected Medical PMPM	\$294.39	\$311.24	\$354.76	\$218.29	\$192.17	\$131.17	Projected Rx PMPM
Period Weight	20%	30%	50%	20%	30%	50%	Period Weight
Adjusted Membership	2,043	3,167	2,762	2,043	3,167	2,762	Adjusted Membership
Member-Adjusted Period Weight	25.6%	39.7%	34.6%	25.6%	39.7%	34.6%	Member-Adjusted Period Weight
Medical PMPM Claims Projection	\$322.00			\$177.73			Rx PMPM Claims Projection
% of Total PMPM Claims Projection	64.4%			35.6%			% of Total PMPM Claims Projection
Total PMPM Claims Projection	\$499.73						
Current Membership ⁴	934						
Monthly Claims	\$466,751						
Annual Claims Projection	\$5,601,014						
Current Enrollment ⁴	426						
Total PEPM Claims Projection	\$1,095.66						

¹ Claims reflect the removal of high case dollars that exceeded a \$100,000 threshold and the addition of claims liability between the \$100,000 threshold and \$100,000 specific deductible.

² Adjustments made due to any benefit changes within the analysis period.

³ Adjusted claims for immature plan year.

⁴ Enrollment and membership based on data from the most recent month.

Medical Renewal As-Is (no plan or stop loss changes)

Third-Party Administrator
Pharmacy Benefit Manager
Stop-Loss Carrier
Stop-Loss Limit

2024 Current Budget		2024 ROY Forecast		2025 Renewal	
BCBS		BCBS		BCBS	
BCBS		BCBS		BCBS	
BCBS		BCBS		BCBS	
\$100,000		\$100,000		\$100,000	
PEPM	Annual	PEPM	Annual	PEPM	Annual
426		426		426	
\$1,043.29	\$5,333,303	\$986.17	\$5,041,310	\$1,095.66	\$5,601,014
NA	NA	NA	NA	NA	NA
\$35.00	\$178,920	In Claims	In Claims	In Claims	In Claims
\$267.45	\$1,367,194	\$267.45	\$1,367,194	\$309.44	\$1,581,843
NA	NA	NA	NA	NA	NA
\$69.88	\$357,227	\$69.88	\$357,227	\$70.12	\$358,465
\$15.00	\$76,680	\$15.00	\$76,680	\$15.00	\$76,680
(\$3.22)	(\$16,439)	In Claims	In Claims	In Claims	In Claims
(\$1.96)	(\$10,000)	In Claims	In Claims	In Claims	In Claims
(\$8.84)	(\$45,180)	In Claims	In Claims	In Claims	In Claims
\$0.54	\$2,755	\$0.54	\$2,755	\$0.59	\$3,007
(\$56.83)	(\$290,496)	(\$42.94)	(\$219,485)	(\$42.94)	(\$219,485)
(\$1.09)	(\$5,575)	(\$0.10)	(\$495)	(\$0.10)	(\$495)
\$1,359.23	\$6,948,388	\$1,296.01	\$6,625,185	\$1,447.78	\$7,401,029
		-4.7%	-4.7%	6.5%	6.5%
		(\$63.22)	(\$323,203)	\$88.54	\$452,641
\$139.84	\$714,877	\$139.84	\$714,877	\$148.95	\$761,447
\$1,219.39	\$6,233,511	\$1,156.16	\$5,910,308	\$1,298.82	\$6,639,582
		-5.2%	-5.2%	6.5%	6.5%
		(\$63.22)	(\$323,203)	\$79.44	\$406,072

(1) 2022 claims projections developed by Brown & Brown

Medical Renewal Options – Plan Design and Stop-loss Changes

Third-Party Administrator
Pharmacy Benefit Manager
Stop-Loss Carrier
Stop-Loss Limit

	2024 Current Budget		Proposed Option 1 \$250 Ded 80% Coinsurance & \$5k MOOP \$100k Stop-loss		Proposed Option 2 \$250 Ded 80% Coinsurance & \$5k MOOP & \$125k Stop-loss		Proposed Option 3 \$250 Ded 80% Coinsurance & \$7500 MOOP & \$150k Stop-loss	
	BCBS		BCBS		BCBS		BCBS	
	BCBS		BCBS		BCBS		BCBS	
	BCBS		BCBS		BCBS		BCBS	
	\$100,000		\$100,000		\$125,000		\$150,000	
	PEPM	Annual	PEPM	Annual	PEPM	Annual	PEPM	Annual
	426		426		426		426	
Enrollment								
Expected Claims (Med & Rx)	\$1,043.29	\$5,333,303	\$1,047.27	\$5,353,647	\$1,047.27	\$5,353,647	\$1,024.77	\$5,238,621
Migration Credit	NA	NA	NA	NA	NA	NA	(\$5.91)	(\$30,223)
BlueAlliance & VBP Fee	\$35.00	\$178,920	In Claims	In Claims	In Claims	In Claims	In Claims	In Claims
Stop-Loss Premium	\$267.45	\$1,367,194	\$309.44	\$1,581,843	\$246.99	\$1,262,594	\$212.42	\$1,085,916
Stop-Loss Limit Change Liability	NA	NA	NA	NA	\$11.32	\$57,884	\$19.44	\$99,374
Medical Administrative Fee (% of claims)	\$69.88	\$357,227	\$67.03	\$342,633	\$67.03	\$342,633	\$65.59	\$335,272
Brown & Brown Consulting Fee	\$15.00	\$76,680	\$15.00	\$76,680	\$15.00	\$76,680	\$15.00	\$76,680
Accredo Exclusive Specialty Est Savings	(\$3.22)	(\$16,439)	In Claims	In Claims	In Claims	In Claims	In Claims	In Claims
Accredo Exclusive Specialty Est Rebates	(\$1.96)	(\$10,000)	In Claims	In Claims	In Claims	In Claims	In Claims	In Claims
FlexAccess Est Savings	(\$8.84)	(\$45,180)	In Claims	In Claims	In Claims	In Claims	In Claims	In Claims
PCORI Fee	\$0.54	\$2,755	\$0.59	\$3,007	\$0.59	\$3,007	\$0.59	\$3,007
Pharmacy Rebates	(\$56.83)	(\$290,496)	(\$42.94)	(\$219,485)	(\$42.94)	(\$219,485)	(\$42.94)	(\$219,485)
Medical Rebates	(\$1.09)	(\$5,575)	(\$0.10)	(\$495)	(\$0.10)	(\$495)	(\$0.10)	(\$495)
Total Expected Cost	\$1,359.23	\$6,948,388	\$1,396.29	\$7,137,831	\$1,345.16	\$6,876,466	\$1,288.86	\$6,588,667
Δ % From Current Budget			2.7%	2.7%	-1.0%	-1.0%	-5.2%	-5.2%
Δ \$ From Current Budget			\$37.06	\$189,443	(\$14.07)	(\$71,922)	(\$70.37)	(\$359,721)
Δ % Total Expected Cost Difference From Renewal			-3.6%	-3.6%	-7.1%	-7.1%	-11.0%	-11.0%
Δ \$ Total Expected Cost Difference From Renewal			(\$51.49)	(\$263,199)	(\$102.61)	(\$524,564)	(\$158.91)	(\$812,363)
Employee Contributions	\$139.84	\$714,877	\$143.66	\$734,368	\$138.40	\$707,478	\$132.60	\$677,868
Net Employer Cost	\$1,219.39	\$6,233,511	\$1,252.63	\$6,403,463	\$1,206.77	\$6,168,988	\$1,156.26	\$5,910,799
Δ % From Current Budget			2.7%	2.7%	-1.0%	-1.0%	-5.2%	-5.2%
Δ \$ From Current Budget			\$33.25	\$169,952	(\$12.62)	(\$64,522)	(\$63.13)	(\$322,712)
Δ % Net Employer Cost Difference From Renewal			-3.6%	-3.6%	-7.1%	-7.1%	-11.0%	-11.0%
Δ \$ Net Employer Cost Difference From Renewal			(\$46.19)	(\$236,120)	(\$92.06)	(\$470,594)	(\$142.56)	(\$728,784)



2025 Considerations

Renewal Considerations

- **Plan Designs**

- » Increase out of pocket maximum (OOPM)
 - Current
 - \$2,250 | \$3,375 | \$4,500
 - Option 1
 - \$5,000 | \$7,500 | \$10,000
 - Option 2
 - \$7,500 | \$11,250 | \$15,000
- » Coinsurance
 - Current
 - 90%/10%
 - Recommendation
 - 80%/20%
- » Emergency Room (mental health parity requirement)
 - Current
 - Copay + coinsurance
 - Recommendation
 - Deductible + coinsurance
- » GLP-1 Drug Coverage
 - Remove coverage for weight-loss diagnosis

- **Stop Loss Threshold** (\$100,000 current)

- » \$125,000
- » \$150,000

Plan Design Options

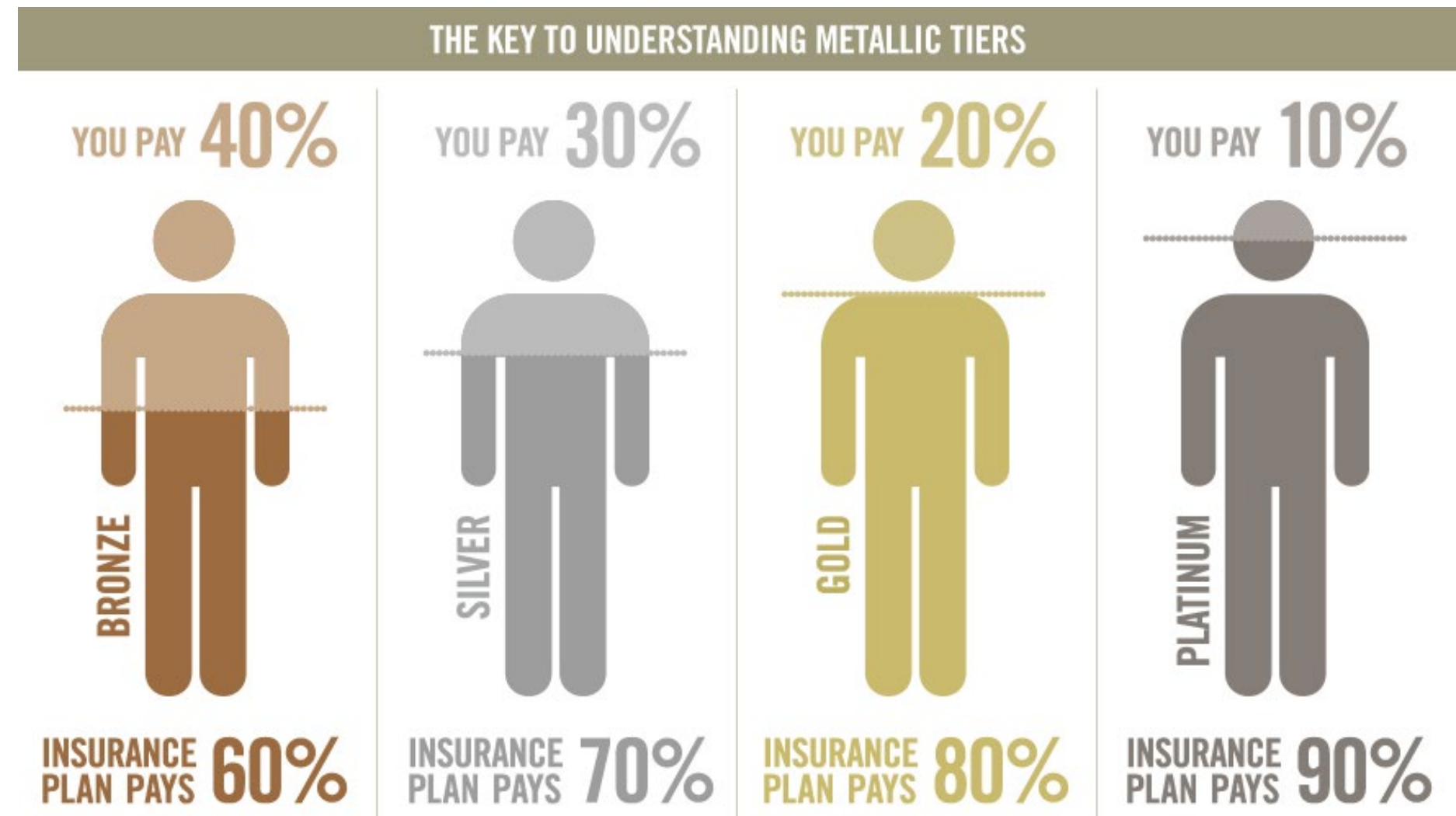
1.

2.

