



THE REGULAR MONTHLY MEETING OF THE BOARD OF COMMISSIONERS OF THE PARK DISTRICT OF THE CITY OF FARGO WILL BE HELD ON **TUESDAY, APRIL 12, 2022, AT 5:30 P.M.** IN THE BOARD ROOM OF THE PARK DISTRICT OFFICES AT 701 MAIN AVENUE, FARGO, WITH PRESIDENT VICKI DAWSON, PRESIDING. **Please note:** This is an in person and MS Teams Live Event. Members of the public and media can view the live meeting at www.fargoparks.com/news/park-board-meeting-april-agenda-2022

Consent Agenda - approve the following:

- a. Minutes - March 8, 2022
- b. March Bills
- c. Order of Agenda
- d. Approve to solicit for bids for the 2022 Concrete and Asphalt Improvement projects.
- e. Approve to adopt the North Dakota Department of Transportation Transit Procurement manual for Valley Senior Services Transit Program.

Regular Agenda

1. Recognition of Audience/Public Comments
2. Director's Report
3. Growing Together Community Gardens Presentation; Jack Wood, presenter.
4. Board to discuss and consider approval of recommendation for Independent Commissioning for the Fargo Parks Sports Complex; Dave Leker and Tyler Kirchner, presenters.
5. Board to discuss and consider approval of priorities for next Park Master Planning Services; Carolyn Boutain, presenter.
6. Board to consider for approval option to collaborate with Fargo Public Schools relating to North High/Coliseum parking lot project; Dave Bietz, presenter.

Individuals who wish to attend Park Board meetings but need special arrangements or would like to address the Board, please contact the Fargo Park District office at 499-6060 by noon on the Monday before the Board Meeting.

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS
OF THE FARGO PARK DISTRICT OF MARCH 8, 2022**

The regular monthly meeting of the Board of Commissioners of the Park District of the City of Fargo was held on Tuesday, March 8, 2022, at 5:30 p.m. at the Fargo Park District office at 701 Main Avenue, Fargo, North Dakota and via Microsoft Teams. Present at the meeting were Commissioners Jerry Rostad, Stacey Griggs, Dawn Morgan, Vicki Dawson. Commissioner Joe Deutsch appeared by Microsoft teams. Also present were: Dave Leker, Broc Lietz, Carolyn Boutain, Brian Arett, Dave Bietz, Kevin Boe, and attorney Jeff Gunkelman.

Approval of Consent Agenda

Commissioner Dawn Morgan moved and Commissioner Stacey Griggs seconded a motion to approve the following actions on the consent agenda:

- (a) The minutes from the February 8, 2022 meeting;
- (b) The February 2022 bills;
- (c) Order of the Amended Agenda;
- (d) Approve and award bid for Soil Inspections/Testing for Fargo Sports Complex to Terracon in the amount of \$89,056.00 as presented to the Board.
- (e) Approve and award bids for Osgood Golf Course Slope Stability Improvements to Industrial Builders in the amount of \$269,600.00 as presented to the Board.

Upon call of the roll, the motion passed unanimously.

Director's Report

Each Director presented on this matter and provided an informational update to the Board on their respective department. No action was taken on this matter.

Red River Human Services Foundation Presentation

Tom Newberger and Phyllis Briss presented to the Board. It was noted that the purpose of the Red River Human Services Foundation serves people with intellectual/developmental disabilities in Fargo.

No action was taken on this matter.

Board to Consider Approval of Proposed Changes to Hiring Policy – Benefitted Staff No. 410

Broc T. Lietz presented to the Board on this matter. It was noted that the proposed changes would allow for a streamlined internal hiring process which would also give a path for professional and career development for employees. It was noted that there are a series of checks and balances that are built into the proposed changes to ensure fairness and appropriateness of when the streamlined policy would be used. It was noted that the proposed changes would make the policy similar to that used by NDSU.

Commissioner Morgan requested that staff look into options for offering education opportunities to employees as an additional benefit. Commissioner Dawson noted that she is nervous that some departments have more opportunities than others for promotion and that this could create certain employees being hand picked over others who may want to apply for the position. Commissioner Rostad noted that an

internal and external search could be conducted simultaneously. Commissioner Griggs and Deutsch noted that the Park District is in the middle of a strategic planning process and the Park District should wait for that to be completed before modifying the policy.

No motion was made on this matter.

Approval of Strategic Development Framework for Fargo Park District Foundation

Brian Arett presented to the Board on this matter. It was noted that the Framework is designed to establish short- and long-term goals for the Strategic Focus and funding strategies of the Foundation. The goal is to create a long-term sustainable foundation for the environment. Included in the Framework is a concept of hiring two employees, including a director, to run the Foundation.

Commissioner Stacey Griggs moved and Commissioner Jerry Rostad seconded a motion to approve adopting the Strategic Development Framework for the Fargo Park District Foundation as presented and to appoint one member from the Fargo Park Board to a task force to establish a governance model between the Fargo Park Board and the Fargo Park District Foundation Board.

Approval of Resolution Authorizing Assignment of Pledges to the Fargo Park District Foundation

Broc T. Lietz presented to the Board on this matter. It was noted that that the private pledge agreements include payment over time, ranging from 5-10 years. All agreements are between the donor and the Fargo Park District. For logistical ease of transaction, the Fargo Park District Foundation is the obligor on the pledge loan from our lending partner. As such, the lender is requiring an Assignment of Pledges from the District to the Foundation as pledged Collateral for the loan. It was noted that Bond counsel worked with the lending partner to finalize both the loan commitment letter and resolution authorizing assignment of pledges.

Commissioner Jerry Rostad moved and Commissioner Dawn Morgan seconded a motion to approve the Resolution Authorizing the Assignment of Pledges to the Fargo Park District Foundation as presented.

Approval of Awarding Sale of General Obligation Bonds, Series 2022A for \$44,000,00 for Capital Projects

Broc T. Lietz presented to the Board on this matter. It was noted that there were 10 bidders and the spread in the bids was only 0.00153. It was noted that the winning bidder was CitiGroup Global Market, with a 20 year rate of 2.7161%. It was noted that the Park District is issuing \$38,824,000.00 in bonds and receiving a premium of \$5,378,138.35.

Commissioner Jerry Rostad moved and Commissioner Stacey Griggs seconded a motion to the sale of General Obligation Bonds, Series 2022A, as presented.

Approval of Awarding Sale of Refunding Improvement Bonds, Series 2022B for \$4,225,00.00

Broc T. Lietz presented to the Board on this matter. It was noted that there were 5 bidders and the winning bidder had a rate of 1.9889%. It was noted that the Park District will save approximately \$186,000 over the life of the bond that has a net present value of \$162,297.32.

Commissioner Joe Deutsch moved and Commissioner Stacey Griggs seconded a motion to the sale of Refunding Improvement Bonds, Series 2022B, as presented.

Discussion of Coliseum Parking Lot Reconstruction

Dave Leker presented to the Board on this matter. It was noted that the Fargo Public Schools is moving forward with replacing the majority of the parking lot at Fargo North High School and asked if the Park District wanted to have the Coliseum lot reconstructed at the same time for cost efficiencies. It was noted that Directors and Fargo Public Schools have been in discussions as to how the Park District would pay for its portion of the reconstruction. It was recommended that the Fargo Public Schools would finance the Park District's portion and the Park District would pay Fargo Public Schools over time.

Commissioner Dawson noted that the Coliseum parking lot is large and the entire parking lot is not used for Coliseum events. Commissioner Morgan noted that the Park District hasn't had an opportunity to design the parking lot to suit its needs at this point, including landscaping. Commissioner Rostad noted that the School District put the bids out without the conversation with the Park District prior to bidding. The Commissioners jointly agreed that further information would be needed before a decision could be made on this issue.

No action was taken on this matter.

At the conclusion of the above agenda items, a motion to adjourn was made and seconded, and upon unanimous consent the meeting adjourned at approximately 7:50 p.m.

Dave Leker, Clerk



MEMORANDUM

DATE: April 6, 2022

TO: Fargo Park Board Commissioners

FROM: Dave Bietz, Parks Director

RE: Consent Agenda Item No. (d) - Approve to solicit for bids for the 2022 Concrete and Asphalt Improvement projects

In alignment with our Procurement Policy, Policy No. 390, we are requesting permission to publicly bid the 2022 Concrete and Asphalt Improvement Projects. Funds for this project are budgeted in 2022. The list of projects would be as follows:

- Stone Bridge #1 Park
- Stone Bridge #2 Park
- Oak Grove Park
- McCormick & Jefferson Park (from 2nd Avenue to 9th Avenue)
- Kennedy Elementary
- Friendship Park
- Lindenwood Park
- Centennial Elementary
- Rose Creek Golf Course Hole #5 Cart Path
- Rose Creek Maintenance Shop
- Village West Trail
- Trollwood Park Trail
- South Woodhaven Playground border and shelter slab
- Westgate Playground border
- Willow Park Playground Border and trail segment
- Centennial Park shelter slab

It was recommended at the March 30, 2022, Facilities Committee Meeting to move this item to the full board on the Consent Agenda for consideration to approve the public bid for these projects.

If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.

Sample Motion: I make the motion to approve the request for permission to publicly bid the 2022 Concrete and Asphalt Projects.

Dave Leker, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Stacey Griggs * Dawn Morgan * Jerry Rostad
CLERK – Dave Leker



Valley
Senior Services

Memo

Date: April 6, 2022

To: Fargo Park Board Commissioners

From: Paul Grindeland, Transportation Manager – Valley Senior Services (VSS)

Re: Consent Agenda Item No. (e) - Approve to adopt the North Dakota Department of Transportation Transit Procurement manual for Valley Senior Services Transit Program

The North Dakota Department of Transportation (NDDOT) is requiring all transit agencies to update their Transit Procurement Manuals or adopt the new NDDOT Transit Procurement Manual; Valley Senior Services has chosen to adopt the NDDOT manual. To adopt the NDDOT manual, NDDOT requires board approval and signature of the Procurement Plan Adoption & Procurement Officer Designation form.

It was recommended by the Committee at the March 30, 2022, Facilities Committee Meeting to bring this to the full board on the Consent Agenda for consideration and approval.

If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.

Sample Motion: Move to adopt the North Dakota Department of Transportation Procurement manual for Valley Senior Services Transit Program.



TRANSIT PROCUREMENT PLAN

Prepared By:
Local Government Division, Transit Section

November 2021

Plan Update History		
Section Number and Title	Effective Date	Summary

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Chapter 1: State Transit Procurement Program

1.1 INTRODUCTION

The North Dakota Department of Transportation (NDDOT) has developed this procurement plan in accordance with the U. S. Department of Transportation, Federal Transit Administration (FTA) and State of North Dakota requirements for all recipients using State and FTA funds.

When an entity applies for and accepts state and federal funds, they also are accepting the responsibility of maintaining oversight of the procurement process and assuring it is compliant. State and federal regulations regarding procurement of goods and services are complete, detailed and often change to reflect changes in legislation. Before procurements are initiated, recipients should review these resources and work with the Transit Section to ensure required steps are followed.

Procurement is the process of purchasing, renting, leasing, or otherwise acquiring any goods or services. This includes the process of acquisition, including description of requirements, solicitation of bids and proposals, evaluation and selection of sources, preparation and award of a contract, and all phases of contract administration (N.D.A.C. § [4-12-01-02](#)). The terms “procurement” and “purchasing” are used interchangeably.

It is a state policy that each state agency and institution obtain necessary goods and services at a competitive cost, consistent with quality, time, and performance requirements with fair and equal opportunity to all persons qualified to sell to the State, except as otherwise provided by law (N.D.C.C. § [54-44.4-01](#)). These procedures are not intended to restrict the effectiveness of individuals involved in the procurement, but to provide for legal, complete, and consistent consideration of all aspects of the procurement process.

The purpose of this plan is to establish guidelines for procurement that are in accordance with North Dakota Century Code (N.D.C.C.), North Dakota Administrative Code (N.D.A.C.) and written directives of the Office of Management and Budget (OMB). This plan is intended to be a desktop reference and training plan for state employees responsible for purchasing printing, goods, and services. Agencies and institutions may establish internal procedures that do not conflict with state procurement laws, rules, and these guidelines.

If questions arise, contact the OMB State Procurement Office at 701-328-2740.

1.2 STATE PROCUREMENT PROGRAM

OMB is the administrative agency for state procurement for the executive branch of government, excluding institutions under the jurisdiction of the State Board of Higher Education. OMB promulgates rules related to state procurement practices. The State Procurement Office (SPO) is the section within OMB responsible for state procurement. SPO will make purchases on behalf of agencies, and provide procurement assistance (N.D.C.C. §§ [54-44-04\(18\)](#), [54-44.4-02](#), [54-44.4-04](#)).

The State Board of Higher Education has the authority to determine policy for purchasing for the North Dakota University System in coordination with OMB (N.D.C.C. § [15-10-17](#), [S.B.H.E Policy 803.1](#), [NDUS Procedure 803.1](#))

The OMB has assigned a State Procurement Officer to each agency and institution. The Procurement Officer Assignments (State of ND Employees – ONLY) are posted on the OMB website. Don't hesitate to contact the OMB State Procurement Officer assigned to your agency or institution when you need assistance.