Medical Benefits	Updated ER for Mental Health Parity			
	Current	Renewal	Proposed Option 1 80% Coinsurance & \$5k MOOP	Proposed Option 2 80% Coinsurance & \$7500 MOOP
	Classic Blue	Classic Blue	Classic Blue	Classic Blue
Plan Name	In-Network	In-Network	In-Network	In-Network
Annual Deductible – Individual	\$250	\$250	\$250	\$250
Annual Deductible – EE + Dep(s)	\$375	\$375	\$375	\$375
Annual Deductible – EE + Sp or Fam	\$500	\$500	\$500	\$500
Coinsurance	90%	90%	80%	80%
Annual Out-of-Pocket Limit – Ind.	\$2,250	\$2,250	\$5,000	\$7,500
Annual Out-of-Pocket Limit – EE+Dep(s)	\$3,375	\$3,375	\$7,500	\$11,250
Annual Out-of-Pocket Limit – EE+SP or Fam	\$4,500	\$4,500	\$10,000	\$15,000
Preventive Services				
Wellness & Preventative Visits	100%	100%	100%	100%
Physician Services				
Telehealth	\$0 copay	\$0 copay	\$0 copay	\$0 copay
Office Visit (Physician/Specialist)	\$25 copay / \$40 copay	\$25 copay / \$40 copay	\$25 copay / \$40 copay	\$25 copay / \$40 copay
Diagnostic Lab & X-ray	Included in OV copay	Included in OV copay	Included in OV copay	Included in OV copay
Hospital Services				
Inpatient	90% after deductible	90% after deductible	80% after deductible	80% after deductible
Outpatient	90% after deductible	90% after deductible	80% after deductible	80% after deductible
Emergency Services				
Urgent Care	\$40 copay	\$40 copay	\$40 copay	\$40 copay
Emergency Room	\$150 copay + 10%	90% after deductible	80% after deductible	80% after deductible
Prescription Services				
Generic	\$10 copay	\$10 copay	\$10 copay	\$10 copay
Formulary or Brand	\$10 copay and 20%	\$10 copay and 20%	\$10 copay and 20%	\$10 copay and 20%
Non-Formulary or Non-Brand	\$10 copay and 50% sanction	\$10 copay and 50% sanction	\$10 copay and 50% sanction	\$10 copay and 50% sanction
Specialty	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above
Mail Order	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above	Same as the 3 options above
Actuarial Value	90.57%	90.55%	86.57%	84.71%
MOOP Change Singles Effected			12	22
MOOP Change Families Effected			1	4

Actuarial Value-Proposed

- The percentage of total average costs for covered benefits that a plan will cover.
 - » For example, if a plan has an actuarial value of 90%, on average, you would be responsible for 10% of the costs of all covered benefits.
- City of Minot's actuarial value would be
 - » 1: \$5000 OOPM 86.57 < GOLD
 - » 2: \$75000 OOPM 84.71 < GOLD



City of Minot

GLP-1 Drug Coverage for Weight-loss

- GLP-1 Drug Utilization is quickly increasing across the nation
- The FDA is likely to approve several other conditions for use.
- Average cost of GLP-1 drugs is \$1,000-\$1,5000 per month.
- City of Minot Utilization for weight-loss diagnosis
 - » ~\$42,000 annually.
- Options:
 - » Continue to cover like other formulary drugs
 - » Remove coverage for weight-loss (full savings)
 - » Remove coverage for weight-loss but offer at a discount through a compound pharmacy (some savings)

Statistics

- Cigna recently did a study that stated the average ROI for a GLP-1 drug takes about 24-30 months of utilization
- 60% of GLP-1 utilizations stop taking it after 6 months
 - » no long-term ROI)
- One year ago, GLP-1s made up approximately 1% of all RX spend nationally, it is currently tracking at 3%
- There are currently 54 additional uses being reviewed by the FDA



Dental

Dental Renewal

	Current		Renewal	
Carrier	BCBSND		BCBSND	
Enrollment	76	261	76	261
Funding Type	Self-funded	Self-funded	Self-funded	Self-funded
Deductibles				
Annual Deductible – Ind.	\$50	\$50	\$50	\$50
Annual Deductible – Family	\$150	\$150	\$150	\$150
Annual Plan Maximum	\$1,000	\$1,000	\$1,000	\$1,000
Dental Services				
Exams	100% Co-insurance	100% Co-insurance	100% Co-insurance	100% Co-insurance
Cleanings	100% Co-insurance	100% Co-insurance	100% Co-insurance	100% Co-insurance
X-rays	100% Co-insurance	100% Co-insurance	100% Co-insurance	100% Co-insurance
Basic Filling	80% Co-insurance	80% Co-insurance	80% Co-insurance	80% Co-insurance
Oral Surgery	80%/50% (Simple/Complex)	80%/50% (Simple/Complex)	80%/50% (Simple/Complex)	80%/50% (Simple/Complex)
Endodontics	80% Co-insurance	80% Co-insurance	80% Co-insurance	80% Co-insurance
Periodontics	80% Co-insurance	80% Co-insurance	80% Co-insurance	80% Co-insurance
Crowns	50% Co-insurance	50% Co-insurance	50% Co-insurance	50% Co-insurance
Bridges	50% Co-insurance	50% Co-insurance	50% Co-insurance	50% Co-insurance
Dentures	50% Co-insurance	50% Co-insurance	50% Co-insurance	50% Co-insurance
Implants	50% Co-insurance	50% Co-insurance	50% Co-insurance	50% Co-insurance
Orthodontics				
Orthodontics	NA	50% Co-insurance	NA	50% Co-insurance
Lifetime OrthoMax	NA	\$2,000	NA	\$2,000
Orthodontics Age	NA	No Age Restrictions	NA	No Age Restrictions
Tiers and Enrollment	Count	Premium	Count	Premium
Employee Only	25	\$48.14	133	\$58.51
Employee + Spouse	2	\$120.64	28	\$149.35
Employee + Children	11	\$120.64	29	\$149.35
Employee + Family	38	\$120.64	71	\$149.35
Monthly Costs	\$7,356		\$26,899	
Total Annual Plan Cost	\$88,274		\$322,784	
Δ % \$ From Current	0.0% \$0		0.0% \$0	
Rate Guarantee	12/31/2024		12/31/2025	



Vision

Vision Renewal w/ Benefit Enhancement

	Current	Renewal
Carrier	BCBSND	BCBSND
Enrollment	281	281
Benefit Frequency		
Exam	12 Months / 12 Months	12 Months / 12 Months
Frames	24 Months / 24 Months	24 Months / 24 Months
Lenses	12 Months / 12 Months	12 Months / 12 Months
Contacts (in Lieu of gl.)	12 Months / 12 Months	12 Months / 12 Months
Plan Provisions		
Eye Exam	\$10 Copay / Up to \$60	\$10 Copay / Up to \$60
Single Vision Lenses	\$25 Copay / Up to \$50	\$25 Copay / Up to \$50
Bifocal Lenses	\$25 Copay / Up to \$75	\$25 Copay / Up to \$75
Trifocal Lenses	\$25 Copay / Up to \$100	\$25 Copay / Up to \$100
Basic Progressive Lenses	\$25 Copay / Up to \$75	\$25 Copay / Up to \$75
Contacts - Elective	\$60 Copay - \$150 Allowance InNet / Up to \$135 OON	\$60 Copay - \$150 Allowance InNet / Up to \$135 OON
Contacts Necessary	\$0 / up to \$320	\$0 / up to \$320
Photochromic	Not Covered / Not Covered	Not Covered / Not Covered
Frames		
Coverage Allowance	\$150 Allow / Up to \$98 Allow.	\$225 Allow / Up to \$98 Allow.
Coverage Above Allowance	None / None	None / None
Corrective Vision Services		
Lasik Discount	Discounts available at preferred providers	Discounts available at preferred providers
Tiers and Enrollment		
	Count Premium	Count Premium
Employee Only	137\$10.82	137\$10.82
Employee + Spouse	27\$24.86	27\$24.86
Employee + Children	32\$24.86	32\$24.86
Employee + Family	85\$24.86	85\$24.86
Monthly Costs	\$5,062	\$5,062
Total Annual Plan Cost	\$60,746	\$60,746
Δ % \$ From Current		0.0% \$0





THANK YOU!



Any solicitation or invitation to discuss insurance sales or servicing is being provided at the request of Hays Companies, Inc., an owned subsidiary of Brown & Brown, Inc. Hays Companies, Inc. only provides insurance related solicitations or services to insureds or insured risks in jurisdictions where it and its individual insurance professionals are properly licensed.



Stewardship Report

Through June

Executive Summary – Financial Analysis

Brown & Brown is pleased to present City of Minot's June 2024 financial analysis. This report outlines monthly fixed fees and claims cost for the Medical and Rx plans. All increases and decreases are based on changes to PEPM costs, as costs fluctuate with increases and decreases in enrollment.

Medical/Rx Plan

Medical Claims

- Gross Medical claims for June were \$288,234. Your YTD Per Employee Per Month (PEPM) cost for medical claims of \$738 is 9.6% lower than City of Minot's average PEPM for the previous year, which was \$816.

Rx Claims

- Rx claims for June were \$94,172. The Rx PEPM cost YTD is trending at \$254, which is 25% lower than your 2023 PEPM of \$338.

Total Medical and Pharmacy

- Net Medical and Rx claims (after stop-loss reimbursements) YTD average is \$945 PEPM through June. This is 3% higher than your Medical and Rx PEPM in 2023, which was \$918.

Large Claims

- There are 6 claimants exceeding \$50,000. The paid claims for these 6 claimants combined is \$630,740, which represents 25% of your total Medical/Rx claims cost. City of Minot has 3 claimants exceeding the specific stop loss level of \$100,000, which means City of Minot should expect reimbursement from the reinsurance carrier for claims paid over these amounts.

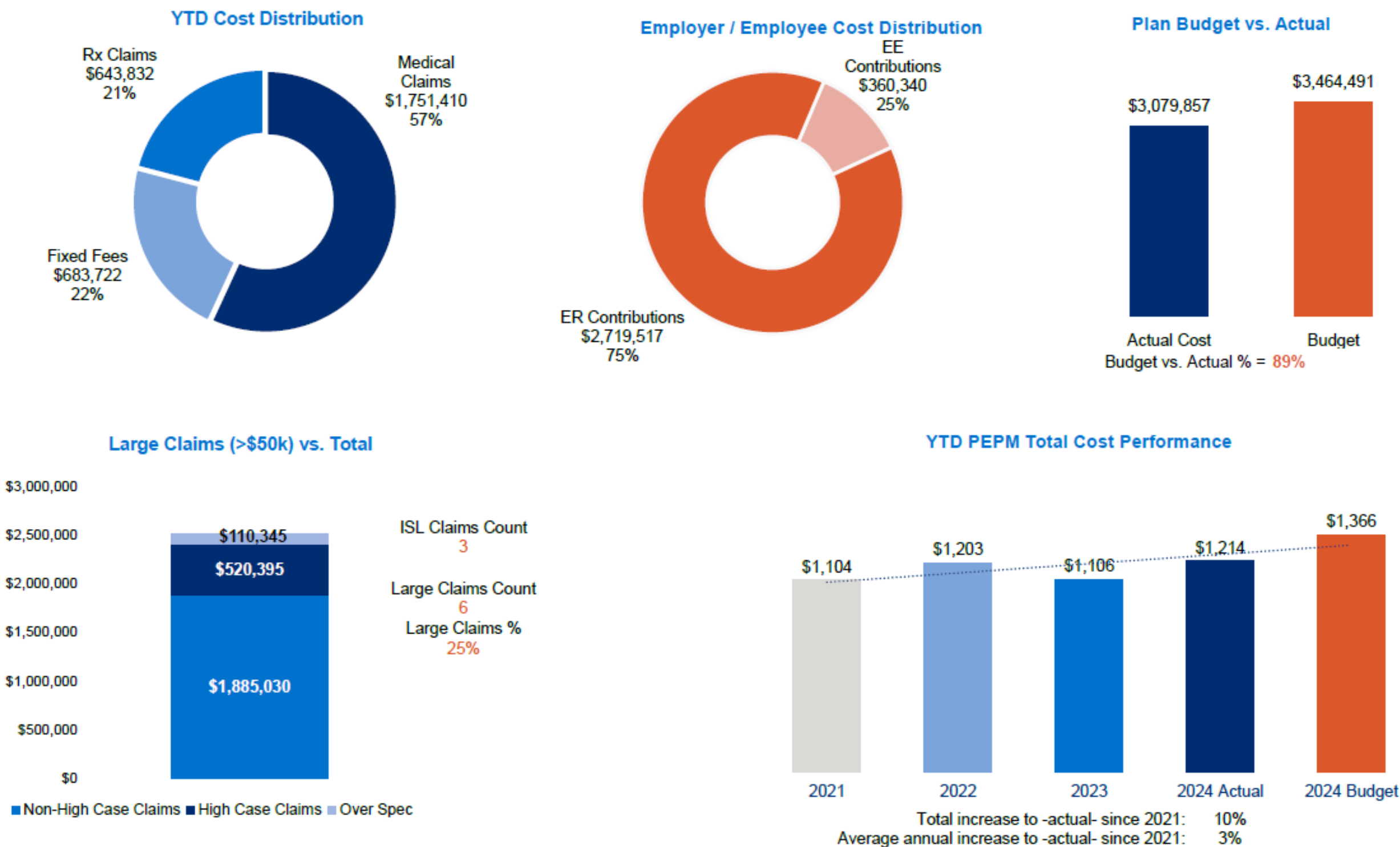
Budget vs. Actual

- On a PEPM basis, City of Minot's budget (total funding rate) is \$1,366 PEPM. City of Minot's actual cost (claims + fixed fees) is \$1,214 PEPM. As of the end of June, City of Minot is running 11% under budget.

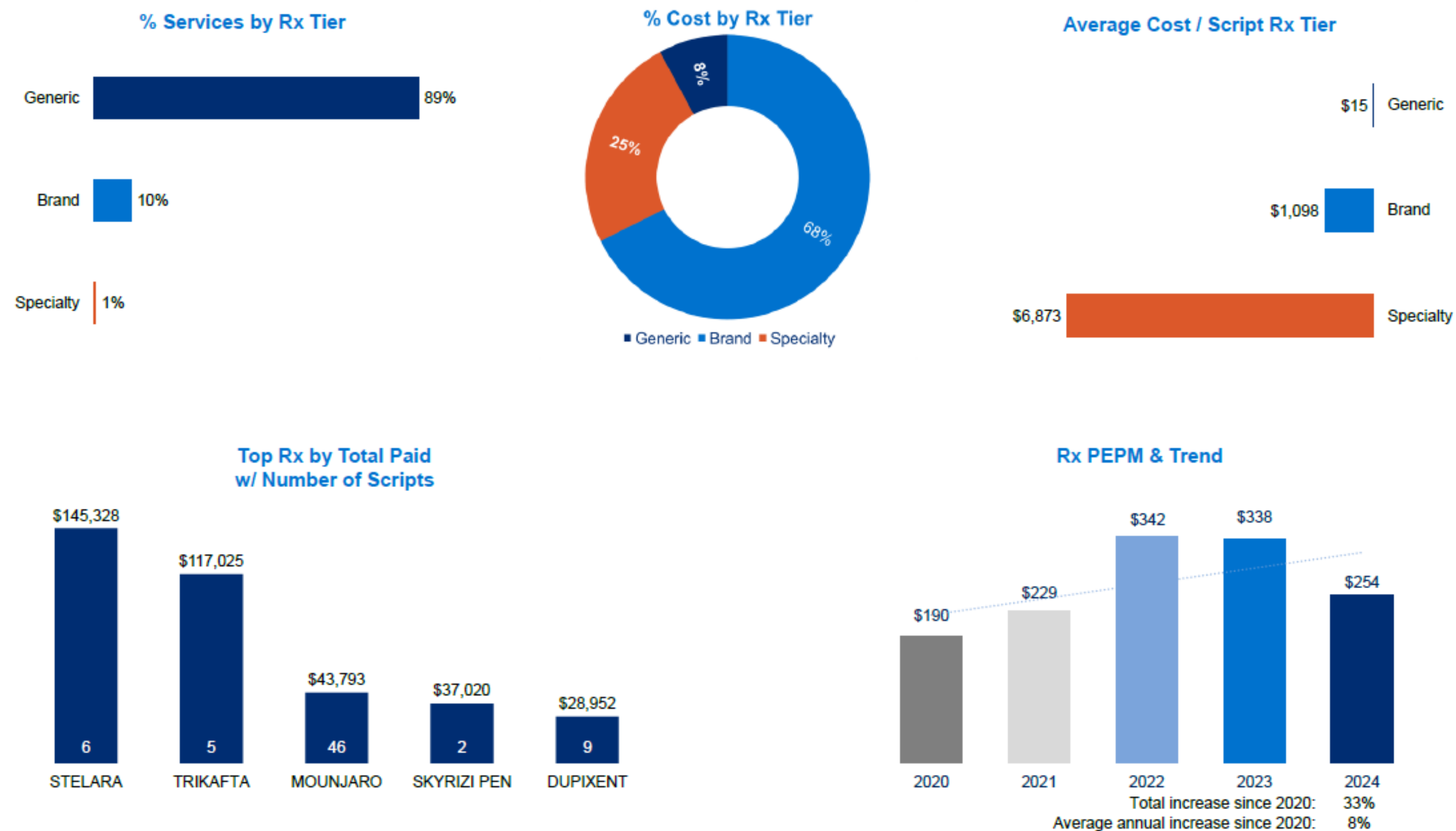
Employer Costs

- City of Minot's total employer costs (claims + fixed fees - employee contributions) YTD are \$1,072 PEPM. This is 11% higher than the 2023 average of \$965 PEPM.

Executive Dashboard – Financial Analysis



RX Executive Dashboard – Financial Analysis



Total Cost Summary-Current Year

		Enrollment ¹		Fixed Fees				Claims				Stop Loss		Contributions			Total Plan Cost	Total Employer Cost	Budget vs. Actual	
		A	B	C	D	E = (C+D)	F	G	H = (F+G)	I	J = (H-I)	K	L	M = (K+L)	N = (E+J)	O = (N-K)	P = (N/M)			
	Month	EE	Members	Total Net Admin	Medical Admin	Rx Rebate	Stop Loss	Total	Medical	Rx	Blues Claims	Total	² Amount Over Spec	Eligible Claims	EE	ER	Total	Total	Total	Loss Ratio
2024	2024 Total	2,536	5,563	\$2,038	\$160,644	\$158,606	\$681,684	\$683,722	\$1,871,044	\$643,832	\$894	\$2,515,770	\$119,635	\$2,396,136	\$360,340	\$3,104,151	\$3,464,491	\$3,079,857	\$2,719,517	89%
	Mo / Avg	423	927	\$340	\$26,774	\$26,434	\$113,614	\$113,954	\$311,841	\$107,305	\$149	\$419,295	\$19,939	\$399,356	\$80,057	\$517,359	\$577,415	\$513,310	\$453,253	
	PEPM Avg		2.19	\$0.80	\$63.35	\$62.54	\$268.80	\$269.61	\$737.79	\$253.88	\$0.35	\$992.02	\$47.17	\$944.85	\$142.09	\$1,224.03	\$1,366.12	\$1,214.45	\$1,072.36	
	% Change	2.1%	4.5%	-102.6%	-14.3%	-40.2%	22.9%	43.3%	-9.6%	-24.9%	-57.7%	-14.1%	-80.1%	3.0%	1.0%	0.4%	0.4%	9.8%	11.1%	
2023	2023 Total	4,969	10,642	-\$152,216	\$367,124	\$519,340	\$1,087,207	\$934,992	\$4,056,662	\$1,679,646	\$4,144	\$5,740,451	\$1,180,083	\$4,560,368	\$699,326	\$6,060,987	\$6,760,313	\$5,495,360	\$4,796,034	81%
	Mo / Avg	414	887	-\$12,685	\$30,594	\$43,278	\$90,601	\$77,916	\$338,055	\$139,970	\$345	\$478,371	\$98,340	\$380,031	\$58,277	\$505,082	\$563,359	\$457,947	\$399,669	
	PEPM Avg		2.14	-\$30.63	\$73.88	\$104.52	\$218.80	\$188.16	\$816.39	\$338.02	\$0.83	\$1,155.25	\$237.49	\$917.76	\$140.74	\$1,219.76	\$1,360.50	\$1,105.93	\$965.19	
	% Change	1.1%	3.7%	-259.7%	4.3%	102.4%	-35.5%	-47.5%	6.8%	-1.1%	-96.9%	1.9%	-17.9%	8.7%	-7.6%	2.9%	1.7%	-8.0%	-8.1%	
2022	2022 Total	4,913	10,259	\$94,229	\$347,952	\$253,723	\$1,667,060	\$1,761,289	\$3,757,276	\$1,679,481	\$132,284	\$5,569,041	\$1,421,537	\$4,147,504	\$748,280	\$5,822,124	\$6,570,405	\$5,908,793	\$5,160,513	90%
	Mo / Avg	409	855	\$7,852	\$28,996	\$21,144	\$138,922	\$146,774	\$313,106	\$139,957	\$11,024	\$464,087	\$118,461	\$345,625	\$62,357	\$485,177	\$547,534	\$492,399	\$430,043	
	PEPM Avg		2.09	\$19.18	\$70.82	\$51.64	\$339.32	\$358.50	\$764.76	\$341.84	\$26.93	\$1,133.53	\$289.34	\$844.19	\$152.31	\$1,185.04	\$1,337.35	\$1,202.69	\$1,050.38	
	% Change	0.2%	0.6%	-38.6%	28.8%	117.3%	-25.8%	-26.7%	21.4%	49.1%	-41.2%	25.3%	0.0%	37.1%	35.6%	29.7%	30.4%	8.9%	5.9%	
2021	2021 Total	4,904	10,193	\$153,109	\$269,671	\$116,562	\$2,243,807	\$2,396,916	\$3,089,301	\$1,124,316	\$224,503	\$4,438,119	\$1,419,574	\$3,018,546	\$550,774	\$4,479,483	\$5,030,256	\$5,415,462	\$4,864,688	108%
	Mo / Avg	409	849	\$12,759	\$22,473	\$9,714	\$186,984	\$199,743	\$257,442	\$93,693	\$18,709	\$369,843	\$118,298	\$251,545	\$45,898	\$373,290	\$419,188	\$451,288	\$405,391	
	PEPM Avg		2.08	\$31.22	\$54.99	\$23.77	\$457.55	\$488.77	\$629.96	\$229.26	\$45.78	\$905.00	\$289.47	\$615.53	\$112.31	\$913.43	\$1,025.75	\$1,104.29	\$991.98	

¹ EE may change month to month as retroactive adjustments are processed

² Stop loss credits will differ from actual reimbursements due to contract and timing discrepancy between finance reports and utilization reports provided by the Carrier.

Budget vs Actual
89%

Total Cost Summary- YTD

		Enrollment ¹		Fixed Fees				Claims				Stop Loss		Contributions			Total Plan Cost	Total Employer Cost	Budget vs. Actual	
		A	B	C	D	E = (C+D)	F	G	H = (F+G)	I	J = (H-I)	K	L	M = (K+L)	N = (E+J)	O = (N-K)	P = (N/M)			
	Month	EE	Members	Total Net Admin	Medical Admin	Rx Rebate	Stop Loss	Total	Medical	Rx	Blues Claims	Total	² Amount Over Spec	Eligible Claims	EE	ER	Total	Total	Total	Loss Ratio
2024 YTD	2024 YTD Total	2,536	5,563	\$2,038	\$160,644	\$158,606	\$681,684	\$683,722	\$1,871,044	\$643,832	\$894	\$2,515,770	\$119,635	\$2,396,136	\$360,340	\$3,104,151	\$3,464,491	\$3,079,857	\$2,719,517	89%
	Mo / Avg	423	927	\$340	\$26,774	\$26,434	\$113,614	\$113,954	\$311,841	\$107,305	\$149	\$419,295	\$19,939	\$399,356	\$60,057	\$517,359	\$577,415	\$513,310	\$453,253	
	PEPM Avg		2.19	\$0.80	\$63.35	\$62.54	\$268.80	\$269.61	\$737.79	\$253.88	\$0.35	\$992.02	\$47.17	\$944.85	\$142.09	\$1,224.03	\$1,366.12	\$1,214.45	\$1,072.36	
	% Change	3.2%	5.7%	-101.4%	-12.4%	-51.5%	22.4%	65.4%	-7.8%	-22.9%	-61.5%	-12.3%	-75.3%	0.5%	0.2%	0.0%	0.0%	10.1%	11.6%	
2023 YTD	2023 YTD Total	2,458	5,265	-\$139,145	\$177,710	\$316,855	\$539,862	\$400,717	\$1,967,505	\$809,215	\$2,253	\$2,778,974	\$468,563	\$2,310,411	\$348,607	\$3,008,281	\$3,356,888	\$2,711,128	\$2,362,521	81%
	Mo / Avg	410	878	-\$23,191	\$29,618	\$52,809	\$89,977	\$66,786	\$327,918	\$134,869	\$376	\$463,162	\$78,094	\$385,068	\$58,101	\$501,380	\$559,481	\$451,855	\$393,753	
	PEPM Avg		2.14	-\$56.61	\$72.30	\$128.91	\$219.63	\$163.03	\$800.45	\$329.22	\$0.92	\$1,130.58	\$190.63	\$939.96	\$141.83	\$1,223.87	\$1,365.70	\$1,102.98	\$961.16	
	% Change	-0.6%	3.5%	-262.7%	14.6%	355.3%	-34.9%	-56.2%	21.7%	0.2%	-97.7%	10.2%	23.0%	7.9%	-5.6%	3.8%	2.7%	-11.3%	-12.0%	
2022 YTD	2022 YTD Total	2,472	5,089	\$86,028	\$156,018	\$69,990	\$833,773	\$919,801	\$1,625,936	\$811,852	\$98,301	\$2,536,088	\$382,988	\$2,153,100	\$371,476	\$2,914,683	\$3,286,159	\$3,072,901	\$2,701,425	94%
	Mo / Avg	412	848	\$14,338	\$26,003	\$11,665	\$138,962	\$153,300	\$270,989	\$135,309	\$16,384	\$422,681	\$63,831	\$358,850	\$61,913	\$485,780	\$547,693	\$512,150	\$450,237	
	PEPM Avg		2.06	\$34.80	\$63.11	\$28.31	\$337.29	\$372.09	\$657.74	\$328.42	\$39.77	\$1,025.93	\$154.93	\$871.00	\$150.27	\$1,179.08	\$1,329.35	\$1,243.08	\$1,092.81	
	% Change	0.3%	-0.1%	0.1%	7.4%	18.0%	-26.0%	-24.2%	-7.8%	60.5%	-42.8%	3.8%	-45.7%	24.0%	34.8%	29.4%	30.0%	4.2%	1.0%	
2021 YTD	2021 YTD Total	2,465	5,095	\$85,720	\$144,865	\$59,145	\$1,124,266	\$1,209,986	\$1,759,206	\$504,308	\$171,922	\$2,435,436	\$703,813	\$1,731,623	\$274,694	\$2,245,728	\$2,520,422	\$2,941,609	\$2,666,915	117%
	Mo / Avg	411	849	\$14,287	\$24,144	\$9,857	\$187,378	\$201,664	\$293,201	\$84,051	\$28,654	\$405,906	\$117,302	\$288,604	\$45,782	\$374,288	\$420,070	\$490,268	\$444,486	
	PEPM Avg		2.07	\$34.77	\$58.77	\$23.99	\$456.09	\$490.87	\$713.67	\$204.59	\$69.55	\$988.01	\$285.52	\$702.48	\$111.44	\$911.05	\$1,022.48	\$1,193.35	\$1,081.91	

¹ EE may change month to month as retroactive adjustments are processed

² Stop loss credits will differ from actual reimbursements due to contract and timing discrepancy between finance reports and utilization reports provided by the Carrier.