1.3 LEAD PROCUREMENT OFFICER – PROCUREMENT LIAISON

OMB and NDUS requires each agency and institution to designate a lead procurement officer who is responsible for the procurement functions of the organization. (NDUS Procedure [803.1](#))

OMB asks each agency head to complete a [Procurement Liaison Designation form](#), SFN 53112 to

designate the agency's lead procurement officer and liaison to OMB State Procurement.

1.4 TRANSIT SUBRECIPIENT – ONLY

A procurement officer is “an individual duly authorized to enter and administer purchasing contracts and make written determinations with respect thereto and also includes an authorized representative acting within the limits of authority” (N.D.C.C. § 54-44.4-01).

Each transit subrecipient must designate a procurement officer. They would be responsible for the state and federal purchases for the agency. Subrecipients must complete the Procurement Adoption-Procurement Officer Designation form (*Attachment 34*) located in the BlackCat System under Global Resources. The form must be completed, approved by the board, and uploaded into each agencies BlackCat System - Resources under the Procurement folder.

The designated procurement officer must follow all the requirements in the plan unless noted State of ND Employees – ONLY. Please note that your procurement may be deemed invalid by NDDOT if you do not allow the NDDOT Transit Section adequate time to review throughout the procurement process.

1.5 PROCUREMENT ONLINE WORK REQUEST SYSTEM – State of ND Employees - ONLY

OMB State Procurement Office will purchase on behalf of agencies. Agencies are also required to submit certain purchase requests to OMB. Agency employees with a NDGOV user name and password can use the Procurement Work Request System to submit a purchase request to or ask for assistance from the OMB State Procurement Office. Use the Procurement Work Request System to submit forms, comments, and questions to SPO.

If you do not have a NDGOV login, submit requests and forms to infospo@nd.gov. Contact the OMB State Procurement Office at 701-328-2740 for assistance.

1.6 ROLES AND RESPONSIBILITIES

NDDOT is the recipient authorized to receive funds directly from the State of ND and FTA. A “subrecipient” is an agency authorized to receive grant funds through NDDOT. The responsibility for the procurement process ultimately rests with NDDOT as the recipient of the State of ND and FTA grant funds. However, subrecipients are obligated to follow all applicable procurement requirements and provide information to NDDOT demonstrating what funding is being used and how requirements were met.

For ease of use of this plan, transit subrecipients and NDDOT Transit Section are both referred to as a recipient. Minor deviations in the process steps for subrecipients and State of ND Employees are noted throughout the plan.

When a recipient conducts a procurement of goods or services funded with an FTA grant, it is the responsibility of that recipient to manage the entire procurement process and contract administration to ensure its compliance with relevant FTA requirements.

If a recipient accepts capital or operating assistance, FTA requirements also apply to all transit-related third-party purchase orders and contracts. In addition to ensuring adequate and open competition for federally funded purchases of goods or services, recipients must ensure vendor compliance with applicable federal regulations including, developing all procurement documents, specifications, and contract administration.

If a recipient is using State Aid from the NDDOT, the state purchasing rules still apply.

1.7 STATE PURCHASING THRESHOLDS

Effective July 1, 2018, OMB and NDUS adopted very similar purchasing thresholds. NDUS employees must follow SBHE policies and NDUS procedures. State agencies, and Transit subrecipients, excluding Higher Education Institutions, must follow state laws, administrative rules, and OMB guidelines.

Purchasing Thresholds Effective July 1, 2018		
State agencies and transit subrecipients, excluding Higher Education institutions, must follow OMB guidelines . NDUS institutions must follow SBHE policies and NDUS procedures .		
Level	Competition Requirements	Documentation Maintenance Requirement
Level 1 “Micro” Purchase Less than \$10,000	Obtain at least one fair and reasonable quote. Note: Equipment and software must be added to inventory in the BlackCat System if \$5,000 or greater. (N.D.C.C. § 54-27- 21 Fixed Asset Minimum Reporting Value) State agencies (excluding Higher Education institutions) must submit printing purchase requests \$5,000 and over to OMB State Procurement. State agencies must rotate vendors solicited on an equitable basis (N.D.A.C. § 4-12-08-02).	NDUS: Documentation not required Alternate Procurement form not required if multiple quotes not solicited. State agencies & Transit subrecipients: Document vendors solicited, quotes received, and award determination.
Level 2 Small Purchase At least \$10,000 but less than \$50,000	Solicit informal quotes/bids or proposals from at least three vendors, or post to SPO Online with appropriate state bidders list. May send to additional vendors. State agencies: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov Transit subrecipients: SPO Online is not available for Transit Subrecipients. If purchasing ADA vehicles off the State Bid, approval required from the Transit Section before ordering. Assets (vehicle, equipment, software, facility, etc.) must be added to Inventory in the BlackCat System if \$5,000 or greater.	Documentation is required. Alternate Procurement form required if competition is not solicited from at least three vendors. The form is not required if 3 vendors are solicited and fewer than three bids or proposals are received.
Level 3 Informal Written Purchase At least \$50,000 but less than \$100,000	Solicit informal bids or proposals using SPO Online with appropriate state bidders list. May send to additional vendors. State agencies: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov Transit subrecipients: SPO Online is not available for Transit	Documentation Required Alternate Procurement form required if: <ol style="list-style-type: none"> 1. Competition is limited or not solicited. 2. SPO Online is not used. SPO Online is not available for Transit Subrecipients.

	<p>Subrecipients.</p> <p>If purchasing ADA vehicles off the State Bid, approval required from the Transit Section before ordering.</p> <p>Assets (vehicle, equipment, software, facility, etc.) must be added to Inventory in the BlackCat System if \$5,000 or greater.</p>	<p>Transit: Approval required before purchase.</p>
<p>Level 4 Formal Purchase</p> <p>\$100,000 and over</p>	<p>Must be purchased using formal sealed bids or Request for Proposal (RFP). Solicitations must be posted using SPO Online with appropriate state bidders list. May send to additional bidders.</p> <p>State agencies: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov</p> <p>Transit subrecipients:</p> <p>SPO Online is not available for Transit Subrecipients.</p> <p>If purchasing ADA vehicles off the State Bid, approval required from the Transit Section before ordering.</p> <p>Assets (vehicle, equipment, software, facility, etc.) must be added to Inventory in the BlackCat System if \$5,000 or greater.</p>	<p>Documentation is required.</p> <p>Alternate Procurement form required if:</p> <ol style="list-style-type: none"> 1. Competition is limited or not solicited, or competition is limited. 2. SPO Online is not used. SPO Online is not available for Transit Subrecipients. <p>Transit: Approval required before purchase.</p>
<p>Questions? Contact OMB State Procurement at infospo@nd.gov or 701-328-2740 Updated July 1, 2019</p>		

1.8 FEDERAL REQUIREMENTS

The following general requirements are established in FTA [Third Party Contracting Guidance \(Circular 4220.1F\) \(dot.gov\)](#) and [Best Practices Procurement & Procurement Manual \(dot.gov\)](#) .

Cost Plus Percentage of Cost Contracts - FTA does not allow Cost plus Percentage of Cost Contracts. Profit must be set at a fixed amount (the "fixed fee") on contracts with third party vendors, based on the initial estimate of work.

Conformance with State and Local Law - Recipients shall use their own procurement procedures that reflect applicable State and local laws and regulations, provided that the procurements conform to applicable federal law, including the requirements and standards identified in Circular 4220 (as amended) Third Party Contracting Requirements.

Special Notification Requirements for States – The FTA requires the following statement to be included in all solicitation documents: "Federal grant monies (insert federal grant agreement amount) fund this contract, in whole or in part (Section 53XX – CFDA 20.5XX).

Contract Administration System - Recipients shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. A sound contract administration system identifies what is needed in the procurement and documents all steps in the process (i.e. solicitation, negotiation, and contract). Recipients should refer to the contract during the life of the contract to ensure the contractor is complying with all requirements. Contract administration starts with the procurement. Recipients should ensure all pertinent information required in the contract is included in the solicitation. Failure to do so may cause cardinal changes which are prohibited by FTA. Anything negotiated during an RFP should also be included in the contract. Recipients should watch for any changes that may not have been in the original solicitation.

Written Standards of Conduct - Recipients shall maintain written standards of conduct governing the performance of their employees engaged in the award and administration of contracts and regarding potential conflicts of interest. No employee, officer, agent, immediate family member, partner, or board member of the grantee shall:

- 1) participate in the selection, award, or administration of a contract supported by FTA funds if a conflict of interest exists, real or apparent or
- 2) solicit or accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts.

Liquidated Damages - FTA has determined that a recipient may use liquidated damages if the recipient reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. The rate and measurement standards must be calculated to reasonably reflect the recipient's costs should the standards not be met and must be specified in the solicitation and contract. The assessment for damages is often established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The procurement file should include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account involved unless FTA permits otherwise.

Ensuring Most Efficient and Economic Purchase - Recipient procedures shall provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

Written Record of Procurement History - Recipients shall maintain records detailing the history of procurement. Each procurement checklist allows recipients to document a Written Record of

Procurement History.

Independent Cost Estimate (must be performed if the value of the procurement will exceed the Simplified Acquisition Threshold of \$250,000) -The recipient must establish a cost estimate in advance of bidding out work to ensure a clear basis for a cost or price analysis. The cost estimate is developed based on product knowledge, experience, and market status, and is used in performing price and cost analysis later on in the procurement process. To see a sample independent cost estimate, see *Attachment 23*.

Cost or Price Analysis - The recipient must perform a price or cost analysis before awarding a contract to determine if the bids provided are fair and reasonable. This analysis must be used in conjunction with the independent cost estimate created prior to the solicitation of price quotes for all types of procurements. The type (price or cost) and degree of analysis is dependent on the facts surrounding the particular procurement situation. In general, the rule behind whether to do a PRICE or COST analysis is the following:

- Price analysis (which is comparing quotes to catalog or market prices, via previous contracts or comparison with other competitive proposals) may be performed for most procurements.

Sources of information that are available to conduct a price analysis include:

- o Comparisons with other competitive proposals
- o Previous contracts
- o Catalog or market prices
- o Historical prices and trending
- o Independent cost estimates (If the value of the procurement will exceed the Simplified Acquisition Threshold of \$250,000)
 - Cost analysis (which includes examining variances from the independent estimate as well as the differences between bids recorded, rather than assuming that open market pricing always equates to appropriate pricing) must be performed for procurements that:
 - o Require the contractor to submit estimates for labor hours, overhead, and materials
 - o Result in a situation where price competition is lacking
 - o Consist of a sole source procurement

Awards to Responsible and Responsive Contractors - Recipients shall make awards only to responsible and responsive contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as conforming to the requirements of the solicitation, contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. All procurements must include a printout from www.sam.gov. The date of the printout must be showing on the page.

Advanced Payments – FTA does not allow advanced payments

Revenue Contract – Contracts whose primary purpose is either to generate revenues in connection with a transit related activity, or to create business opportunities utilizing an FTA funded asset. FTA requires these contracts to be awarded utilizing competitive selections procedures and principals. The extent of and type of competition required is within the discretionary judgment of the grantee.

Written Protest Procedures - Recipients shall have written protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to NDDOT. NDDOT is responsible for notifying FTA. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the grantee before pursuing a protest with NDDOT or FTA.

Changes and Modifications - Recipients shall have written changes and modifications procedures to handle and resolve issues, clarifications, errors and corrections relating to their procurements and shall in all instances disclose such information to NDDOT. NDDOT is responsible for notifying

FTA, as needed. All changes and modifications to a procurement must be documented.

Contract Period of Performance Limitation - Recipients shall not enter into any contract with period of performance exceeding five (5) years inclusive of options without prior written FTA approval. In addition, recipients must not enter into contracts for revenue rolling stock and replacement parts with a period of performance exceeding five years inclusive of options, extensions, or renewals.

Full and Open Competition - All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Unreasonable requirements placed on firms in order for them to qualify to do business;
- Unnecessary experience and excessive bonding requirements;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive awards to any person or firm on retainer contracts;
- Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;
- The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered; and
- Any arbitrary action in the procurement process.

Written Procurement Selection Procedures – Recipients shall have written selection procedures for procurement transactions. All solicitations shall:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- Use a "brand name or equal" description only when it cannot provide an adequate specification or more detailed description, without performing an inspection and analysis, in time for the acquisition under consideration. A recipient wishing to use "brand name or equal" must carefully identify its minimum needs and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation.
- Identify all requirements that vendors must fulfill and all other factors to be used in evaluating bids or proposals.

Pre-Qualification Criteria – Recipients shall ensure that all lists of prequalified persons, firms or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition. Also, recipients shall not preclude potential bidders/proposers from qualifying during the solicitation period, which is from issuance of the solicitation to its closing date.

Options – Recipients may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a recipient may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If a recipient chooses to use options, the requirements below apply:

- Evaluation of Options: The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.
- Exercise of Options:
 - The exercise of an option must be in accordance with the terms and conditions of the

option stated in the initial contract awarded.