Budget vs Actual
89%

Large Claim Analysis - Claims > \$50,000 (Current Year)

Large Claim Analysis - Claims in Excess of \$50,000 ISL \$100,000

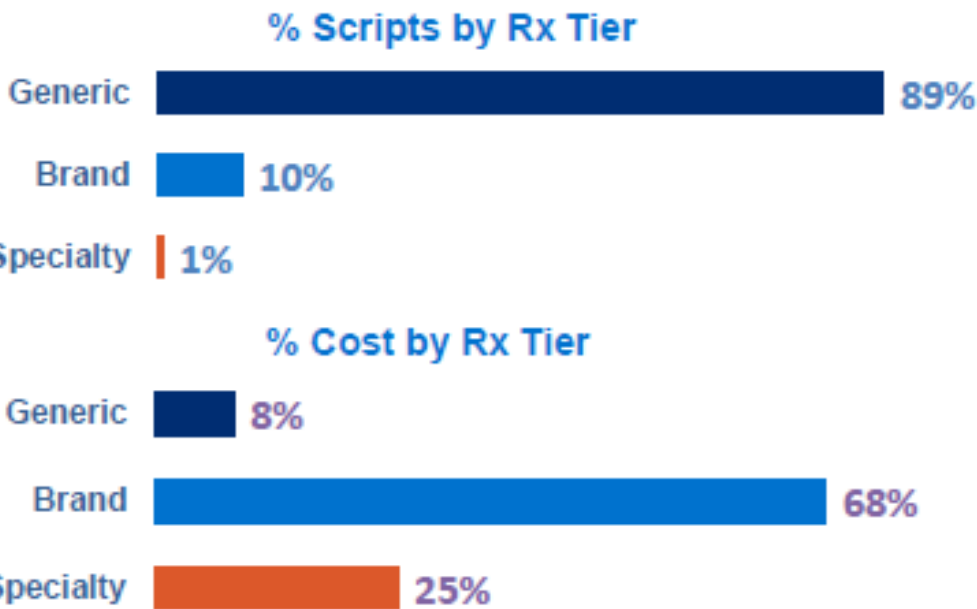
Paid 1/1/2024 - 6/30/2024

Diagnostic Category		Active?	Medical Paid	Rx Paid	Total Amount Paid	Employer Responsibility	Amount over SL
1	STELARA	True	\$1,004	\$145,595	\$146,599	\$100,000	\$46,599
2	Ischemia and infarction of kidney	True	\$135,091	\$170	\$135,261	\$100,000	\$35,261
3	TRIKAFTA	True	\$5,001	\$123,484	\$128,485	\$100,000	\$28,485
4	Athscl heart disease of native cor art w oth ang pctrs	True	\$80,858	\$3,767	\$84,625	\$84,625	\$0
5	LORBRENA	True	\$46,385	\$23,985	\$70,370	\$70,370	\$0
6	Malignant neoplasm of left kidney, except renal pelvis	False	\$65,384	\$16	\$65,400	\$65,400	\$0
7						\$0	\$0
8						\$0	\$0
9						\$0	\$0
10						\$0	\$0
Summary					\$630,740	\$520,395	\$110,345
Total Claims					Gross \$2,515,770	Net \$2,405,425	
Percentage of Large Claims to Total Claims					25%	22%	
Percentage of Enrolled to Large Claims					0.6%		

Top Rx by Paid Dashboard

Paid 1/1/2024 - 6/30/2024

	Brand Name	Claimants	Scripts	Paid	Specialty Scripts	Paid / Script
1	STELARA	1	6	\$145,328	2	\$24,221
2	TRIKAFTA	1	5	\$117,025	0	\$23,405
3	MOUNJARO	9	46	\$43,793	0	\$952
4	SKYRIZI PEN	2	2	\$37,020	2	\$18,510
5	DUPIXENT	2	9	\$28,952	9	\$3,217
6	ENBREL SURECLICK	1	2	\$26,276	0	\$13,138
7	LORBRENA	1	1	\$22,881	1	\$22,881
8	WEGOVY	6	18	\$19,158	0	\$1,064
9	OZEMPIC	7	22	\$17,454	0	\$793
10	ELIQUIS	7	18	\$14,393	0	\$800
11	NUCALA	1	2	\$10,904	2	\$5,452
12	JARDIANCE	5	16	\$7,921	0	\$495
13	NURTEC	2	10	\$7,301	0	\$730
14	OTEZLA	1	1	\$7,096	1	\$7,096
15	VYVANSE	10	25	\$6,587	0	\$263
16	LISDEXAMFETAMINE DIMESYLATE	12	32	\$5,889	0	\$184
17	METHYLPHENIDATE HYDROCHLORIDE ER	14	42	\$5,167	0	\$123
18	QULIPTA	1	6	\$5,111	0	\$852
19	SYNJARDY XR	2	4	\$4,763	0	\$1,191
20	VRAYLAR	3	6	\$4,267	0	\$711
21	RYBELSUS	1	2	\$4,209	0	\$2,104
22	DIFICID	1	1	\$3,912	0	\$3,912
23	XARELTO	2	3	\$3,731	0	\$1,244
24	DEXCOM G6 SENSOR	3	4	\$3,665	0	\$916
25	DEXCOM G7 SENSOR	2	3	\$3,418	0	\$1,139
TOP 25		97	286	\$556,221	17	\$1,945
ALL OTHER VALUES		476	3,562	\$88,653	6	\$25
SUMMARY*		573	3,848	\$644,874	23	\$168



Type	Scripts	Amount	% Cost	% Services	Avg Cost / script
Generic	3,428	\$50,992	8%	89%	\$15
Brand	397	\$435,809	68%	10%	\$1,098
Specialty	23	\$158,073	25%	1%	\$6,873
TOTALS	3,848	\$644,874	100%	100%	\$168



Appendix

Contributions - Renewal

	2024 Current Budget Rates w/ Current Enrollment				2025 Renewal				% Change				\$ Change			
Total Employee Annual Contribution	\$714,877				\$761,447				6.5%				\$46,570			
Total Employee Annual Contribution %	10.3%				10.3%											
Total ER Annual Contribution	\$6,233,511				\$6,639,582				6.5%				\$406,072			
Total ER Annual Contribution %	89.7%				89.7%											
Total Annual Contribution	\$6,948,388				\$7,401,029				6.5%				\$452,641			
	Classic Blue				Classic Blue				% Change				\$ Change			
	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM
Enrollment	226	34	70	96	226	34	70	96								
Monthly Budget Rate	\$842.60	\$2,190.75	\$1,482.97	\$2,190.75	\$897.49	\$2,333.46	\$1,579.57	\$2,333.46	6.5%	6.5%	6.5%	6.5%	\$54.89	\$142.71	\$96.61	\$142.71
Rate Alignment by Tier	1.00	2.60	1.76	2.60	1.00	2.60	1.76	2.60								
Monthly Employee Contribution	\$0.01	\$394.35	\$118.65	\$394.35	\$0.01	\$420.04	\$126.38	\$420.04	6.5%	6.5%	6.5%	6.5%	\$0.00	\$25.69	\$7.73	\$25.69
Employee Contribution Alignment by Tier	1.00	39258.00	11812.00	39258.00	1.00	39258.00	11812.00	39258.00								
Employee Contribution Percentage	0.0%	18.0%	8.0%	18.0%	0.0%	18.0%	8.0%	18.0%								
ER Contribution	\$842.59	\$1,796.40	\$1,364.32	\$1,796.40	\$897.48	\$1,913.43	\$1,453.19	\$1,913.43	6.5%	6.5%	6.5%	6.5%	\$54.89	\$117.02	\$88.88	\$117.02
ER Contribution Percentage	100.0%	82.0%	92.0%	82.0%	100.0%	82.0%	92.0%	82.0%								
Sub-Total Employee Annual Contribution	\$714,877				\$761,447				6.5%				\$46,570			
Sub-Total Employee Annual Contribution %	10.3%				10.3%											
Sub-Total ER Annual Contribution	\$6,233,511				\$6,639,582				6.5%				\$406,072			
Sub-Total ER Annual Contribution %	89.7%				89.7%											
SubTotal Annual Contribution	\$6,948,388				\$7,401,029				6.5%				\$452,641			

Contributions – Option 1

	2024 Current Budget Rates w/ Current Enrollment				Proposed Option 1 \$250 Ded 80% Coinsurance & \$5k MOOP \$100k Stop-loss				% Change				\$ Change			
Total Employee Annual Contribution	\$714,877				\$734,368				2.7%				\$19,491			
Total Employee Annual Contribution %	10.3%				10.3%											
Total ER Annual Contribution	\$6,233,511				\$6,403,463				2.7%				\$169,952			
Total ER Annual Contribution %	89.7%				89.7%											
Total Annual Contribution	\$6,948,388				\$7,137,831				2.7%				\$189,443			
	Classic Blue				Proposed Option 1				% Change				\$ Change			
	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM
Enrollment	226	34	70	96	226	34	70	96								
Monthly Budget Rate	\$842.60	\$2,190.75	\$1,482.97	\$2,190.75	\$865.57	\$2,250.48	\$1,523.40	\$2,250.48	2.7%	2.7%	2.7%	2.7%	\$22.97	\$59.73	\$40.43	\$59.73
Rate Alignment by Tier	1.00	2.60	1.76	2.60	1.00	2.60	1.76	2.60								
Monthly Employee Contribution	\$0.01	\$394.35	\$118.65	\$394.35	\$0.01	\$405.10	\$121.89	\$405.10	2.7%	2.7%	2.7%	2.7%	\$0.00	\$10.75	\$3.23	\$10.75
Employee Contribution Alignment by Tier	1.00	39258.00	11812.00	39258.00	1.00	39258.00	11812.00	39258.00								
Employee Contribution Percentage	0.0%	18.0%	8.0%	18.0%	0.0%	18.0%	8.0%	18.0%								
ER Contribution	\$842.59	\$1,796.40	\$1,364.32	\$1,796.40	\$865.56	\$1,845.38	\$1,401.51	\$1,845.38	2.7%	2.7%	2.7%	2.7%	\$22.97	\$48.98	\$37.20	\$48.98
ER Contribution Percentage	100.0%	82.0%	92.0%	82.0%	100.0%	82.0%	92.0%	82.0%								
Sub-Total Employee Annual Contribution	\$714,877				\$734,368				2.7%				\$19,491			
Sub-Total Employee Annual Contribution %	10.3%				10.3%											
Sub-Total ER Annual Contribution	\$6,233,511				\$6,403,463				2.7%				\$169,952			
Sub-Total ER Annual Contribution %	89.7%				89.7%											
SubTotal Annual Contribution	\$6,948,388				\$7,137,831				2.7%				\$189,443			

Contributions – Option 2

	2024 Current Budget Rates w/ Current Enrollment				Proposed Option 2 \$250 Ded 80% Coinsurance & \$5k MOOP & \$125k Stop-loss				% Change				\$ Change			
Total Employee Annual Contribution	\$714,877				\$707,478				-1.0%				(\$7,400)			
Total Employee Annual Contribution %	10.3%				10.3%											
Total ER Annual Contribution	\$6,233,511				\$6,168,988				-1.0%				(\$64,522)			
Total ER Annual Contribution %	89.7%				89.7%											
Total Annual Contribution	\$6,948,388				\$6,876,466				-1.0%				(\$71,922)			
	Classic Blue				Proposed Option 1				% Change				\$ Change			
	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM
Enrollment	226	34	70	96	226	34	70	96								
Monthly Budget Rate	\$842.60	\$2,190.75	\$1,482.97	\$2,190.75	\$833.88	\$2,168.07	\$1,467.62	\$2,168.07	-1.0%	-1.0%	-1.0%	-1.0%	(\$8.72)	(\$22.68)	(\$15.35)	(\$22.68)
Rate Alignment by Tier	1.00	2.60	1.76	2.60	1.00	2.60	1.76	2.60								
Monthly Employee Contribution	\$0.01	\$394.35	\$118.65	\$394.35	\$0.01	\$390.27	\$117.42	\$390.27	-1.0%	-1.0%	-1.0%	-1.0%	(\$0.00)	(\$4.08)	(\$1.23)	(\$4.08)
Employee Contribution Alignment by Tier	1.00	39258.00	11812.00	39258.00	1.00	39258.00	11812.00	39258.00								
Employee Contribution Percentage	0.0%	18.0%	8.0%	18.0%	0.0%	18.0%	8.0%	18.0%								
ER Contribution	\$842.59	\$1,796.40	\$1,364.32	\$1,796.40	\$833.87	\$1,777.81	\$1,350.19	\$1,777.81	-1.0%	-1.0%	-1.0%	-1.0%	(\$8.72)	(\$18.59)	(\$14.12)	(\$18.59)
ER Contribution Percentage	100.0%	82.0%	92.0%	82.0%	100.0%	82.0%	92.0%	82.0%								
Sub-Total Employee Annual Contribution	\$714,877				\$707,478				-1.0%				(\$7,400)			
Sub-Total Employee Annual Contribution %	10.3%				10.3%											
Sub-Total ER Annual Contribution	\$6,233,511				\$6,168,988				-1.0%				(\$64,522)			
Sub-Total ER Annual Contribution %	89.7%				89.7%											
SubTotal Annual Contribution	\$6,948,388				\$6,876,466				-1.0%				(\$71,922)			

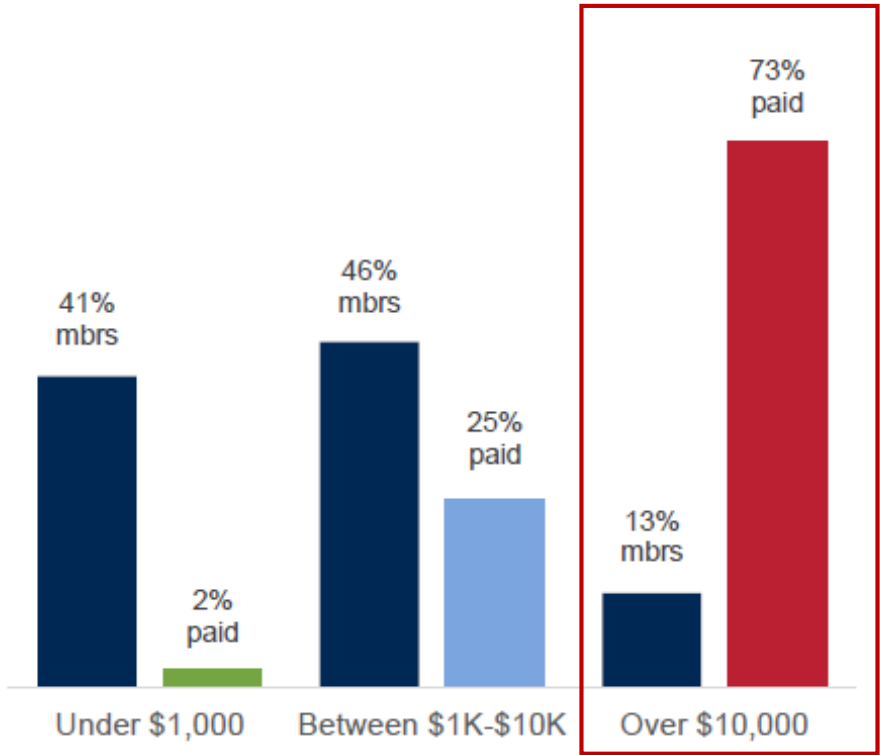
Contributions – Option 3

	2024 Current Budget Rates w/ Current Enrollment				Proposed Option 3 \$250 Ded 80% Coinsurance & \$7500 MOOP & \$150k Stop-loss				% Change				\$ Change			
Total Employee Annual Contribution	\$714,877				\$677,868				-5.2%				(\$37,010)			
Total Employee Annual Contribution %	10.3%				10.3%											
Total ER Annual Contribution	\$6,233,511				\$5,910,799				-5.2%				(\$322,712)			
Total ER Annual Contribution %	89.7%				89.7%											
Total Annual Contribution	\$6,948,388				\$6,588,667				-5.2%				(\$359,721)			
	Classic Blue				Proposed Option 2				% Change				\$ Change			
	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM	EE	ES	EC	FAM
Enrollment	226	34	70	96	226	34	70	96								
Monthly Budget Rate	\$842.60	\$2,190.75	\$1,482.97	\$2,190.75	\$798.98	\$2,077.33	\$1,406.19	\$2,077.33	-5.2%	-5.2%	-5.2%	-5.2%	(\$43.62)	(\$113.42)	(\$76.77)	(\$113.42)
Rate Alignment by Tier	1.00	2.60	1.76	2.60	1.00	2.60	1.76	2.60								
Monthly Employee Contribution	\$0.01	\$394.35	\$118.65	\$394.35	\$0.01	\$373.93	\$112.51	\$373.93	-5.2%	-5.2%	-5.2%	-5.2%	(\$0.00)	(\$20.42)	(\$6.14)	(\$20.42)
Employee Contribution Alignment by Tier	1.00	39258.00	11812.00	39258.00	1.00	39258.00	11812.00	39258.00								
Employee Contribution Percentage	0.0%	18.0%	8.0%	18.0%	0.0%	18.0%	8.0%	18.0%								
ER Contribution	\$842.59	\$1,796.40	\$1,364.32	\$1,796.40	\$798.97	\$1,703.40	\$1,293.68	\$1,703.40	-5.2%	-5.2%	-5.2%	-5.2%	(\$43.62)	(\$93.00)	(\$70.63)	(\$93.00)
ER Contribution Percentage	100.0%	82.0%	92.0%	82.0%	100.0%	82.0%	92.0%	82.0%								
Sub-Total Employee Annual Contribution	\$714,877				\$677,868				-5.2%				(\$37,010)			
Sub-Total Employee Annual Contribution %	10.3%				10.3%											
Sub-Total ER Annual Contribution	\$6,233,511				\$5,910,799				-5.2%				(\$322,712)			
Sub-Total ER Annual Contribution %	89.7%				89.7%											
SubTotal Annual Contribution	\$6,948,388				\$6,588,667				-5.2%				(\$359,721)			

2023 Member Benefit Levels

Level of Benefits	Members	% of Total Members	Total Paid	% of Total Paid
None	38	4%	\$0	0%
\$1 to \$250	104	12%	\$14,560	0%
\$251 to \$500	92	10%	\$33,898	1%
\$501 to \$750	78	9%	\$49,203	1%
\$751 to \$1000	59	7%	\$50,412	1%
\$1,001 to \$2,000	132	15%	\$187,127	3%
\$2,001 to \$3,500	114	13%	\$302,325	5%
\$3,501 to \$10,000	166	19%	\$938,472	16%
Over \$10,000	112	13%	\$4,175,795	73%
Total	895	100%	\$5,732,522	100%

MEMBER AND CLAIMS DISTRIBUTION BY BENEFIT LEVEL



Members consuming under \$1,000 typically reflect a healthy population with low plan impact. Due to their low usage, these members may be more sensitive to any changes made to employee contributions.

Members consuming between \$2,500-\$10,000 make up a moderate amount of a group’s total spend.
Solutions to Consider: Targeted intervention program (diabetes management, weight management, etc.)

Members consuming over \$10,000 are usually a small subset of the population but account for the majority of a group’s total spend. These members tend to have chronic conditions requiring lengthy medical and / or pharmacy management. These members are often concerned with plan design options.
Solutions to Consider: Case management to monitor and direct care appropriately.

Paid = Plan Paid

Medicare Eligible

City of Minot

Medicare Education - Per Member & Employee

Costs by Age Band

All Members

-At the conclusion of this reporting period, there were 59 members that were 60-64 years old enrolled on the plan.

-At the conclusion of this reporting period, there were 14 members that were over 65+ years old enrolled on the plan.

PMPY

-PMPY of \$6,158 for a 0-59 year old during 2023.

-PMPY of \$6,671 for a 60-64 year old during 2023.

-PMPY of \$11,460 for a 65+ year old during 2023.

Employees Only

-At the conclusion of this reporting period, there were 45 employees that were 60-64 years old enrolled on the plan.

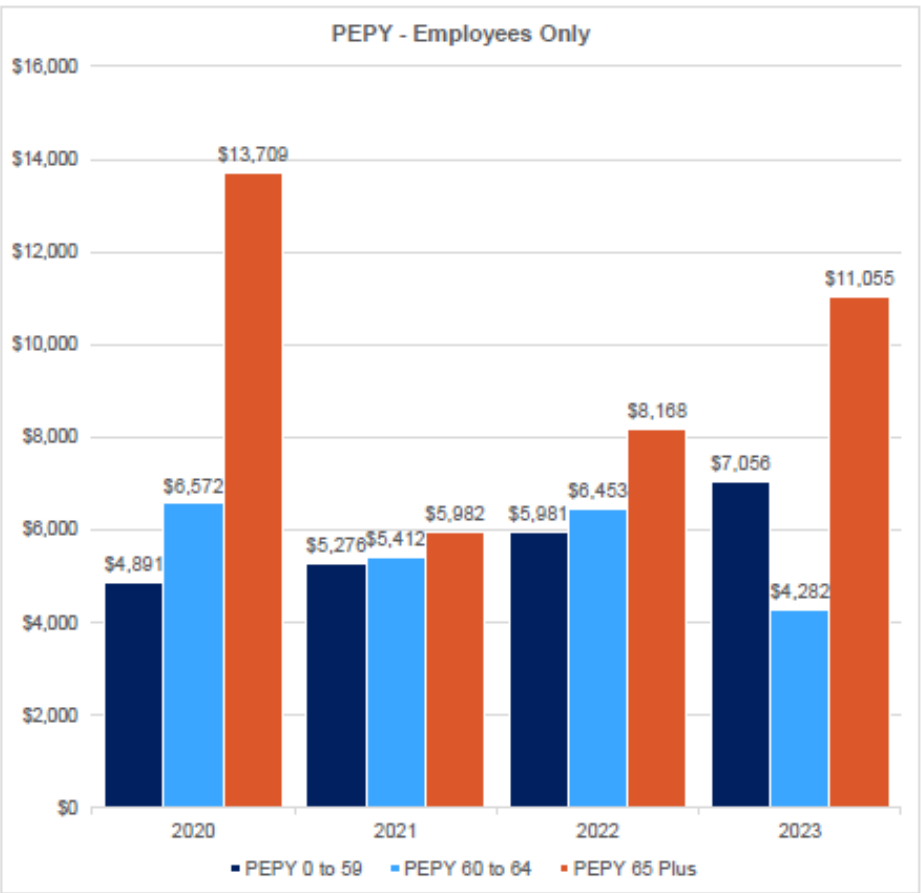
-At the conclusion of this reporting period, there were 11 employees that were over 65+ years old enrolled on the plan.

PEPY

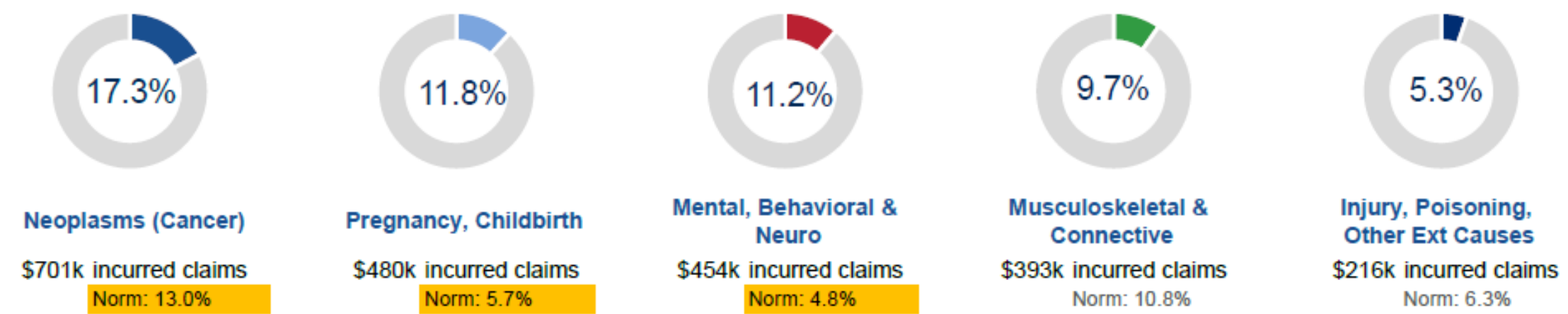
-PEPY of \$7,056 for a 0-59 year old during 2023.

-PEPY of \$4,282 for a 60-64 year old during 2023.

-PEPY of \$11,055 for a 65+ year old during 2023.