- An option may not be exercised unless the recipient has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.
- At the time options are signed, it is imperative to include the updated federal clauses. The contractor should have signed copies of the clauses for every year of the contract.

Intergovernmental Procurement Agreements - To foster greater economy and efficiency, recipients are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services. The requirements and standards of Circular 4220 Third Party Contracting Requirements apply to procurements entered into under such agreements using FTA funds.

Veterans Hiring Preference - Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed, or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

Use of General Services Administration (GSA) Schedules and Excess or Surplus Federal Property State and local grantees may use approved federal supply schedules of GSA for the procurement of certain goods and services, 40 U.S.C. § 481(b). Price lists will be available from GSA and may include an administrative fee for GSA in the price of items on the schedule. Recipients must contact GSA for guidance on using the GSA supply schedules.

Use of Value Engineering in Construction Contracts - Recipients are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lowest cost.

Use of Time and Materials Type Contracts – Recipients will use time and material type contracts only after a determination that no other type of contract is suitable and if the contract specifies a ceiling price that the contractor shall not exceed, except at its own risk.

Responsibility for Settlement of Contract Issues/Disputes - Recipients alone will be responsible for sound administrative and business practices and settlement of all contractual and administrative issues arising out of procurements.

Prohibition Against Geographic Preferences – Recipients shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt state licensing laws. However, geographic location may be a selection criterion in procurements for Architectural and Engineering (A & E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Architectural and Engineering (A & E) Contracts – A & E contracts should follow the Brooks Act, which requires the selection of engineering and design related services on the basis of demonstrated competence and qualifications for the type of professional services required. It also includes serial negotiations for fair and reasonable compensation.

FTA Required Clauses - FTA required clauses must be included in the recipient procurement process. Master lists of all clauses are included as *Attachment 1*.

Construction Contracts Over \$100,000 - For construction contracts over \$100,000, FTA accepted local bonding requirements must be met.

Service Contracts - Any service contracts that exceed five years in total length including base and options require prior written approval from FTA. Competitive procurement requirements must be included in the recipient's third-party contract for services funded with federal dollars.

Progress Payments - Progress payments are not allowed unless the recipient has obtained title or possession of the property or taken alternative steps to protect the recipient's interest.

Procurement of Vehicles – When a recipient is awarded federal funds to purchase a vehicle the following must be met:

- Buy America Requirements.
- The vehicle must be tested as required prior to the expenditure of FTA funds (<http://altoonabustest.psu.edu/home>).
 - If the bus model does not require testing, the recipient must obtain a certification from the manufacturer (not the vehicle dealer) that the bus does not need to be tested.
 - The recipient must also complete the Pre-Award and Post Delivery reporting requirements as established in the FTA handbook
<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/buy-america/58191/buyamerica-handbook-rpt0106.pdf>
- Pre-Award and Post-Delivery reporting requirements are complex. Please contact the NDDOT Transit Section for further assistance.

Piggybacking – Contact the NDDOT Transit Section prior to contracting. Piggybacking is the post-award use of a contractual/process that allows an entity who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process. Refer to the Piggybacking Worksheet for additional information:

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/united-states-best-practicesprocurement-manual-%E2%80%93>

- Any procurement where “piggy-backing” is involved shall have an assignability clause that provides for the assignment of all or part of the specified deliverables (base and option included) as originally advertised, competed, evaluated, and awarded. The clause cannot be added to the contract after award if it was missing from the original solicitation. Bidders must be placed on notice that an assignment is likely and that they will thus be delivering all of the quantities called for by the contract.
- The procurement documents shall contain a minimum and maximum quantity of deliverables.
- Any contract clauses that unduly restrict competition are prohibited.
- If a recipient is procuring any equipment or materials using option clauses, these must be evaluated at the time of the initial bid with prices established at that time.
- The use of liquidated damage clauses in recipient procurements is mandatory

Disadvantaged Business Enterprise (DBE) Requirements – DBE means a for-profit small business that is:

1. At least 51 percent owned by one or more individuals who are socially or economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals and
2. Whose management and daily operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DBE provisions apply to USDOT assisted contracts for airports, highways, and transit. This includes the use of Federal Transit Administration (FTA) planning, capital, and/or operating funds spent on contracts. The FTA requires organizations receiving FTA funds to make efforts to purchase from, or use, DBE firms.

As an FTA funding recipient, the North Dakota Department of Transportation (NDDOT) Transit Section and its subrecipients must adhere to DBE provisions that must be addressed in the procurement process. These provisions include:

DBE Goal Setting

Three Year Goal

An overall goal for DBE participation in FTA assisted contracts is developed by NDDOT and submitted to FTA for review every three years. The goal incorporates the anticipated FTA funded contracting opportunities of both NDDOT and subrecipients for a three-year period defined by FTA.

Information on NDDOT's DBE goal is available on the NDDOT website:

<https://www.dot.nd.gov/divisions/localgov/docs/transit/FTA-2020-2022-Triennial-DBE-Goal-Setting-Methodology.pdf>

- Contract Specific Goals - Recipients should notify the NDDOT Transit Section of upcoming procurements. NDDOT will determine if a contract goal should be established based on the size and nature of a particular procurement as well as the type and location of work, availability of DBEs to perform the particular type of work, etc. Note: Vehicle procurements are not subject to NDDOT's DBE goal setting requirements.
- No DBE Goal - If NDDOT determines that no specific DBE goal should be assigned to the procurement, the NDDOT Transit Section will work with the recipient to assign the appropriate federal clause. This includes eliminating the language on any specific goal since the procurement falls under the NDDOT overall goal.
- DBE Goal Established - If NDDOT determines there should be an assigned DBE goal to the procurement, the NDDOT Transit Section will assist the recipient in completing the additional paperwork to be included in the solicitation along with the appropriate federal clause.

The DBE goal setting process on a procurement is technical and requires specific steps that must be followed throughout the procurement process and as part of contract administration. The NDDOT Transit Section will provide assistance for recipients whose procurement is a signed a DBE goal.

Good faith efforts are a consideration when a contract specific goal is established. Contact the NDDOT Procurement Manager for procedures and methodology for determining good faith efforts.

DBE Contract Clauses

All FTA-assisted contract solicitations by NDDOT or its subrecipients must be reviewed and approved by the NDDOT Transit Section to ensure they contain the appropriate FTA clauses. These clauses contain provisions related to DBE requirements.

The required contract clauses address non-discrimination, third-party contracting, prompt payment, Transit Vehicle Manufacturer (TVM) certification, termination, and remedies for prime contractors that do not comply.

Bidders List

Subrecipients with third-party contracts are required to submit a bidders list to NDDOT. A full description of the process used and documentation required for a bidders list can be found in the NDDOT DBE Race-Neutral Locally Bid Transit Project special provision.

Prompt Payment

Prompt payment by prime contractors to their subcontracts is also required, including the return of retainage. While contract-specific goals are not required on all contracts, if a contract-specific goal is established, additional information must be collected from bidders prior to contract award.

TVM Certification

Recipients must ensure that transit vehicle procurements using FTA funds only occur with TVMs that adhere to FTA requirements. This is done through the inclusion of FTA required contract clauses and a certification, to be completed by the TVM, in the solicitation and pre-award documents.

Transit Vehicle Award Report

Recipients are required to submit, within 30 days of making an award, the name of the successful transit vehicle manufacturer and the total dollar value of the contract (49 CFR 26.49) using the FTA Transit Vehicle Award Report form. The FTA report form and instructions can be found at:

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-transit-vehicle-manufacturers>

Subrecipients must contact the NDDOT Transit Manager for approval to purchase a transit vehicle. The NDDOT Transit Section will complete and submit the Transit Vehicle Award Report form on behalf of the subrecipient.

Required Federal Contract Clauses

When a recipient receives federal funds directly or indirectly from FTA certain specific federal requirements must be met not only by the recipient but also by your third-party vendor or contractor. Recipients/vendors/contractor is expected to be familiar with and meet all stated or otherwise applicable federal clauses and standards. FTA third party contract clauses can be obtained through "Procurement Pro," an online procurement management system produced by National RTAP. Procurement Pro is available through the following webpage:

<http://www.nationalrtap.org/>

Recipients are responsible for evaluating these requirements for relevance and applicability to each procurement. A Master list of all the FTA clauses is included in this manual. Recipients should work with the NDDOT Transit Section to ensure completeness of contract clauses in procurements and agreements.

Listed below is the table of FTA required contract clauses and federal certifications.

Applicability of Third-Party Contract Provisions

(Excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock & Refurbishments	Construction	Equipment, Materials & Supplies
No Federal government obligations to third-parties by use of a disclaimer	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All
Access to Records	All	All	All	All	All

<i>Federal changes</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Civil Rights (EEO, Title VI & ADA)</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Incorporation of FTA Terms</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Energy Conservation</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Termination Provisions (not required of states)</i>	<i>>\$10,000</i>	<i>>\$10,000</i>	<i>>\$10,000</i>	<i>>\$10,000</i>	<i>>\$10,000</i>
<i>Debarment and Suspension</i>	<i>>\$25,000</i>	<i>>\$25,000</i>	<i>>\$25,000</i>	<i>>\$25,000</i>	<i>>\$25,000</i>
<i>Buy America Requirements</i>			<i>>\$150,000</i>	<i>>\$150,000</i>	<i>>\$150,000 (for steel, iron, manufactured products)</i>
<i>Provisions for resolution of disputes, breaches or other litigation</i>	<i>>\$250,000</i>	<i>>\$250,000</i>	<i>>\$250,000</i>	<i>>\$250,000</i>	<i>>\$250,000</i>
<i>Lobbying</i>	<i>>\$100,000</i>	<i>>\$100,000</i>	<i>>\$100,000</i>	<i>>\$100,000</i>	<i>>\$100,000</i>
<i>Clean Air</i>	<i>>\$150,000</i>	<i>>\$150,000</i>	<i>>\$150,000</i>	<i>>\$150,000</i>	<i>>\$150,000</i>
<i>Clean Water</i>	<i>>\$150,000</i>	<i>>\$150,000</i>	<i>>\$150,000</i>	<i>>\$150,000</i>	<i>>\$150,000</i>
<i>Cargo Preference</i>			<i>Involving property that may be transported by ocean vessel</i>	<i>Involving property that may be transported by ocean vessel</i>	<i>Involving property that may be transported by ocean vessel</i>
<i>Fly America</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>
<i>Davis Bacon Act</i>				<i>>\$2,000 (including ferryvessels)</i>	
<i>Copeland Anti-Kickback Act</i>				<i>Section 1: All Section 2: >\$2,000 (including ferryvessels)</i>	
<i>Contract Work Hours & Safety Standards Act</i>		<i>>\$100,000</i>	<i>>\$100,000</i>	<i>>\$100,000 (including ferryvessels)</i>	
<i>Bonding (not required of states)</i>				<i>>\$250,000 (including ferryvessels)</i>	
<i>Seismic Safety</i>	<i>A&E for new Buildings & additions</i>			<i>New buildings & additions</i>	

<i>Transit Employee Protective Arrangements</i>		<i>Transit operations funded with Section 5307, 5309, 5311 or 5316 funds</i>			
<i>Charter Service Operations</i>		<i>All</i>			
<i>School Bus Operations</i>		<i>All</i>			
<i>Drug and Alcohol Testing</i>		<i>Transit operations funded with Section 5307, 5309 or 5311 funds</i>			
<i>Patent Rights and Rights in Data and Copyrights requirements</i>	<i>Research & development</i>				
<i>Program Fraud & False or Fraudulent Statements & Related Acts</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Coronavirus Relief and Cares Act Certification</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Disadvantaged Business Enterprises (DBEs)</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Prompt Payment</i>	<i>All non TVM purchases if threshold for DBE program met</i>	<i>All non TVM purchases if threshold for DBE program met</i>	<i>All non TVM purchases if threshold for DBE program met</i>	<i>All non TVM purchases if threshold for DBE program met</i>	<i>All non TVM purchases if threshold for DBE program met</i>
<i>Public Transportation Agency Safety Plans (PTASP)</i>		<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Recycled Products</i>		<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>		<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>	<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>
<i>ADA Access</i>	<i>A&E</i>	<i>All</i>	<i>All</i>	<i>All</i>	
<i>Notification to FTA</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Simplified Acquisition Threshold</i>	<i>>\$250,000</i>	<i>>\$250,000</i>	<i>>\$250,000</i>	<i>>\$250,000</i>	<i>>\$250,000</i>
<i>Equal Employment Opportunity</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Veterans Employment</i>				<i>All</i>	
<i>Special Notification Requirements for States</i>	<i>Limited to states</i>	<i>Limited to states</i>	<i>Limited to states</i>	<i>Limited to states</i>	<i>Limited to states</i>