Top Medical Conditions



→ 55% of total medical spend comes from the above conditions

Employees		
Condition	# Members	\$ Paid
Neoplasms (Cancer)	46	\$619k
Musculoskeletal & Connective	213	\$243k
Mental, Behavioral & Neuro	99	\$163k
Injury, Poisoning, Other Ext Causes	89	\$135k
Endocrine, Nutritional & Metabolic	99	\$115k

Cancer spend for employees increased by 395% YOY
 - 2022 had one inpatient admission for \$14k
 - 2023 had one inpatient admission for \$509k

 MSK spend for employees was in their top two YOY

Pregnancy spend increased 392% YOY

 Mental health spend for dependents decreased 45% YOY
 - 2022 had three inpatient admission for \$214k

Spouses		
Condition	# Members	\$ Paid
Pregnancy, Childbirth	19	\$165k
Musculoskeletal & Connective	76	\$109k
Neoplasms (Cancer)	24	\$80k
Digestive System	22	\$79k
Mental, Behavioral & Neuro	42	\$66k

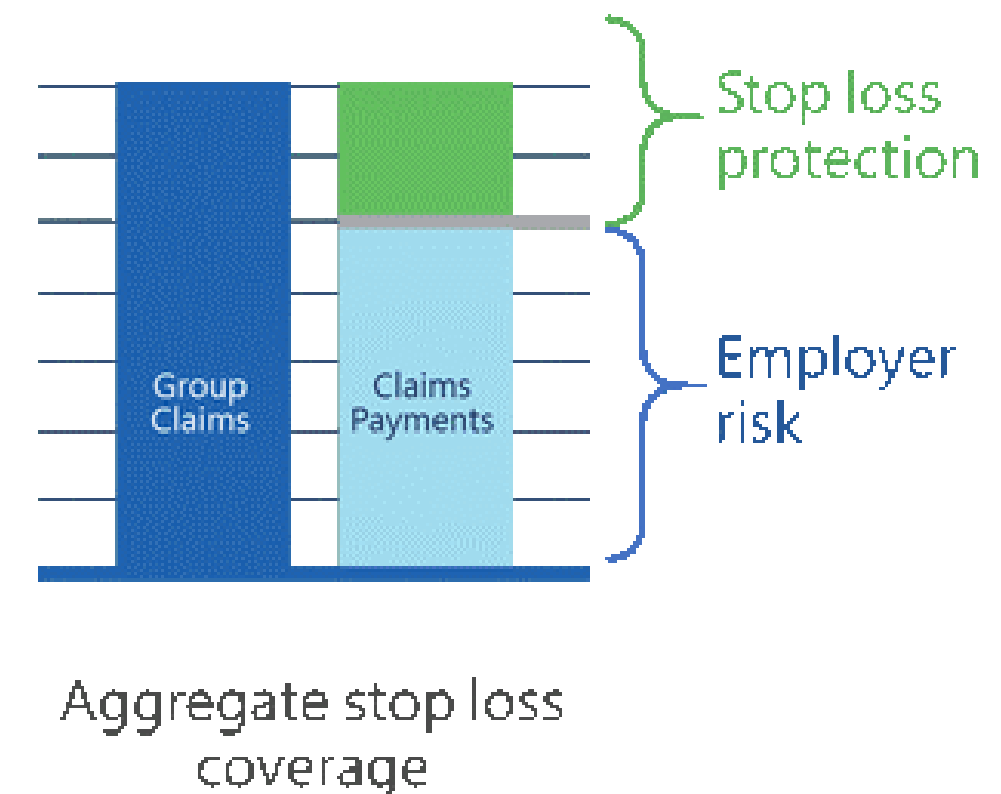
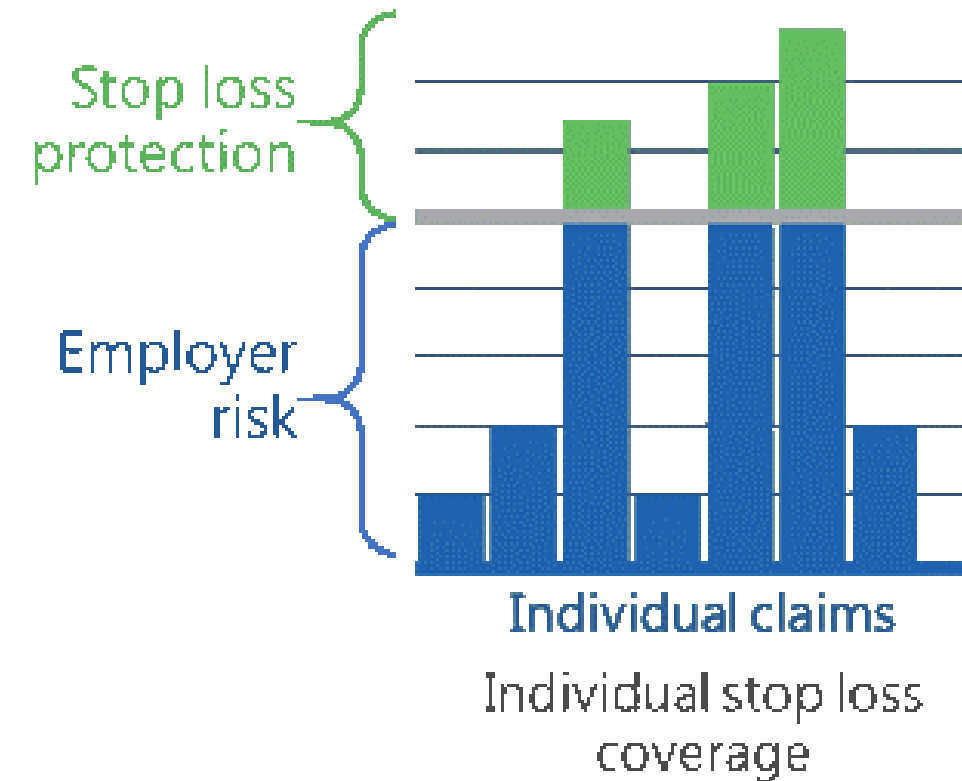
Dependents		
Condition	# Members	\$ Paid
Pregnancy, Childbirth	24	\$241k
Mental, Behavioral & Neuro	73	\$225k
Respiratory System	121	\$84k
Injury, Poisoning, Other Ext Causes	45	\$59k
Congenital Abnormalities	10	\$49k

Mental Health Parity Act

- The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) is a federal law that generally prevents group health plans and health insurance issuers that provide mental health or substance use disorder (MH/SUD) benefits from imposing less favorable benefit limitations on those benefits than on medical/surgical benefits.
- Key changes made by MHPAEA, which is generally effective for plan years beginning after October 3, 2009, include the following:
 - » If a group health plan or health insurance coverage includes medical/surgical benefits and MH/SUD benefits, the financial requirements (e.g., deductibles and co-payments) and treatment limitations (e.g., number of visits or days of coverage) that apply to MH/SUD benefits must be no more restrictive than the predominant financial requirements or treatment limitations that apply to substantially all medical/surgical benefits (this is referred to as the “substantially all/predominant test”). This test is discussed in greater detail in the MHPAEA regulation (linked below) and the summary of the MHPAEA regulation found below.
 - » MH/SUD benefits may not be subject to any separate cost-sharing requirements or treatment limitations that only apply to such benefits;
 - » If a group health plan or health insurance coverage includes medical/surgical benefits and MH/SUD benefits, and the plan or coverage provides for out-of-network medical/surgical benefits, it must provide for out-of-network MH/SUD benefits; and
 - » Standards for medical necessity determinations and reasons for any denial of benefits relating to MH/SUD benefits must be disclosed upon request.

Stop Loss Protection

- **Individual Stop Loss:** is the form of excess risk coverage that provides protection for the employer against a high claim on any one individual
 - » City of Minot \$100,000
- **Aggregate Stop Loss:** provides a ceiling on the dollar amount of eligible expenses that an employer would pay, in total, during a contract period
 - » 120% of expected claims

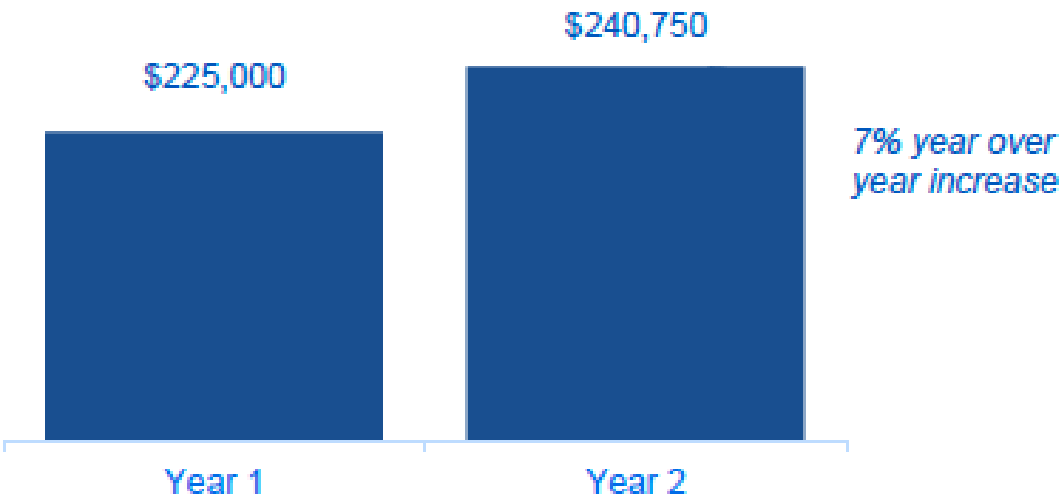


Leveraged Trend

Healthcare costs increase year over year due to several factors including new treatments, rising provider charges, and rates of utilization.

This increase, called **trend**, means if a patient were to incur claims one year, then the same claims the next year, those services will cost more.

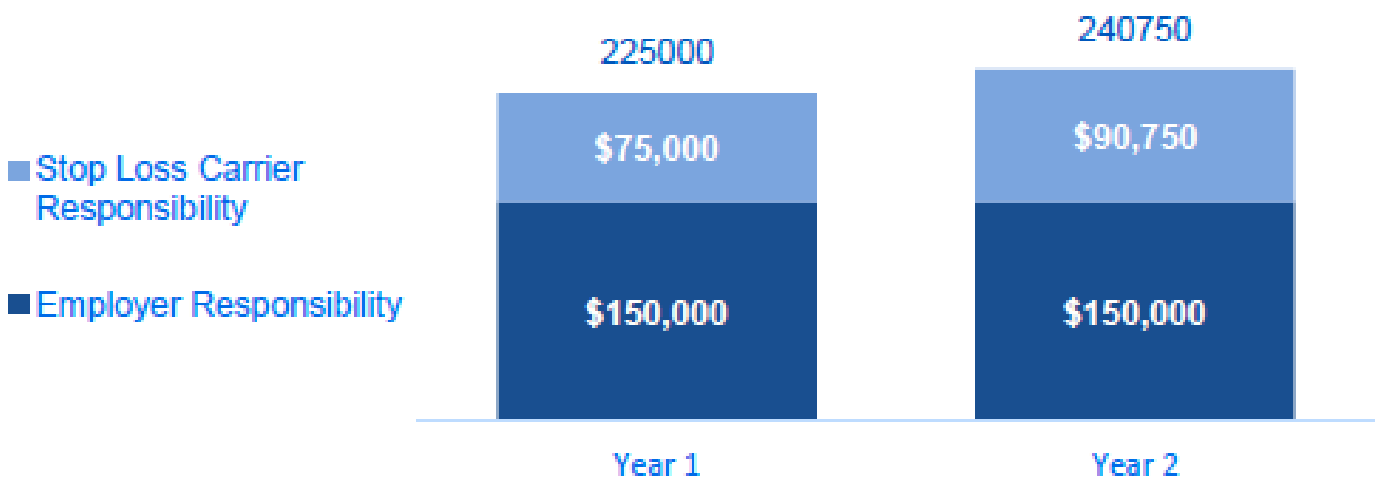
Assuming 7% annual medical trend, a claim totaling \$225,000 one year would increase to \$240,750 in the following year.



In a scenario where a health plan's specific stop loss deductible remains the same year after year, the employer's liability relative to large losses is not impacted by medical trend; rather the stop loss carrier absorbs the entire increase.

When stop loss carriers underwrite a plan, this increased liability, or **leveraged trend**, is taken into consideration.