<i>DHS Seal, Logo, & Flags</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Conformance with ITS Architecture</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Special DOL EEO Clause</i>				<i>All</i>	
<i>Safe Operation of Motor Vehicles</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>	<i>All</i>
<i>Violation and Breach of Contract</i>	<i>>\$250,000</i>	<i>>\$250,000</i>	<i>\$250,000</i>	<i>All</i>	
<i>Privacy Act</i>	<i>Contracts with personal identifier files</i>	<i>Contracts with personal identifier files</i>	<i>Contracts with personal identifier files</i>	<i>Contracts with personal identifier files</i>	<i>Contracts with personal identifier files</i>
<i>Pre-Award and Post Delivery Audits of Rolling Stock Purchases</i>			<i>All</i>		
<i>Bus Testing</i>			<i>All</i>		

REQUIRED CERTIFICATIONS, REPORTS, AND FORMS
(excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
Bus Testing Certification and Report	Procurements of buses and modified mass produced vans	§16.d(m)
Transit Vehicle Manufacturer Certification	Procurements of buses and modified mass produced vans	§12.e(3)
Buy America Certification	Projects >\$150,000 that contain steel, iron or manufactured products (see note)	§15.a
Pre-Award Audit	Rolling stock procurements	§16.d(m)
Pre-Award Buy America Certification	Rolling stock procurements >\$150,000(see note)	§16.d(m)
Pre-Award Purchaser's Requirement Certification	Rolling stock procurements	§16.d(m)
Post-Delivery Audit	Rolling stock procurements	§16.d(m)
Post-Delivery Buy America Certification	Rolling stock procurements >\$150,000(see note)	§16.d(m)
Post-Delivery Purchaser's Requirement Certification	Rolling stock procurements	§16.d(m)
On-Site Inspector's Report	Rolling stock procurements for more than 10 vehicles for areas >200,000 in population and 20 for areas <200,000 in population	§16.d(m)
Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification	Non-rail rolling stock procurements	§16.d(m)

Excluded Parties Listing System search	Procurements > \$25,000	§4.h
Lobbying Certification	Procurements > \$250,000	§4.c
Standard Form LLL and Quarterly Updates (when required)	Procurements > \$250,000 where contractor engages in lobbying	§4.c

1.9 PROCUREMENT OFFICER CERTIFICATION TRAINING PROGRAM – State of ND Employees - ONLY

A procurement officer is "an individual duly authorized to enter and administer purchasing contracts and make written determinations with respect thereto and also includes an authorized representative acting within the limits of authority" (N.D.C.C. § 54-44.4-01).

The ND Procurement Officer Certification Program was created in 2002 to provide state employees responsible for purchasing with training based on the type of procurement they conduct (N.D.A.C. §4-12-03). The Procurement Officer Certification program has four levels matching the competition thresholds. It is recommended that the certification courses be completed in order, but this is not required. Visit the OMB internal website for [Procurement Officer Certification training](#) registration information.

Procurement Officer Certification Training Level
Level 1: Micro Purchases less than \$10,000
Level 2: Small Purchases at least \$10,000 but less than \$50,000
Level 3: Informal Purchases at least \$50,000 but less than \$100,000
Level 4: Formal Purchases \$100,000 and over

State employees who have been assigned a state purchasing card (P-card) must complete a minimum of Level 1 training, excluding state employees who use a purchasing card exclusively for travel expenses. A purchasing card is a method of payment, so a Level 1 certified P-card user may make payments greater than \$10,000 using the P-card.

A Level 1 certified employee may make purchases from government sources of supply greater than \$10,000.

An individual who performs the following tasks must be certified:

- The agency's lead procurement officer and Procurement Liaison (Minimum of Level 1)
- Purchases from state contracts
- Solicits bids and proposals
- Serves as the point of contact for questions related to a solicitation
- Makes an award determination and issues a notice of intent to award
- Makes determinations required by state procurement laws and rules
- Responds to protests

Individuals do not need certification for the following tasks:

- Purchase from government entities
- Submit a Procurement Work Request
- Develop specifications
- Receive and opens bids or proposals
- Participate in an evaluation process
- Approve purchase orders or purchasing card purchases
- Receive and accept goods and services
- Authorize payments
- Agency heads or their designees who sign purchase orders, contracts, and Alternate Procurement forms

1.10 DELEGATED PURCHASE AUTHORITY

OMB has statutory authority to delegate purchase authority to state agencies (N.D.C.C. § [54-44.4-03](#), N.D.A.C. § [4-12-03](#)). OMB delegates purchase authority to the head of the agency and institution. Agency heads may delegate purchase authority to employees based upon the procurement certification training completed using the [Delegation of Purchase Authority form](#), SFN 2566. Completing training does not guarantee that an employee will receive delegated purchase authority. (N.D.A.C. § [4-12-03](#))

Each NDUS institution shall designate one or more persons to act as the institution's lead procurement officer. Lead procurement officers may delegate purchase authority to employees as needs of the institution dictate (NDUS Procedure [803.1](#)).

The delegation will specify any limits (e.g. dollar limits, specific goods or services). Employees may only make purchases within the scope of their delegated authority. Individuals who have been delegated purchase authority must comply with all applicable laws, rules, guideline policies and procedures related to procurement.

1.11 OMB BLANKET DELEGATED PURCHASE AUTHORITY

Effective July 1, 2018, OMB has delegated the following blanket authority to the heads of agencies and institutions subject to procurement laws, rules, and OMB guidelines:

- Goods and Services. Agencies may purchase goods and services, regardless of the dollar amount.
- Printing. Agencies may purchase printing less than \$5,000 subject to the Guidelines for State Procurement Printing. Submit a Purchase Request for printing \$5,000 and over using the Procurement Work Request System. State of ND Employees - ONLY
- Information Technology (IT). Agencies may purchase Information Technology, subject to the Guidelines for Information Technology Procurement. IT purchase \$25,000 and over must be reviewed by the Information Technology Department. Procurement Officers for major IT projects \$500,000 and over must receive a special purchasing delegation from OMB. (N.D.C.C. § [54-35-15.2](#)) State of ND Employees – ONLY
- Alternate Procurements. Alternate Procurement documentation is not required for limited and noncompetitive purchases less than \$10,000. Alternate Procurement approval is required for purchases \$10,000 and over that deviate from the purchasing threshold competition requirements based on the estimated dollar value. Agencies must submit a [SFN 51403 Alternate Procurement form](#) to the State Procurement Office using the Procurement Work Request System. The Alternate Procurement must be approved by the State Procurement Office prior to the purchase. State of ND Employees – ONLY.

1.12 OMB SPECIAL DELEGATED PURCHASE AUTHORITY – State of ND Employees - ONLY

Some types of delegated purchase authority must be approved by OMB.

- Major IT – OMB must delegate special authority to procurement officers for a major information technology project (N.D.C.C. § [54-59-32](#)). The procurement officer for a major IT project must meet minimum qualifications subject to the Guidelines for Information Technology Procurement. State of ND Employees - ONLY.
- Provisional - Employees who have limited training or experience may be granted provisional procurement certification from the OMB State Procurement Office that will be valid for a limited period during which the employee must attend the required certification courses. Until the employee completes the training, a certified procurement officer must oversee the employee's work to ensure compliance with state procurement laws, rules, policies, and procedures.

- Non-State Employee – Under special circumstances, an agency may desire to have a non-state employee as their procurement officer. Use the delegation of purchase authority form to request OMB state procurement approval.

Chapter 2: Compliance, Ethics and Violations

2.1 COMPLIANCE

The state procurement program is the vehicle through which a significant amount of the state's taxpayer dollars are spent; therefore, the integrity of the state procurement program is paramount. Any improper actions or the appearance of improper actions by state personnel or vendors can compromise that integrity.

Each person with authority to obligate funds through the state procurement process must know and abide by the laws, rules, policies and procedures that govern purchasing practices for their state agency or higher education institution (N.D.A.C. § [4-12-03-04](#)). The integrity of the state procurement program is dependent upon sound procurement practices and procedures that are consistently applied by all employees purchasing on behalf of the state.

2.2 ETHICS

Procurement officers represent the State of North Dakota and must maintain courteous and professional relationships with all vendors. It is imperative to avoid any activities, relationships, and communications that in any way diminish, or appear to diminish, fair and impartial treatment of vendors. Do not hesitate to advise the requestor if some aspect of the purchase request is inconsistent with state procurement practices. All public employees and vendors involved in the state procurement process must comply with N.D.A.C. Chapter [4-12-04](#) related to ethics in public procurement related to:

- Good faith actions. (N.D.A.C. § [4-12-04-01](#)) All parties involved in the solicitation, negotiation, performance, and administration of contracts for the state shall act in good faith. Good faith means that all parties to a contract will deal with each other honesty and fairly.
- Emphasis on competition. (N.D.A.C. § [4-12-04-02](#)) Solicitations for bids or proposals will be issued in sufficient time and in a form that will permit the highest practicable degree of full and free competition.
- Handling of information. (N.D.A.C. § [4-12-04-03](#)) Avoid giving information to a prospective bidder that might give them an unfair advantage. Handle public and confidential information according to the state's [open records laws](#). Consult your legal counsel for assistance.
- Conflict of interest. (N.D.A.C. § [4-12-04-04](#)) Avoid even the appearance of a conflict of interest. A conflict of interest occurs when an individual has a personal interest and a job responsibility, and a clear possibility exists that there may be a conflict between the two (e.g. a family member sells the needed equipment). Have another employee make the purchase to avoid an actual or potential conflict of interest. If contracting with someone within one year after they have left public service, consult legal counsel to consider N.D.C.C. §§ [12.1-13-02](#), [12.1-13-03](#). Consult your legal counsel for assistance with potential conflicts of interest.
- Attempt to influence. (N.D.A.C. § [4-12-04-05](#)) Items of nominal value offered by a vendor as a gesture of goodwill or for public relations purposes (e.g. cups, pens, samples) may be accepted. Refuse anything that exceeds a nominal value or will lead to subsequent noncompetitive purchases (e.g. offer of free equipment contingent upon future purchases). Report to the OMB state procurement manager anyone who tries to influence a procurement decision or offers anything of value that might influence or appear to influence the procurement process.
- Collusion of bidders or offerors. (N.D.A.C. § [4-12-04-06](#)) Collusion is a secret agreement

between two or more vendors to circumvent laws and rules regarding competitive bidding, commonly called "price fixing." For example, two vendors may agree to take turns submitting the lowest priced bid for a good or service. Report suspected collusion to the OMB state procurement manager.

- Nondiscrimination in source selection. (N.D.A.C. § 4-12-04-07) Source selection may not be based upon discrimination because of race, religion, color, national origin, sex, age,

pregnancy, parenthood, disability, or political affiliation.

- Artificial fragmentation prohibited. (N.D.A.C. § [4-12-04-08](#)) Procurement requirements may not be artificially divided as to constitute a small purchase [N.D.C.C. § [54-44.4-11\(3\)](#)]. Artificial fragmentation means splitting purchase requirements or splitting an invoice to stay ~~below~~ a certain dollar level to avoid competition or stay within delegated authority limits.

Consider the following:

- Similar Products. Consolidate similar products that can be purchased from one type of vendor whenever possible.
- Urgency. Urgent purchases may be separated from routine purchases.
- Predictability. When goods and services are needed on a frequent or reoccurring basis, consider consolidating requirements for a periodic purchase or term contract (i.e. items purchased weekly or monthly, or stored for later use.)

2.3 VIOLATIONS

Report any violations of procurement laws, rules, policies or procedures to the agency or institution's procurement section, regardless of the cause. Procurement violations discovered by the OMB State Procurement Office will be reported to the employing agency or institution for appropriate disciplinary action. Violation of state laws, rules, policies and procedures may constitute action outside the employee's scope of employment and the employee could incur personal liability and may not be indemnified by the state if they are sued (N.D.A.C. § [4-12-01-06](#)).

"Maverick Spend" is described as buying from vendors without following procurement policy. For example, purchases from a vendor instead of purchasing from an established mandatory government ~~source~~ of supply or state contract.

Chapter 3: State Sources of Supply – Save Time and Money

3.1 STATE SOURCES OF SUPPLY

Save time and money by using state sources of supply. When a need is identified, check first to see if the good or service is available from a state source of supply. Agencies and institutions can purchase from state sources of supply and government entities without obtaining competition, regardless of the dollar amount. Some sources of supply may be mandatory for State of ND Employees only.

Transit subrecipients are not required to use the mandatory sources and in some cases may not be allowed to use them. You are encouraged to use the state sources because they may be the most economical option.

3.2 AGENCY AND INSTITUTION INVENTORY

It is important to understand how things work at your agency. Some agencies and institutions maintain supply rooms or inventory. Contact your agency's procurement section to learn about existing inventory or supply rooms.

3.3 STATE CONTRACTS

State law requires OMB and Higher Education institutions to establish contracts for goods and services of high common use. (N.D.C.C. §§ [54-44.4-06](#), [54-44.4-13](#))

- State contracts – Visit the OMB website for state contract information.
 - "EPB" designates Environmentally Preferable/Biobased contracts.
 - "CP" designates Cooperative Purchase contracts that are available to other government entities and public schools.
 - "M" designates contracts that are Mandatory for use by executive branch agencies, excluding Higher Education institutions.
- State Contract Exemption Request form – State agencies, excluding NDUS institutions, must use the State Contract Exemption Request form, SFN 54202, if there is a mandatory state

contract that does not meet the needs of their agency. Submit the form to the state contract administrator using the SPO Procurement Work Request System. If the contract exemption is approved, the agency must follow normal procurement procedures.

- **Complaint.** Please let the State Procurement Office know about problems with state contracts, vendors, defective products, or anything else purchasing related. Submit a complaint using the SPO Work Request System or email to infospo@nd.gov.

3.4 COOPERATIVE PURCHASING

"Cooperative Purchasing" is a procurement conducted on behalf of multiple government entities. Purchasing from another entity's contract is a type of cooperative purchase commonly called "piggy-backing." Cooperative purchasing is another great way to save time and money.

- OMB may establish or participate in cooperative purchasing contracts that are made available to government, tribal agencies, and other eligible entities. (N.D.C.C. §§ [54-44.4-06](#), [54-44.4-13](#), N.D.A.C. § [4-12-02-02](#)). Law requires OMB to make determinations and provide notice to vendors. Submit an [Alternate Procurement Request form](#), SFN 51403, to request using another government entity's contract in lieu of a competitive procurement process.
- Institutions under the jurisdiction of the State Board of Higher Education may enter into cooperative purchasing agreements pursuant to N.D.C.C. § [15-10-28](#)
- [1122 "Counterdrug" Program](#). This is a federal cooperative purchasing program. North Dakota government entities with counterdrug responsibilities can use this federal program to make purchases for new supplies and equipment from General Services Administration (GSA) contracts. The State Procurement Office has designated State Point of Contact (SP C) to administer the program in North Dakota. Contact 701-328-1721.
- Transit subrecipients must contact the NDDOT Transit Section for approval prior to entering into a cooperative purchasing agreement. In some cases, both NDDOT and FTA will need to approve this agreement. FTA Master Agreement (as amended).

3.5 STATE AGENCIES AND GOVERNMENT ENTITIES – State of ND Employees ONLY

You can purchase directly from other government entities (N.D.C.C. § [54-44.4-05 \(2\)\(e\)](#) and N.D.A.C. § [4-12-15](#)). See the Attorney General's Contract [Drafting and Review Manual](#) for an interagency agreement template.

- [Federal Government](#). State agencies and institutions can contract with the federal government to purchase or lease any equipment, supplies, materials, or other property without competition. (N.D.C.C. § [21-06-08](#).)
- [Central Supply](#). Central Supply offers general office supplies and paper products. Central Supply provides free delivery to customers within the Capitol complex and will ship (freight collect) to agencies and institutions anywhere in the state. Contact Central Supply at 701- 328-3346. See the Central Supply Catalog for product information. State of ND Agencies – ONLY.
- [Central Duplicating Services](#). Central Duplicating provides printing, mailing, bindery services, technical advice, layout assistance, graphics design services, and finishing. Central Duplicating is located at the Capitol in Bismarck. Central Duplicating Services and other agencies (excluding some NDUS institutions) cannot print on coated stock, continuous forms, snap-out forms, envelopes over twenty thousand, and process color except for jobs generated on computer printers which do not exceed eleven inches/27.94 centimeters by seventeen inches/43.19 centimeters and five hundred total image pages (N.D.C.C. § [46-02- 20](#)). Contact Central Duplicating at 701-328-2772 or visit its website.
- [State and Federal Surplus Property](#). State law requires all agencies and institutions to report their surplus property to OMB. OMB also obtains Federal Surplus Property. OMB State Surplus Property makes surplus state and federal property available to government entities and eligible donees. They also have an electronic recycling program. Call 701-328-9665 or visit the State Surplus website to see a surplus property inventory listing.
- [LESO \(Law Enforcement Support Office\) 1033 Program](#). This federal program makes excess military property available to North Dakota government entities whose primary function is enforcement of federal, state and local laws, and whose compensated law enforcement officers have the powers of arrest and apprehension. Section 1033 of the National Defense

Authorization Act of 1997 authorizes the Department of Defense to transfer excess military property to state and local law enforcement agencies. Preference is given to counter-drug and counter-terrorism activities. State Surplus Property operates this program.

- [Rough Rider Industries](#). Rough Rider Industries (RRI) is the vocational training arm of the ND Department of Corrections and Rehabilitation. RRI's motto of "Building quality products while preparing quality people" keeps in line with their mission of teaching and providing the necessary job skills to adults in incarceration which will help these individuals successfully transition back into society. All governmental entities can purchase directly from Rough Rider Industries forgoing the normal procurement process (N.D.C.C. § [12-48-03.1](#)). RRI is located in Bismarck and features statewide sales and delivery of quality furniture and office systems furniture, a full line of seating and upholstery services, dumpsters and metal products, painting, powder coating, and sandblasting services, plastic bag and garbage can liners, indoor/outdoor signs, mattresses, and a full line of custom garment production and sewing services. Call 701-328-6161 or 800-732-0557 or visit www.roughriderindustries.com.
- [Core Technology Services](#). Institutions and entities under the State Board of Higher Education (SBHE) can receive a variety of IT applications and services from Core Technology Services (CTS) including hosting services. Some IT services are mandated or require CTS review prior to purchasing. See SBHE Policy [1200.1](#) and [1901.3](#) for the details. Contact CTS at 701-777-7287 or visit <http://cts.ndus.edu/> for more information.
- [Information Technology Department - Telecommunications](#). The Information Technology Department (ITD) provides a variety of information technology services, including programming, software development, and website development to state agencies. Contact ITD at 701-328-3190 or visit its website at www.nd.gov/itd. In certain instances, your agency may be required to use IT services. See Guidelines to IT Procurement (State of ND Employees – ONLY) Agencies are required to obtain all telecommunication equipment and services through ITD Telecommunications Division, including telephones and telephone systems (other than cellular phones), automated attendant systems, call sequencers, lines, circuits, all data communication equipment and services, routers, switches, data circuits (ref. N.D.C.C. § [54-59-05](#)). Submit telecommunication requests on-line on the [ITD website](#) or call ITD Telecommunications at 701-328-1002.
- [Other Government Entities](#). State agencies and institutions can purchase from other government entities within North Dakota and government entities located in other states [N.D.C.C. § [54-44.4-05 \(2\)\(e\)](#)]. Contact your legal counsel for assistance.

3.6 WORK ACTIVITY CENTERS – State of ND Employees - ONLY

It is in the public's best interest to advance employment opportunities to individuals with disabilities so that those individuals may acquire job skills and training and gain greater independence and quality of life. Work Activity Centers are nonprofit corporations, licensed by the Department of Human Services, organized for the primary purpose of employing and providing rehabilitative activities for individuals with physical disabilities, developmental disabilities, or chronic mental illnesses. State law allows any state entity or political subdivision to contract directly with work activity centers. See the online [Work Activity Center](#) listing (*Attachment 53*) of available goods and services. (N.D.C.C. § [25-16-2](#)).

Chapter 4: Specifications

4.1 PURPOSE OF SPECIFICATIONS

If the goods or services you need are not available from a state source of supply, you'll need to conduct a procurement process.

The first step in the procurement process is defining what is needed. A specification is a description of all required physical, design, performance, functional and other characteristics of a good or service the purchasing agency requires and consequently what a bidder must offer [N.D.C.C. § [54-44.4-06\(1\)](#)]. Well-written specifications ensure the state obtains goods and services that meet quality, performance, and delivery requirements at an economical price.

- [Value to the Taxpayer](#). Ensure goods and services are specified at the proper level of utility and

quality for the purpose intended in order to promote overall economy for the purpose intended (N.D.A.C. § [4-12-06-01](#)).

- Quality. Specifications establish the minimum requirements upon which the award will be based; therefore, the desired quality of the good or service must be written into the specifications. Quality is measurable. Consider only the goods or service providers that meet the minimum specifications.
- Specifications Prepared by Non-State Personnel. When someone other than a state employee or official prepares specifications for the state, that person or business entity must be excluded from submitting bids or proposals (N.D.A.C. § [4-12-06-06](#)).

4.2 BRAND-NAME SPECIFICATIONS – RESTRICTIVE SPECIFICATIONS

Specifications should encourage competition and may not be restrictive (N.D.A.C. § [4-12-06-02](#)). A specification is restrictive when the specifications, requirements, or conditions have the effect of limiting responses to only one brand, make, source, or service provider and have no reasonable relation to the actual needs of the purchasing agency.

Specification that includes a brand name must invite bidders to offer comparable products. If you use a brand name, say “Or equal” or “Equivalent to.” If a brand offered as an equivalent is rejected, notify the bidder of the reason (ref. N.D.C.C. § [44-08-01](#), N.D.A.C. § [4-12-06-03](#)).

Sometimes you do need a particular brand. For a Level 1 purchase, no [Alternate Procurement \(Attachment 2\)](#) is required if a certain brand is required. See Guidelines to Alternate Procurements or NDUS Procedure [803.1](#).

4.3 GREEN PURCHASING

State law has requirements related to the specification of environmentally preferable products (EPP). These are products that have reduced negative effect or increased positive effect on human health and the environment, when compared with competing products that serve the same purpose. See the Guidelines to Environmentally Preferable Procurements for more information. (State of ND Employees – ONLY)

- Environmentally Preferable Products. (N.D.C.C. § [54-44.4-07](#)). Procurement of environmentally preferable products, such as soybean-based ink for newsprint, recycled paper products, and bio-based products.
- Recycled Paper and Paper Products. (N.D.C.C. § [54-44.4-08](#)). Requires OMB and any state agency or institution to purchases at least 20% of the total volume of paper and paper products to be at least 25% recycled material. OMB is required to track compliance with this requirement.

4.4 WRITING SPECIFICATIONS

As a Procurement Officer, you are tasked with obtaining goods and services for your agency or institution at the needed quality, quantity, place, time, and price. Communicate with the end-user to make sure you fully understand the requirements, so you can write effective specifications.

- Avoid “mushy” language – If something is required, use “must, shall, or will.” Use “should or may” to express something that is not mandatory.
- What – Provide a detailed description of “what” you need to purchase.
 - If you are purchasing supplies or equipment, describe the purpose, physical attributes, features, and functionality. Be sure to include any required installation, training, or maintenance.
 - A specification for services is commonly called a “Scope of Work” or “Statement of Work.” If you are purchasing services, provide a detailed description of the work. Describe the tasks that need to be accomplished and any end products or “deliverables” that the contractor must provide to you. Describe any goods or services being supplied by the state.
- Who – Who must perform the work? Describe any requirements that apply to the contractor. Does the contractor need to have any special education, qualifications, experience requirements, or

licenses? Will the contractor need to obtain any licenses or permits? Will the contractor's employees need to complete background checks?

- Where – Where do the goods need to be delivered? or services performed? Provide the physical address and zip code for delivery. Provide any special instructions, such as availability of a loading dock or off-loading equipment.
- When – When do the goods or services need to be received by your agency? Provide a required delivery date. What times of the day can delivery be made?

4.5 EQUIPMENT

When buying equipment, you have many options that can be incorporated into your specifications.

- Trade-In Equipment. When replacing equipment, you may trade in your existing equipment. The specifications need to include detailed information about the equipment being offered. If possible, allow vendors an opportunity to inspect the equipment. Request prices with and without a trade-in and provide that award may be made either way. Compare the trade-in offers with the estimated outright sale price to determine which is most advantageous. You do not need approval from the OMB State Surplus Property to trade-in your equipment. However, OMB State Surplus Property can help you determine if the trade-in allowance is reasonable. Contact your agency's asset manager if the equipment is capitalized.
- Used Equipment. If you are purchasing used equipment, you may indicate a desirable age range, condition, and acceptable amount of hours or mileage. Be sure to require that the used equipment must pass your inspection or testing.
- Consumables. Are you purchasing something that will need parts or supplies on a recurring basis? Your specification and solicitation can include consumables if you want to establish a source for on-going consumable supplies.
- Service and Maintenance. Your specifications should include everything that is needed, including any installation, training, and minimum warranty. If you are buying equipment that will need occasional service or a maintenance agreement, those can be included in the specifications. If you will need the contractor to provide service after the sale, your specifications can include a maintenance agreement.

4.6 LEASE VS. PURCHASE ANALYSIS

If your agency is planning to get quotes on a lease or lease-purchase of equipment or software, you will need to do a lease versus purchase analysis. State law requires that any state agency or institution that acquires the use of an asset as a result of a lease arrangement shall prepare a written analysis documenting the decision to acquire the asset. This analysis may be reviewed during audits for the fiscal period during which the decision was made. Visit the OMB website for a [lease vs. purchase cost/benefit analysis](#) form (*Attachment 19*). See [OMB Fiscal Policy 312](#), N.D.C.C. § [54-27-21.1](#) and N.D.A.C. § [4-12-06-05](#).

4.7 SPECIFICATION FOR SERVICES

Sometimes you may need to purchase services. "Services" means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance [ref. N.D.C.C § [54-44.4-01\(5\)](#)].

Professional services require the individual rendering the service to exercise professional judgment. That individual's special knowledge, education, skills, qualifications, and experience are of primary importance, such as accountants, physicians, and consultants [ref. N.D.C.C. § [54-44.4-01\(3\)](#)]. Competitive proposals or multi-step solicitations are normally used.