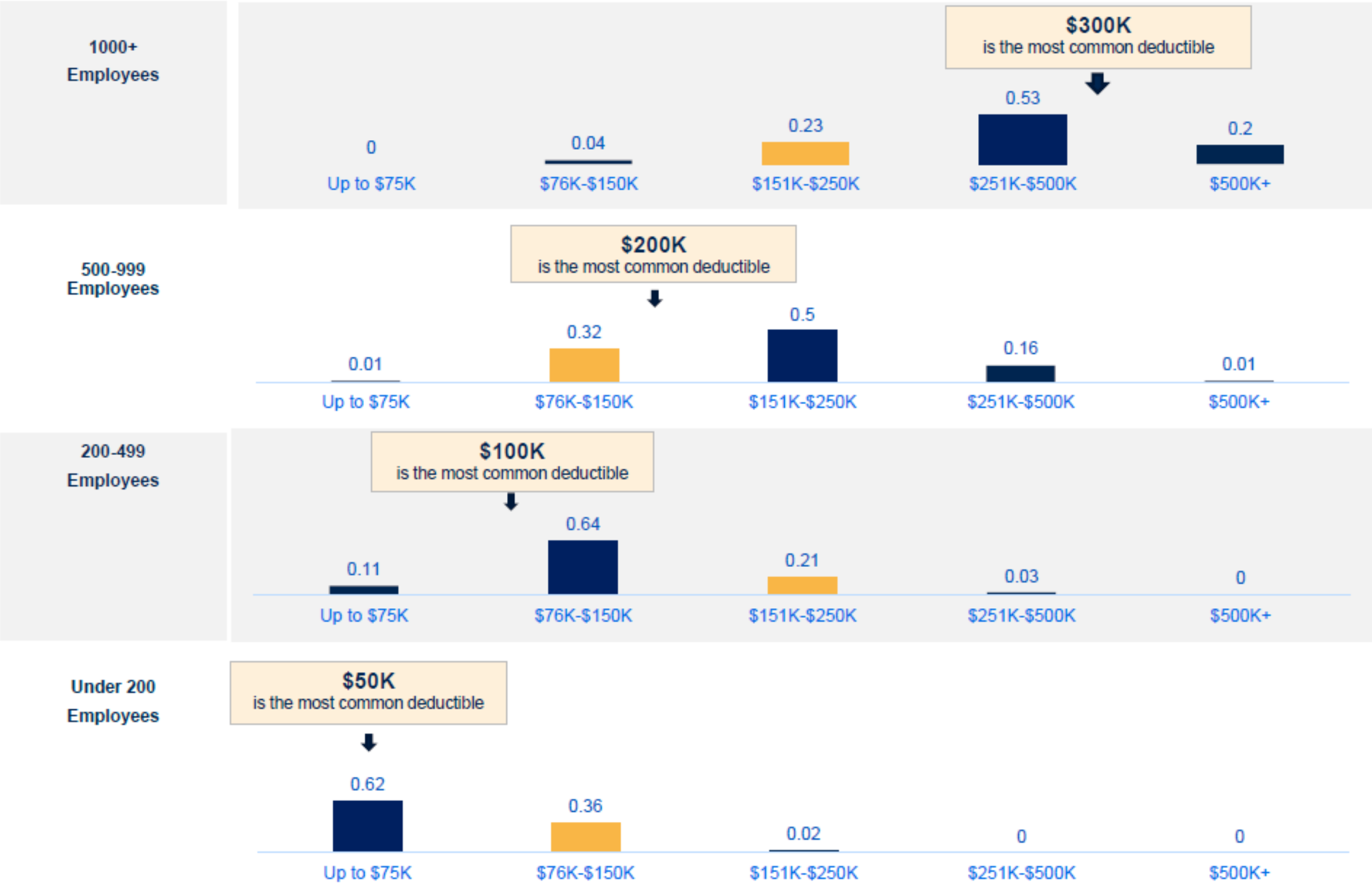
Using the example above and assuming an employer's specific stop loss deductible remains at \$150,000 in Year 1 and Year 2, the stop loss carrier's liability increases 21% in the second year.



	Year 1	Year 2	Change
Employer Responsibility	\$150,000	\$150,000	0%
Stop Loss Carrier Responsibility	\$75,000	\$90,750	21%
Total Claim	\$225,000	\$240,750	7%

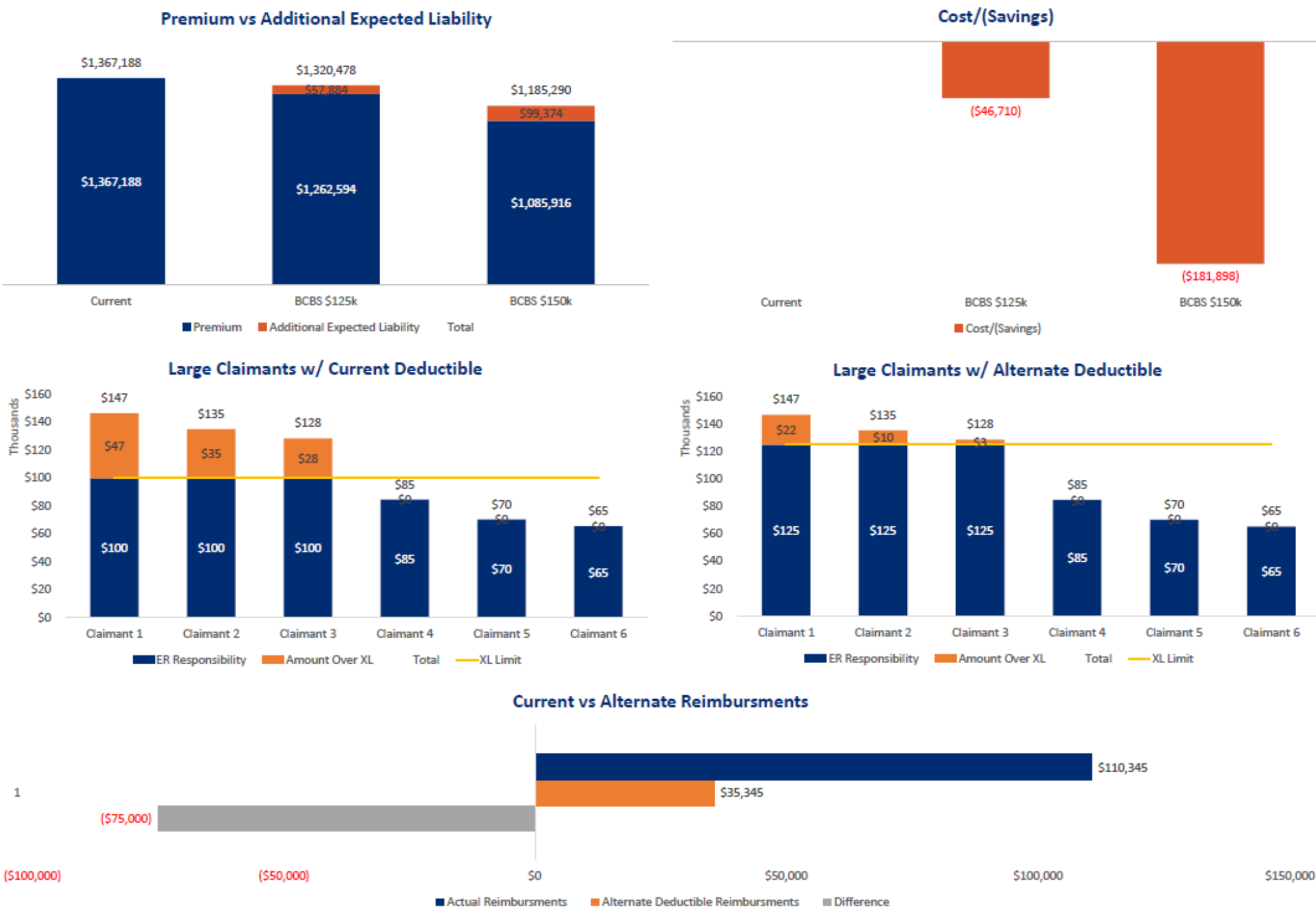
* Illustrative \$225,000 claim with 7% medical trend in year two and Specific Deductible of \$150,000

Average Specific Deductibles by Group Size



Source: Sun Life book of business data from 2019-2022

High-Cost Claims Analysis Tool (HCAT)



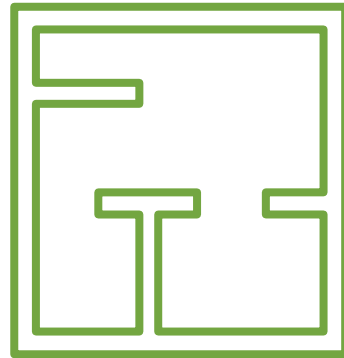
Risk Pool Management – Think Differently

“It is the greatest good to the greatest number of people which is the measure of right and wrong.”

Jeremy Bentham,
English Philosopher

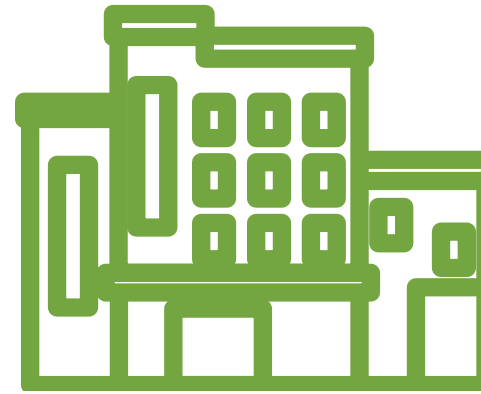
Who are you designing
your health plan for?

Benefits Strategy



Foundation

- Know Your Risk
- Health & Welfare Plan Analytics
- Workforce Demographic Analysis
- Benchmarking / Gap Analysis
- Risk Pool Management Assessment



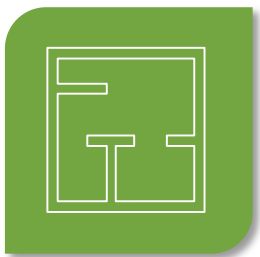
Structure

- Plan Design Strategy
- Tiering & Contribution Strategy
- Traditional vs. Alternative Funding
- Network Efficiency
- Total Rewards Strategy
- Vendor & Product Mix



Sustainable Design

- Perpetual & Predictive Analytics
- Care Delivery & Quality
- Population Health and Well-being Strategies
- Communications, Engagement & Advocacy
- Incentive Optimization



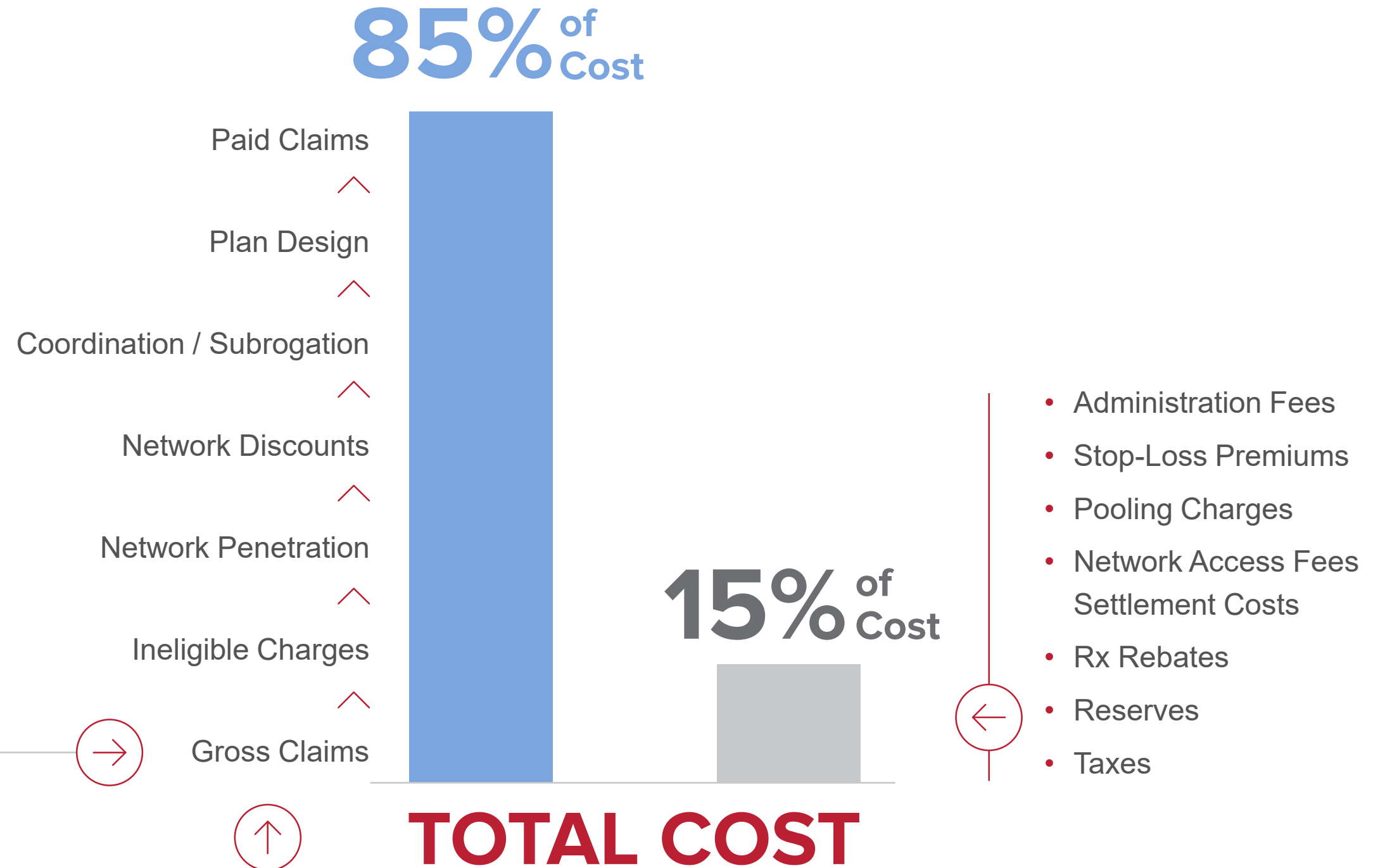
• FOUNDATION

Think Differently

Industry focuses on:

- Health Reimbursement Accounts (HRA)
- Health Savings Accounts (HSA)
- Case Management
- Population Health Management
- Wellness Programs

While important,
must start with:



What Drives Health Insurance Premium Increases?