A specification for services is commonly called the "scope of work" or "statement of work." Writing the scope of work is one of the most important and difficult steps in preparing a solicitation for services. Prospective service providers will use the scope of work to prepare a technical proposal and cost proposal. The agency or institution will use the scope of work to evaluate those bids or proposals, select a service provider, and ensure the service provider completes all the required work in a satisfactory manner.

- The scope of work can describe what the contractor must do, such as specific tasks and deliverables and describe any directives the contractor must follow.
- The scope of work can also describe what the contractor must be, such as qualifications, experience, and licenses.

4.8 SERVICES - INDEPENDENT CONTRACTOR VS. EMPLOYEE DETERMINATION

If you are purchasing services, remember that state agencies and institutions cannot hire employees through the procurement process. The procurement process is used to acquire the services of an independent contractor.

As a Procurement Officer for your agency or institution, you should consult legal counsel to help you if questions arise. Specifically, contact legal counsel if your agency is planning to contract with a current state employee or former state employee within one year after they left state employment.

If the services required result in an employer/employee relationship, hire the person through the personnel system, not the procurement system. For more information visit the [North Dakota Department of Labor and Human Rights website](#).

Here are some of the indicators that an employer/employee relationship may exist:

- The person is subject to the control of the state, not only as to what will be done but when, where, and how it will be done as opposed to allowing the individual to set their own work schedule.
- The state has the right to discharge the person or the person has the right to terminate services without incurring liability.
- The state furnishes the individual with tools, equipment, and a place to work.
- The individual currently works for the state as an employee in the same field as the contract services.
- The state currently pays employees to perform essentially the same duties to be performed by the contractor.

The following conditions are indicators that people are independent contractors:

- They are subject to control or direction of the state only as to the result to be accomplished and the work to be done, not as to the means and methods for accomplishing the result.
- They are in business providing a service to the public from which they may derive a profit or suffer a loss.
- They are in business to provide the same or similar services to the general public.

4.9 TEMPORARY EMPLOYMENT AGENCIES

Temporary employment agencies are independent contractors that provide staffing services to public and private employers. The occasional use of temporary employment contracts does not create an employer/employee relationship, since the workers are employed by the temporary employment agency, not by the state. Examples include: coverage for an employee on medical leave; working on a short-term project. Contracts with temporary staffing agencies are subject to bidding requirements.

4.10 CONTRACT TERMS AND CONDITIONS

Planning the contract before issuing a solicitation is very important. The solicitation will result in the selection of a vendor with whom the state will enter into a formal, written contract. Procurement rules require that the solicitation contain all the terms and conditions that will be incorporated into the contract. Consider the scope, value and risk of the planned purchase to select the appropriate contract terms and conditions, such as:

- Contract term (duration) and any provisions for renewals and extensions
- Non-appropriation clause if the contract extends beyond current biennium
- Provisions for price adjustments
- Termination provisions

Visit the OMB State Procurement Office website for [solicitation templates \(Attachment 49\)](#). Contact your agency's legal counsel if you make any changes to any standard terms and conditions.

4.11 INDEMNIFICATION AND INSURANCE REQUIREMENTS

Contractual risk is based upon circumstances, not the dollar value of the purchase. For example, a

contract to clean the windows in the Capitol might have a nominal cost but involve substantial potential risk.

Service contracts will normally include indemnification and insurance requirements. "Indemnification" is a term that addresses who is responsible for risks under the contract. Requiring "Insurance" ensures the contractor has the financial resources to cover potential risks. Contact your agency or institution lead procurement officer or the OMB Risk Management Office at 701-328-7580 for assistance. Visit the OMB website for the "[Guidelines to Managing Contractual Risk](#)." (*Attachment 15*)

4.12 QUALIFIED PRODUCTS LIST (N.D.A.C. § 4-12-06-04)

1. If testing or examination of the commodities or services is desirable or necessary to best satisfy state requirements, a qualified products list may be developed with approval of the state procurement office.
2. When developing a qualified products list, a representative group of vendors must be solicited, in writing, to submit products for testing and examination to determine acceptability for inclusion on the qualified products list.
3. Inclusion on a qualified products list must be based on results of tests or examinations conducted in accordance with state requirements and the product specification.
4. The existence of prequalified products on a qualified products list does not constitute prequalification of any prospective vendor.

4.13 REQUEST FOR INFORMATION (N.D.A.C. § 4-12-06-07)

A noncompetitive solicitation may be issued to obtain information, data, comments, or reactions from possible vendors preceding a solicitation for bids or proposals or a multistep bidding procedure.

Information obtained as a result of a request for information is subject to the state open records law.

4.14 SPECIFICATION MEETING (N.D.A.C. § 4-12-06-08)

Prior to issuing a solicitation, the procurement officer may hold a specification meeting to seek information necessary to prepare a suitable specification and competitive solicitation. The procurement officer will provide adequate notice to potential bidders. The meeting is open to the public. Attendance may not be made mandatory as a condition for submitting a bid or proposal.

4.15 MARKET RESEARCH AND DEMONSTRATIONS

Market research is simply research to learn before you make a purchase. Market research includes, but is not limited to:

- Discussions with vendors who sell what you need
- Demonstrations of potential solutions, equipment or services
- Research through subject matter experts who have knowledge of the industry

Market research is a best practice as you prepare for a procurement. You should contact a representative number of potential bidders. Market research does not replace the procurement process. Use market research to help you determine your requirements. Use the procurement process to evaluate competing products and service providers to make an award decision. Be careful not to give vendors advance information that would give them an unfair advantage in the procurement process.

Chapter 5: Level 1 Micro Purchase Procedures

Level 1	Competition Requirements
Micro Purchase Less than \$10,000	At least one fair and reasonable quote. Note: Equipment and software must be added to inventory in the BlackCat System if \$5,000 or greater. (N.D.C.C. § 54-27-21 Fixed Asset Minimum Reporting Value) State agencies (excluding Higher Education institutions) must submit printing purchase requests \$5,000 and over to OMB State Procurement.

	<p>State agencies must rotate vendors solicited on an equitable basis (N.D.A.C. § 4-12-08-02).</p> <p>Rotate vendors solicited on an equitable basis (N.D.A.C. § 4-12-08-02)</p> <p>Alternate Procurement form not required if multiple quotes not solicited.</p> <p>State agencies & Transit subrecipients: Document vendor solicited, quotes received, and award determination.</p>
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5.1 LEVEL 1 MICRO PURCHASES

If the good or service you need is not available from a state source of supply and you know the estimated price is under \$10,000, then you are ready to make a Level 1 purchase. Under state law, “Small purchases must be made with competition practicable under the circumstances”. Purchases under \$10,000 have been determined to be extremely low-value purchases. Micro purchases are too small to justify the time and expense of soliciting competition. Procurement rules allow for these purchases to be made using adequate procedures to ensure goods and services are obtained at a fair and reasonable price, which may include soliciting only one bid or proposal. The terms “bids” or “quotes” are used interchangeably (N.D.C.C. § [54-44.4-11](#), N.D.A.C. § [4-12-08-02](#)).

Transit subrecipients are required to complete the Procurement File Checklist – Micro and maintain a file containing all documentation relating to the micro purchase. The checklist must be submitted to the NDDOT Transit Section for each micro purchase with the request for reimbursement. (*Attachments 30-33*)

5.2 ESTIMATED PURCHASE PRICE

The estimated price is needed to verify that adequate funds are available, determine what level of competition is required, and ensure the procurement officer has delegated purchase authority to make the purchase. Estimated price may be based upon previous purchases, market research, a published price list, or asking a vendor for a budgetary estimate. Consider the following:

- Goods. The entire amount of the purchase price including all shipping and handling, and all other related charges, such as installation or maintenance agreements. Generally, shipping costs can be estimated at 15%.
- Leases. The entire amount of an equipment lease is based upon all payments over the lease term, including any options for extension or renewals. For example, the value of a 24-month equipment lease with monthly payments of \$400 is \$9,600.
- Services. The entire amount of a service contract includes the initial term and all possible extension or renewal options. For example, the value of a one-year contract estimated at \$5,000 per year with three renewal options is \$20,000.
- Artificial Fragmentation Prohibited (N.D.A.C. § [4-12-04-08](#)). Procurement requirements may not be artificially divided as to constitute a small purchase [N.D.C.C. § [54-44.4-11\(3\)](#)].

Artificial fragmentation means splitting purchase requirements or splitting an invoice to stay below a certain dollar level to avoid competition or stay within delegated authority limits.

5.3 RECURRING PURCHASES – ROTATING VENDORS

If you need to purchase goods or services on a recurring basis, you should consider whether or not establishing a contract would be advantageous. Recurring purchases with cumulative significant dollar spend are appropriate for term contracts.

It is appropriate to handle infrequent, small dollar purchases as independent transactions, even if the annual total is \$10,000 or more. For example, you purchase “Widgets” in January for \$5,000 and purchase “Widgets” again in September for \$5,000. It is appropriate to treat both purchases as a Level 1 procurement.

Under Level 1 procedures, procurement officers must rotate vendors solicited on an equitable basis (N.D.A.C. § [4-12-08-02](#)). If there are multiple vendors selling what you need to purchase, simply rotate the vendors you contact to obtain one fair and reasonable quote. For example, if there are three lumber yards in your community, try to spread your one fair and reasonable quote Level 1 purchases between the three

vendors.

The requirement to rotate vendors applies when you only obtain one fair and reasonable quote. If you get quotes from multiple vendors for a Level 1 purchase, simply award to the lowest bidder. It is unacceptable if one vendor repeatedly is the low bidder receiving the award in a competitive procurement. If there is only one known supplier, you should consider the frequency and dollar volume of your purchases to determine if you should find other suppliers or establish a contract.

5.4 SELECTING A BIDDER

After you have developed the specifications, you need to select bidders from whom you can solicit a quote from for your Level 1 purchase. You have many options, including:

- State Bidders List. OMB is required to maintain a Bidders List. You can find the bidders list on the [State Procurement Online \(SPO\) system](#). You are not required to use the Bidders List for purchases under \$10,000, but it is a good source for finding potential bidders.
- Printing Preference. If you are purchasing printing, you must comply with the North Dakota state law that requires all public printing, binding, and blank book manufacturing must be awarded to a resident North Dakota bidder (N.D.C.C. § [44-08-02](#)). Get quotes for printing from North Dakota bidders, unless it is determined to be not practicable (N.D.A.C. § [4-12-16-01](#)). See the Guideline for State Procurement of Printing (State of ND Employees – ONLY).
- ND Secretary of State Registration. North Dakota Secretary of State business registration requirements are based upon the circumstances of the procurement, not the dollar value. It is always preferable to have a bidder register with the Secretary of State, as it provides much greater legal protection for the state. See the Guidelines to Vendor Registration (State of ND Employees – ONLY) to determine if registration is required. Check the ND Secretary of State [Business Records Search](#) to see if a vendor is registered.
- Contractors, Professional and Occupational Licenses. Certain types of businesses and individuals in certain professions or occupations are subject to licensing or registration with a state regulatory board or agency. If you are purchasing something that requires the contractor to have a North Dakota license, permit, or registration, be sure to obtain proof that they have complied with this requirement before award. Visit the [NDSU Extension Service website](#) for a list of licenses required by the state.
- List of Debarred and Suspended Vendors. OMB State Procurement maintains a list of vendors who have been debarred or suspended from doing business with the State. Do not get quotes from suspended or debarred vendors (N.D.A.C. § [4-12-05](#)). Some agencies and institutions also have requirements to check the Federal Debarred vendor list, so check your internal procurement policies.

5.5 GETTING ONE QUOTE

After you identify a potential bidder, you are ready to get a quote. You can get a quote using a variety of methods:

- Stores. You can physically go to a store and get a quote. “Time is money,” so consider how much time it will take you to go to the store to make the purchase.
- Telephone quote. You can contact the bidder by phone and describe what you need. Be sure to tell them that the price needs to include all shipping and handling. You can use the [Informal Bid-Telephone Quote](#) form (*Attachment 16*), SFN 2706 to document the telephone bid. Bidders will normally respond by telephone unless you ask for a written quote.
- Email or Fax Quote. You can contact vendors by email or fax. You can put the requirements into the body of the fax or email. The OMB website also has a [Request for Quote template](#) (*Attachment 16*) you can use to solicit a vendor.
- Internet Quote. You can obtain a quote from an online website. Most websites have “click through” agreements. Visit with your legal counsel to ensure you are not agreeing to terms and conditions. Be sure to visit with your legal counsel before agreeing to any terms and conditions.
- Micro Purchase Checklist. This is a resource to help you make Level 1 Micro purchases.

5.6 QUESTIONS AND SOLICITATION AMENDMENTS

After you ask a vendor for a quote, they may have questions. You should respond to vendor questions in a timely manner. Sometimes vendor questions may make you realize a mistake has been made. If you need to change your requirements, you need to amend your solicitation.

If you contacted vendors by phone or in person, you can call them to make the change. If you requested a written quote in an email, you can make the change in a subsequent email.

If you used a Request for Quote template, you can either send a revised Request for Quote or send a Solicitation Amendment. State of ND Agencies and Employees visit the OMB internal website for templates. Transit subrecipients use the attached templates.

5.7 RECEIVING QUOTES

The method you used to contact vendors will determine how you receive quotes. You can review a quote as soon as you receive it. If you contacted multiple vendors, you can evaluate and award when you receive responses from all vendors. If you set a deadline and a vendor doesn't respond in time, the quote is late. Vendors cannot change their responses after the deadline.

Sometimes you contact vendors, and they respond with a "no bid." Document all the vendors you contacted, including the vendors that declined to bid.

5.8 EVALUATING QUOTES

You'll need to evaluate the quotes received to make sure the product or service offered meets your requirements.

- "Responsive Bidder" means a firm or person whose response fully meets all the requirements of the solicitation. Responses that are submitted late or don't meet specifications must be rejected. Visit the OMB website for a [Rejection Letter template](#). (Attachment 3) Use this template to tell bidders why their response was rejected.
- "Responsible Bidder" means a firm or person who is capable of performing the work. If you suspect a bidder is not responsible, see N.D.A.C. § [4-12-11-04](#).

5.9 FAIR AND REASONABLE PRICE

Use adequate procedures to ensure goods and services are obtained at a fair and reasonable price. The fair and reasonable price can be based on previous purchases, market research, a published price list, or by simply soliciting more than one vendor.

If the quote is fair and reasonable, you can award to the bidder. Keep documentation of the quote in your procurement file.

5.10 BIDS \$10,000 OR OVER

If you receive bids or proposals priced at \$10,000, you'll have to determine whether or not this is a Level 1 purchase.

- You can defer the purchase to a Level 2 Procurement Officer to get three quotes. They can use the first quote as one of the three needed quotes, or they can start over.
- You can get multiple quotes. If you received at least one bid meeting specifications under \$10,000, and other bids over \$10,000, this is still a Level 1 purchase. You can make an award to the "low bidder meeting specs" under \$10,000.
- If you were soliciting multiple proposals and the proposal with the highest evaluation score is priced \$10,000 or more, you must obtain the level of competition required for the dollar value. If the proposal with the highest evaluation score is under \$10,000, it is a Level 1 purchase and you can make the award.

If all bids or proposals received are \$10,000 or over, this is not a Level 1 procurement. State of ND Employees must obtain the level of competition required for the dollar value. If it is a Level 2 purchase, the procurement must be done by a Procurement Officer with Level 2 certification training. At least two more vendors should be contacted to submit bids or proposals. Transit subrecipients refer to your designated Procurement Officer.

5.11 GETTING MULTIPLE QUOTES/BIDS

You can get competition for a Level 1 purchase. Some agencies may have internal policies that require competition at lower levels.

A request for quote is a procurement strategy for purchasing goods and services that are suitable for award to the lowest priced bidder whose bid meets the specification or the scope of work. Bidding is appropriate for goods, equipment, and non-professional services. If you get one quote and the price seems too high, you can get another quote. It is also appropriate to solicit more than one quote if you have multiple bidders in the area. "When in doubt, bid it out." The OMB website has templates (*Attachments 17 & 44*) you can customize to request competitive bids or proposals. Provide the same information to all bidders. Give bidders a deadline for responding. Do not share the price information with other bidders until after you have made the award. If you are getting quotes, you must award to the bidder that meets your specifications and has the lowest price ("Low bidder meeting spec"). If a bidder offers you something that doesn't meet your specification, you must reject their bid.

5.12 GETTING MULTIPLE PROPOSALS

Sometimes you are purchasing equipment, software or services for which it is difficult to write detailed specifications, or you would like to have an evaluation process.

Competitive proposals are a procurement strategy in which award is made to the responsible vendor whose proposal is determined to be most advantageous based upon cost and other evaluation criteria. The related weight of cost and the other evaluation criteria must be stated in the solicitation. Provide the same information to all bidders. Give bidders a deadline for responding. Do not share the price information with other bidders until after you have made the award.

The request for proposal process allows you to have discussions with vendors. You can also have vendors make changes to their proposals by requesting best and final offers. The request for proposal process is appropriate for equipment, information technology, and professional services. Visit the OMB State Procurement website for checklists and templates to help you conduct a competitive request for proposal process.

5.13 NORTH DAKOTA PREFERENCE LAWS – RECIPROCAL PREFERENCE

If you are receiving multiple quotes, you need to be aware of "preference" laws that apply if you receive bids or proposals from out of state or nonresident vendors. The term "preference" as it relates to government purchasing is an advantage in consideration for award of a contract given to particular types of vendors. If you receive bids or proposals from nonresident bidders, contact your lead procurement officer for assistance in determining whether or not preference laws apply.

- The reciprocal preference law (N.D.C.C. § [44-08-01](#)) requires the preference given to a resident North Dakota bidder be equal to the preference given or required by the state of the nonresident bidder. This is commonly called "reciprocal preference." A bidder is "resident" if it maintains a bona fide place of business within North Dakota for at least one year prior to the date the contract was awarded (N.D.C.C. § [44-08-02](#)).
- You do not need to apply a preference if you receive quotes from only North Dakota vendors or only nonresident bidders. Apply preference when there is a mix of North Dakota and nonresident bidders. You also do not need to apply a preference if no vendors are from states with preference laws.

If the nonresident bidder's state has a preference law, increase the nonresident bidder price by the same percentage. For example:

A nonresident bidder submits a bid price of \$8,000. Laws in that bidder's state of residence require a 5% preference for vendors who are resident in that state. Increase the nonresident bidder's price by 5% before evaluation (\$400). So, you must evaluate the nonresident's bid as \$8,400.

North Dakota also has preference laws for certain commodities and services.

- Coal. N.D.C.C. § [48-05-02.1](#)
- Food. 2003 Senate Concurrent Resolution No. 4018
- Environmentally Preferable Products – Bio-based Products. N.D.C.C. § [54-44.4-07](#)
- Paper, Recycled. N.D.C.C. § [54-44.4-08](#)
- Printing. N.D.C.C. § [46-02-15](#) and [Guidelines for State Procurement of Printing](#).
- Soybean-based Ink. N.D.C.C. § [54-44.4-07](#)

- American Flags. N.D.C.C. § [44-08-22](#)
- Direct Manufacturer Motor Vehicle Sales Prohibited. N.D.C.C. § [39-22-25](#)
- Work Activity Centers. N.D.C.C. § [25-16.02](#)
- Work Activity Centers - Construction Stakes. N.D.C.C. § [25-16.2-02](#)

See the OMB Guidelines to North Dakota Purchasing Preference Laws (State of ND Employees – ONLY) for more information

Transit subrecipients should contact the NDDOT Transit Section for questions on purchases using federal and state funds.

5.14 PROTESTS

A vendor may protest a solicitation or award decision in accordance with N.D.C.C. § [54-44.4-12](#) and N.D.A.C. Chapter [4-12-14](#).

If you are making a Level 1 purchase by obtaining one fair and reasonable quote, a protest is unlikely. If you obtain multiple quotes and make a competitive award, vendors may disagree with your solicitation or award decision and submit a protest.

If you receive a protest, you must follow the laws and rules related to responding to protests. Contact your agency's lead procurement officer and legal counsel for assistance. See the OMB State Procurement Office website for a [protest response](#) template (*Attachment 36*).

Chapter 6: Level 2 Small Purchase Procedures

<p>Level 2 Small Purchase</p> <p>At least \$10,000 but less than \$50,000</p>	<p>Solicit informal quotes/bids or proposals from at least three vendors, or post to SPO Online with appropriate state bidders list. May send to additional vendors.</p> <p>State agencies: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov</p> <p>Transit subrecipients:</p> <p>SPO Online is not available for Transit Subrecipients.</p> <p>If purchasing ADA vehicles off the State Bid, approval required from the Transit Section before ordering. Contact transitnd@nd.gov</p> <p>Assets (vehicle, equipment, software, facility, etc.) must be added to Inventory in the BlackCat System if \$5,000 or greater.</p> <p><u>Documentation is required.</u></p> <p>Alternate Procurement form required if competition is not solicited from at least three vendors.</p> <p>The form is not required if 3 vendors are solicited and fewer than three bids or proposals are received.</p>
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6.1 LEVEL 2 SMALL PURCHASES

If the good or service you need is not available from a state source of supply and you know the estimated price is at least 10,000 but less than \$50,000, then you are ready to make a Level 2 purchase. Under state law, "Small purchases must be made with competition practicable under the circumstances". Purchases at least \$10,000 but less than \$50,000 have been determined to be extremely low-value purchases.

Procurement rules allow for these purchases to be made using adequate procedures to ensure goods and services are obtained at a fair and reasonable price, which includes soliciting quotes/bids or proposals at least three vendors or post to the SPO Online. The terms "bids", "quotes" or proposals are used interchangeably (N.D.C.C. § [54-44.4-11](#), N.D.A.C. § [4-12-08-02](#)).

Transit Subrecipients – SPO Online can only be used by State Agencies. Transit subrecipients must advertise or solicit informal bids or proposals on their own.

Transit subrecipients are required to complete the Procurement File Checklist (*Attachments 30-33*) – Small and maintain a file containing all documentation relating to the small purchase. The checklist must be submitted to the NDDOT Transit Section for each small purchase with the request for reimbursement.

6.2 ESTIMATED PURCHASE PRICE

The estimated price is needed to verify that adequate funds are available, determine what level of competition is required, and ensure the procurement officer has delegated purchase authority to make the purchase. Estimated price may be based upon previous purchases, market research, a published price list, or asking a vendor for a budgetary estimate. Consider the following:

- Goods. The entire amount of the purchase price including all shipping and handling, and all other related charges, such as installation or maintenance agreements. Generally, shipping costs can be estimated at 15%.
- Leases. The entire amount of an equipment lease is based upon all payments over the lease term, including any options for extension or renewals. For example, the value of a 24-month equipment lease with monthly payments of \$400 is \$9,600.
- Services. The entire amount of a service contract includes the initial term and all possible extension or renewal options. For example, the value of a one-year contract estimated at \$5,000 per year with three renewal options is \$20,000.
- Artificial Fragmentation Prohibited (N.D.A.C. § [4-12-04-08](#)). Procurement requirements may not be artificially divided as to constitute a small purchase [N.D.C.C. § [54-44.4-11\(3\)](#)].

Artificial fragmentation means splitting purchase requirements or splitting an invoice to stay below a certain dollar level to avoid competition or stay within delegated authority limits.

6.3 SELECTING A BIDDER

After you have developed the specifications, you need to select bidders from whom you can solicit a quote from for your Level 2 purchase. You have many options, including:

- State Bidders List. OMB is required to maintain a Bidders List. You can find the bidders list on the [State Procurement Online \(SPO\) system](#). You are not required to use the Bidders List for purchases under \$10,000, but it is a good source for finding potential bidders.
- Printing Preference. If you are purchasing printing, you must comply with the North Dakota state law that requires all public printing, binding, and blank book manufacturing must be awarded to a resident North Dakota bidder (N.D.C.C. § [44-08-02](#)). Get quotes for printing from North Dakota bidders, unless it is determined to be not practicable (N.D.A.C. § [4-12-16-01](#)). See the [Guidelines for State Procurement of Printing](#). State of ND Employees -ONLY.
- ND Secretary of State Registration. North Dakota Secretary of State business registration requirements are based upon the circumstances of the procurement, not the dollar value. It is always preferable to have a bidder register with the Secretary of State, as it provides much greater legal protection for the state. See the Guidelines to Vendor Registration (State of ND Employees – ONLY) to determine if registration is required. Check the ND Secretary of State [Business Records Search](#) to see if a vendor is registered.
- Contractors, Professional and Occupational Licenses. Certain types of businesses and individuals in certain professions or occupations are subject to licensing or registration with a state regulatory board or agency. If you are purchasing something that requires the contractor to have a North Dakota license, permit, or registration, be sure to obtain proof that they have complied with this

requirement before award. Visit the [NDSU Extension Service website](#) for a list of licenses required by the state.

- [List of Debarred and Suspended Vendors](#). OMB State Procurement maintains a list of vendors who have been debarred or suspended from doing business with the State. Do not get quotes from suspended or debarred vendors (N.D.A.C. § [4-12-05](#)). Some agencies and institutions also have requirements to check the Federal Debarred vendor list, so check your internal procurement policies.
- Federal Vendor List of Debarred and Suspended – [SAM.gov | Home](#)
 - a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000
 - (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
 - (2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
 - (3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

6.4 INFORMAL SOLICITATIONS

Informal solicitations may be in writing or verbal. Whether verbal or written, be sure to provide the same information to all potential bidders at the same time to ensure fairness.

- Verbal solicitations should only be used for simple purchases that can be awarded based upon “lowest responsible bidder meeting specifications.”
- Written solicitations must be used for informal proposals because state law requires the evaluation criteria to be stated in the solicitation (ref. N.D.C.C. § [54-44.4-10](#)). A written solicitation should also be used for complex or lengthy requirements.