The factors can increase health plan cost

Misaligned Employer Contributions by plans and tiers can understate required revenue

Rate Tier Factors are generally not set correctly according to enrolled risk of those tiers

Offering misaligned **Multiple Plans Creates Adverse Selection**... healthy members select lower cost plans

Plan design is immaterial to driving healthcare costs increases... **High Cost Claimants Drive Cost**

Behavior Economics and Member Choices are most often misaligned and not considered... **Cost vs. Value**

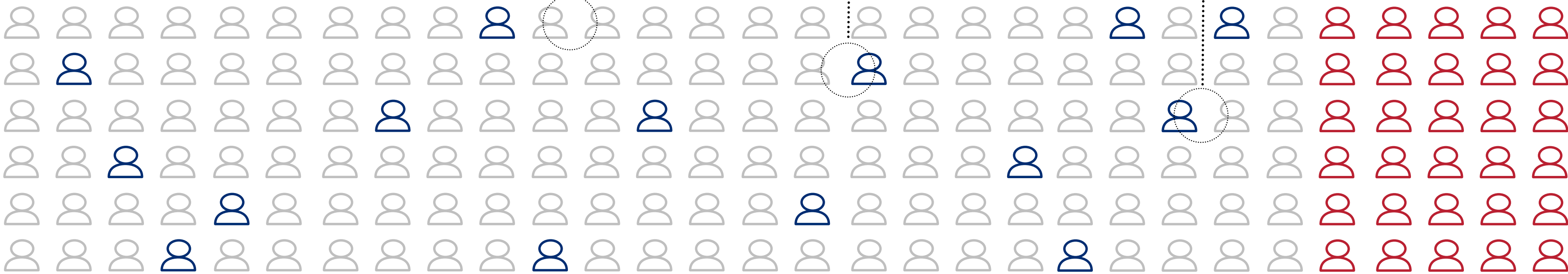
Risk Pool Management – Focus on Choice

*What choice
would you make?*

John (45)
Hemophiliac
Cost: \$750,000
Your Plan's MOOP: \$5,000
Spouse's Plan MOOP: \$3,000
Choice: Spouse's plan
John Saves: \$2,000
Company Saves: \$750,000

Sarah (58)
Transplant
Cost: \$410,000
Your Plan's MOOP: \$5,000
Spouse's Plan MOOP: \$7,000
Choice: Your plan
Sarah Pays: \$5,000
Company Pays: \$405,000

Stephen (27)
No Claims
Monthly Premium: \$160
Your Deductible: \$3,000
Spouse's Deductible: n/a
Choice: Waive
Result: Company loses
premiums of young healthy
male w/ no claims



Your Risk Pool

Waivers

$$\text{Value} = \frac{\text{GET}}{\text{\$ \$ \$}} = \frac{\text{Design (Design, Copay, MOOP)}}{\text{Contribution (What comes from their paycheck)}}$$

*Who is choosing to elect or
not elect your health plan?*

Healthcare Behavior Economics

Healthy individuals value contributions

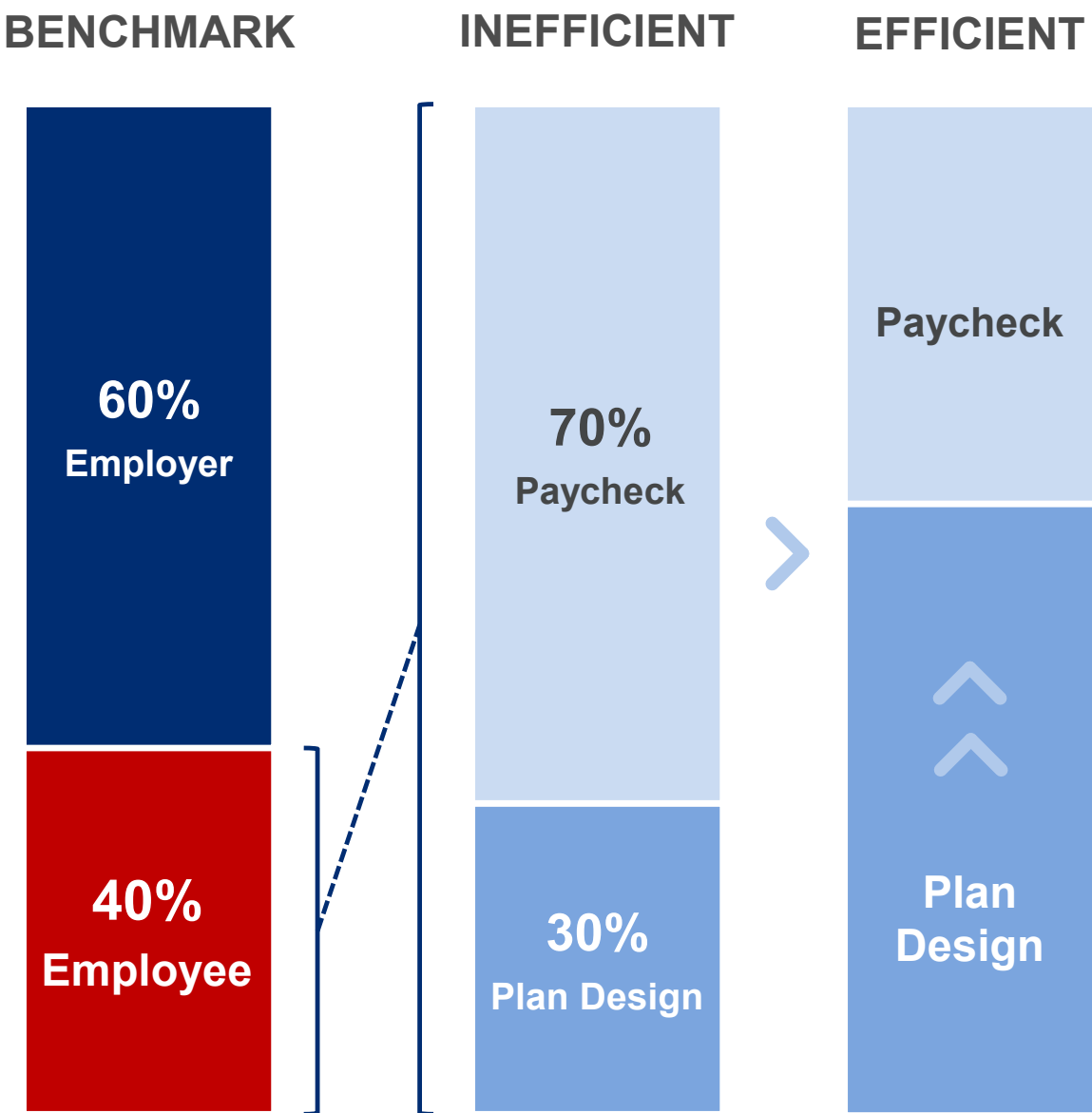
- Lower employee contributions invites “good risk” to participate in your health plan

Unhealthy individuals value plan design

- Unfavorable plan design (higher MOOP) encourages “bad risk” to go elsewhere

Focus on Member **Choice** **BEFORE** Utilization Occurs

What’s The Employee’s Experience?





• STRUCTURE

Large Claims Drive Costs

MEMBERS

90%

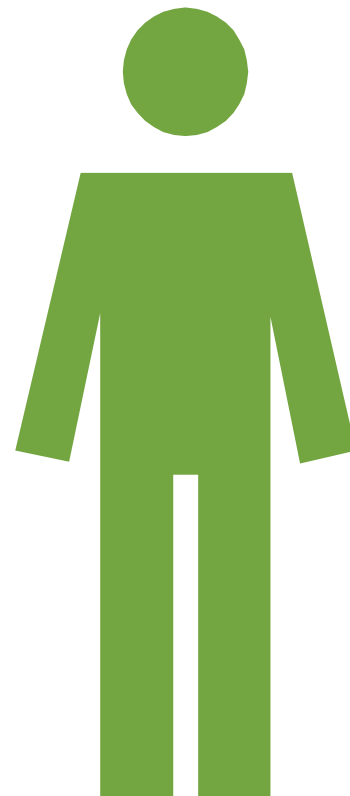
10%

COST

10%

90%

Large claims drive costs,
NOT general utilization



Level of Benefit	Members	% of Total Members	Total Paid	% of Total Paid
None	1,897	9.08%		
\$1 to \$100	1,804	8.64%	\$109,779	.15%
\$101 to \$250	3,192	15.28%	\$546,298	.72%
\$251 to \$500	3,528	16.89%	\$1,291,348	1.71%
\$501 to \$750	1,983	9.49%	\$1,219,147	1.61%
\$751 to \$1,000	1,532	7.33%	\$1,337,499	1.77%
\$1,001 to \$1,500	1,653	7.91%	\$2,022,842	2.68%
\$1,501 to \$2,500	1,563	7.48%	\$3,040,750	4.03%
\$2,501 to \$5,000	1,579	7.56%	\$5,534,360	7.33%
\$5,001 to \$10,000	944	4.52%	\$6,623,548	8.77%
Over \$10,000	1,216	5.82%	\$53,813,629	71.24%
Total	20,891	100.00%	\$75,539,204	100.00%

66.7%

6.0%

10.3%

80.0%

Citizens of Minot, Mayor Ross, Fellow Council Members, and City Employees,

In announcing at the State of the City event back in February that his Fiscal Year 2025 City Manager Recommended Budget property tax levy would be less than or equal to the FY2024 Budget in dollars, Mr. Stewart took on a significant challenge for himself and his management team. Using a zero-based approach, and as good as his word, Stewart and his staff presented a recommendation that keeps property tax dollars flat and due to increased property values, decreases by \$21.87 per year the tax on each \$100,000.00 of property value and decreases the mill rate. This is a perfect place to start as the City Council works to finalize the FY2025 City Budget. The overall recommended FY2025 Budget does show an increase however, due to the timing of projects such as flood protection, where funds are collected in advance or received from other sources and held until the specific use project is executed.

We now know that the elimination of all property taxes will be on the November ballot. Some would argue that this is not the year to be shrinking our budget, because if the measure passes, we will be frozen at the FY2025 level and dependent on the ND Legislature to figure out how to fund that portion of local government. I believe it is better to do the right thing and be able to point to those actions than to try to game the system by betting on how the election will turn out. In 2013 a similar measure failed by a wide margin. We must all get informed and wait for what the voters decide in November.

The largest budget category repeating every fiscal year is employee salaries and benefits, which is not surprising, since our 442 fulltime, 26 parttime, and 11 seasonal employees today provide all the essential city services our citizens depend on. In the past three years the salary costs for existing employees have increased about 21%. The FY2025 City Manager Budget includes \$2.3 million additional dollars based on a combination of market rate increases and 2.5% step increases. Continuing to sustain these current trends appears impossible. Thus, the recommended budget includes an alternative for FY2025, The Hybrid Plan, pending an extensive wages study in FY2025 to develop additional solutions. The Hybrid Plan would provide that employees receive the higher raise between either the step increase or the market increase, but not both, and that Department Heads' raises would be limited to a maximum equivalent to two step increases. **I recommend that the Council adopt The Hybrid Pay Plan for 2025.**

Using The Hybrid Plan will result in approximately \$700,000.00 in savings. Those savings are estimated to be composed of 60% General Fund and 40% Enterprise Fund dollars, or \$420,000.00 and \$280,000.00, respectively. It is my intent that the Enterprise budgets be reduced by the savings amount in that category. **In the General Fund savings, i.e., the property tax funded portion, I recommend that the Council dedicate \$250,000.00 of the General Fund savings to move eligible city employees in FY2025 to the NDPERS Police/Firefighter Pension**

Plan. This action was contemplated for the 2026 budget, but in the current recruiting environment and with uncertainty about future NDPERS changes, it needs to be done now.

Staffing shortage in the Police Department has been a chronic issue for years and is part of a national challenge in the US. Money does not solve every problem, but we need to do more to keep the officers we have and strengthen recruiting to fill as many of our vacant slots as possible. **I recommend that \$100,000.00 of General Fund Savings be allocated to the Police Department Budget** for an urgent recruitment plan to be developed by Chief Klug and his leadership team for approval by the City Council.

I recommend that the overall budget be reduced by the remainder (\$420K-\$250K-\$100K = \$70K) \$70,000.00, equivalent to 0.2723 mills.

New employees in the recommended budget are paid for by enterprise funds, service fees, or federal/state reimbursement (in the case of the biota water plant), except for an additional position in Human Resources, which is entirely property tax funded. Although the position is desirable, the \$85,000 cost is hard to accept. **I recommend that we not add the \$85,000.00 HR position at this time due to focus on limiting General Fund expenditures.**

Additional variables may have to be accounted for going forward such as health insurance rates and the effect of implementation of the Hybrid Pay Plan on current benefit estimates for example.

Thank you to City Manager Stewart, Finance Director Lakefield and his staff and the Department Heads for all the information and answers we have received. Also, thank you to the citizens who have been engaged and in contact during the process so far. I respectfully ask that my fellow Council Members consider these recommendations.

Summary

- 1. I recommend that the Council adopt The Hybrid Plan for 2025.**
- 2. I recommend that the Council dedicate \$250,000.00 of the saving to move in 2025 to the NDPERS Police/Firefighter Pension Plan for our sworn officer employees.**
- 3. I recommend that \$100,000.00 be allocated to the Police Department Budget, toward recruitment plan funding.**
- 4. I recommend that the General Fund budget be reduced by the remaining savings of \$70,000.00, equivalent to 0.2723 mills.**
- 5 I recommend that we not add the HR position currently due to the funding source and reduce the FY2025 budget by \$85,000.00, resulting in a 0.3307 reduction in the mill levy.**

Mark J. Jantzer