Written Solicitations:

The solicitation document must describe the needed commodity or service, describe the type of response expected, and explain how the responses will be evaluated. Customize the solicitation document for the commodity or services being procured. The written solicitation should include:

- Contact Person: Provide the name and contact information for the person who bidders contact if they have any questions.
- Response Instructions: Describe how, when, and where vendors must respond. Give bidders adequate time to respond (ref. N.D.A.C. § [4-12-04-02](#)).
- Delivery Instructions and Terms of Sale: Indicate the delivery location and state that price offered by the bidder is to include all shipping, delivery, and handling charges in the pricing quoted. Terms of sale address when title passes from the seller to the buyer, which party is responsible for freight, and which party files claims if commodities are damaged in transit. The OMB State Procurement Office recommends specifying F.O.B. Destination, Freight Prepaid, which requires the seller to own the commodities in transit, pay freight charges and file any claims. Title passes to the state at the delivery destination. See the OMB Freight Matrix on the internal web only.
- Specifications of the needed commodity or service: Provide all the information a bidder will require to prepare an accurate quotation or proposal. If a brand name is specified, vendors must be

invited to offer competitive brands unless you have received approval to limit competition (see Section 4 of this plan).

- **Required Delivery Date:** The date commodities must be delivered, or service must be performed. Indicate a specific date or time (days/week/months) after receipt of order (ARO). Expect higher prices if expedited delivery is required.
- **Evaluation Criteria:** Informal bids must be awarded to the low bidder meeting specifications. Informal proposals must state the relative weight of cost and any other evaluation criteria that will be considered in making the award.

Verbal Solicitations:

When soliciting oral bids, follow the same process described in a written quotation, by contact the bidder and recite the requirements instead of issuing a written document. Bidders will normally respond by telephone, unless you ask for a written response. When making an oral solicitation, document quotes received, including any bidders that declines to bid, using the [Informal Bid-Telephone Quote form](#), SFN 2706.

6.5 CLARIFICATIONS OR AMENDMENTS TO THE SOLICITATION

After the solicitation is issued, carefully consider any questions or criticisms raised by potential bidders about the solicitation. If you need to make a correction or modification, notify each bidder you solicited in the same manner as the original solicitation (verbal or written). State of ND Employees see the OMB State Procurement internal website for a sample Solicitation Amendment. Transit subrecipients see attached sample Solicitation Amendment (*Attachment 49*).

6.6 RECEIVING RESPONSES

The method you used to contact vendors will determine how you receive responses. Informal bids and proposals may be viewed immediately. If responses are received from all bidders solicited, response may be evaluated, and an award made. Document all bidders solicited and their responses, including those that responded with a "no bid". Send a [Rejection Letter template](#). (*Attachment 3*) if any responses are received late. Bidders may not change their responses after the deadline.

6.7 EVALUATING RESPONSES

When evaluating bids or proposals, you can only consider those requirements or evaluation criteria specifically stated in the solicitation.

- "Responsive Bidder" means a firm or person who submits an offer that conforms to the requirements of the solicitation. Failure to meet specifications and submission of a late bid are common reasons for declaring a bid "not responsive". Compare the offered products or service to the specifications and requirements stated in the solicitation. A bid or response that did not meet a stated minimum requirement must be rejected (ref N.D.A.C § [4-12-11-03](#)).
- "Responsible Bidder" means a firm or person who is capable of performing the work. If you suspect a bidder is not responsible, see N.D.A.C. § [4-12-11-04](#).
- Price Evaluation: If bids or proposals are received from nonresident bidders, apply any reciprocal preference (see Chapter 6.10 of this plan). Determine the lowest priced, responsive bid or proposal. Be sure each bidder's total price includes all shipping, handling, and installation costs, if any. Discounts for prompt payment or cash discounts can only be considered if so stated in the solicitation.

When evaluating proposals, the lowest priced proposal receives the maximum points for cost. Points for higher-prices proposals can be calculated:

- Price of Lowest Cost Proposal
Price of Proposal Being Rated X Number of Points = Awarded Points
- Discussions, negotiations, and best and final offers: No discussions or negotiations are permitted with competitive bidding. See N.D.A.C. §[4-12-08-04](#) and chapter [§4-12-12](#) for guidance about discussions, negotiations, and best and final offers within an RFP process.

- Compare all-or-none, group, or split award: the solicitation should indicate whether the buyer intends to award all items to the one contractor (all or none award), award by category items (group award), or award each item separately (split award). If the solicitation or bidder's response did not specify whether the award would be an all-or-none or split award, the procurement officer has discretion to make that determination. The administrative costs of issuing multiple purchase orders may be considered to determine whether a split award will be advantageous. As a general rule of thumb, the administrative cost to issue a purchase order is \$50.
- Multiple Awards: A multiple award means that two or more bidders will be awarded contracts for similar products or services. The intent to make a multiple award must be stated in the solicitation, and the procurement officer must make a determination that a multiple award is in the best interest of the state. See N.D.C.C. § 54-44.4-051(1) and N.D.A.C. § 4-12-11-07.

6.8 FAIR AND REASONABLE PRICE

Use adequate procedures to ensure goods and services are obtained at a fair and reasonable price. The fair and reasonable price can be based on previous purchases, market research, a published price list, or by simply soliciting more than one vendor.

If the quote is fair and reasonable, you can award to the bidder. Keep documentation of the quote in your procurement file.

6.9 GETTING MULTIPLE PROPOSALS

Sometimes you are purchasing equipment, software or services for which it is difficult to write detailed specifications, or you would like to have an evaluation process.

Competitive proposals are a procurement strategy in which award is made to the responsible vendor whose proposal is determined to be most advantageous based upon cost and other evaluation criteria. The related weight of cost and the other evaluation criteria must be stated in the solicitation. Provide the same information to all bidders. Give bidders a deadline for responding. Do not share the price information with other bidders until after you have made the award.

The request for proposal process allows you to have discussions with vendors. You can also have vendors make changes to their proposals by requesting best and final offers. The request for proposal process is appropriate for equipment, information technology, and professional services. State of ND Employees visit the OMB State Procurement internal website for checklists and templates to help you conduct a competitive request for proposal process. Transit subrecipients see the attached checklists (*Attachments 30-33*).

6.10 NORTH DAKOTA PREFERENCE LAWS – RECIPROCAL PREFERENCE

If you are receiving multiple quotes, you need to be aware of "preference" laws that apply if you receive bids or proposals from out of state or nonresident vendors. The term "preference" as it relates to government purchasing is an advantage in consideration for award of a contract given to particular types of vendors. If you receive bids or proposals from nonresident bidders, contact your lead procurement officer for assistance in determining whether or not preference laws apply.

- The reciprocal preference law (N.D.C.C. § 44-08-01) requires the preference given to a resident North Dakota bidder be equal to the preference given or required by the state of the nonresident bidder. This is commonly called "reciprocal preference." A bidder is "resident" if it maintains a bona fide place of business within North Dakota for at least one year prior to the date the contract was awarded (N.D.C.C. § 44-08-02).
- You do not need to apply a preference if you receive quotes from only North Dakota vendors or only nonresident bidders. Apply preference when there is a mix of North Dakota and nonresident bidders. You also do not need to apply a preference if no vendors are from states with preference laws.

If the nonresident bidder's state has a preference law, increase the nonresident bidder price by the same percentage. For example:

A nonresident bidder submits a bid price of \$8,000. Laws in that bidder's state of residence

require a 5% preference for vendors who are resident in that state. Increase the nonresident bidder's price by 5% before evaluation (\$400). So, you must evaluate the nonresident's bid as \$8,400.

North Dakota also has preference laws for certain commodities and services.

- Coal. N.D.C.C. § [48-05-02.1](#)
- Food. 2003 Senate Concurrent Resolution No. 4018
- Environmentally Preferable Products – Bio-based Products. N.D.C.C. § [54-44.4-07](#)
- Paper, Recycled. N.D.C.C. § [54-44.4-08](#)
- Printing. N.D.C.C. § [46-02-15](#) and [Guidelines for State Procurement of Printing](#).
- Soybean-based Ink. N.D.C.C. § [54-44.4-07](#)
- American Flags. N.D.C.C. § [44-08-22](#)
- Direct Manufacturer Motor Vehicle Sales Prohibited. N.D.C.C. § [39-22-25](#)
- Work Activity Centers. N.D.C.C. § [25-16.02](#)
- Work Activity Centers - Construction Stakes. N.D.C.C. § [25-16.2-02](#)

See the OMB Guidelines to North Dakota Purchasing Preference Laws (State of ND Employees – ONLY) for more information

Transit subrecipients must contact the NDDOT Transit Section for questions on purchases using federal and state funds.

6.11 TIE BIDS OR PROPOSALS – STATE OF ND EMPLOYEES - ONLY

If two or more bidders offer equal prices or receive equal evaluation scores after any reciprocal preference is applied.

Preference must first be given to bids submitted by North Dakota vendors (N.D.C.C. § [44-08-01.1](#)).

If a tie remains, preference must be given to approved vendors on the State Bidders List (N.D.C.C. § [54-44.4-09\(4\)](#)).

If a tie still remains, award shall be made accordance with N.D.A.C § [4-12-11-05](#).

[If recipient is part of a political subdivision, local rules may also apply.](#)

6.12 ONLY ONE BID OR PROPOSAL RECEIVED

When only one bid or proposal is received, attempt to find out why the competitive process failed. The specifications and other requirements of the solicitation must be reviewed to ensure competition was not restricted. The situation must be handled in accordance with N.D.A.C. § [4-12-11-08](#).

6.13 PROTESTS

A vendor may protest a solicitation or award decision in accordance with N.D.C.C. § [54-44.4-12](#) and N.D.A.C. Chapter [4-12-14](#).

If you receive a protest, you must follow the laws and rules related to responding to protests. Contact your agency's lead procurement officer and legal counsel for assistance. See the [protest response](#) template (*Attachment 36*).

Chapter 7: Level 3 Informal Written Purchase Procedures

<p>Level 3 Informal Written Purchase</p> <p>At least \$50,000 but less than \$100,000</p>	<p>Solicit informal bids or proposals using SPO Online with appropriate state bidders list. May send to additional vendors.</p> <p>State agencies: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov</p> <p>Transit subrecipients:</p> <p>SPO Online is not available for Transit Subrecipients.</p> <p>If purchasing ADA vehicles off the State Bid, approval required from the Transit Section before ordering. Contact transitnd@nd.gov</p> <p>Assets (vehicle, equipment, software, facility, etc.) must be added to Inventory in the BlackCat System if \$5,000 or greater.</p> <p><u>Documentation Required</u></p> <p><u>Alternate Procurement form</u> required if:</p> <ul style="list-style-type: none"> • Competition is limited or not solicited. • SPO Online is not used. SPO Online is not available for Transit Subrecipients. <p>Transit: Approval required before purchase. Contact transitnd@nd.gov</p>
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7.1 LEVEL 3 INFORMAL WRITTEN PURCHASE PROCEDURES

Solicit informal bids or proposals for purchases at least \$50,000 but less than \$100,000. Procurement rules allow for these purchases to be made using adequate procedures to ensure goods and services are obtained at a fair and reasonable price, which includes soliciting informal quotes/bids or proposals post to the SPO Online. The terms “bids”, “quotes” or proposals are used interchangeably (N.D.C.C. § [54-44.4-11](#), N.D.A.C. § [4-12-08-02](#)).

Transit Subrecipients – Level 3 purchases require NDDOT Transit Section prior approval. SPO Online can only be used by State Agencies. Transit subrecipients must advertise or solicit informal written bids or proposals on their own.

Transit subrecipients are required to complete the Procurement File Checklist – Informal Written Purchase (*Attachment 16*) and maintain a file containing all documentation relating to the informal written purchase. The checklist must be submitted to the NDDOT Transit Section for each informal written purchase with reimbursement request.

7.2 ESTIMATED PURCHASE PRICE

The estimated price is needed to verify that adequate funds are available, determine what level of competition is required, and ensure the procurement officer has delegated purchase authority to make the purchase. Estimated price may be based upon previous purchases, market research, a published price list, or asking a vendor for a budgetary estimate. Consider the following:

- Goods. The entire amount of the purchase price including all shipping and handling, and all other related charges, such as installation or maintenance agreements. Generally, shipping costs can be estimated at 15%.
- Leases. The entire amount of an equipment lease is based upon all payments over the lease term, including any options for extension or renewals. For example, the value of a 24-month equipment lease with monthly payments of \$400 is \$9,600.
- Services. The entire amount of a service contract includes the initial term and all possible extension or renewal options. For example, the value of a one-year contract estimated at \$5,000 per year with three renewal options is \$20,000.
- Artificial Fragmentation Prohibited (N.D.A.C. § [4-12-04-08](#)). Procurement requirements may not be artificially divided as to constitute a small purchase [N.D.C.C. § [54-44.4-11\(3\)](#)].

Artificial fragmentation means splitting purchase requirements or splitting an invoice to stay below a certain dollar level to avoid competition or stay within delegated authority limits.

7.3 SELECTING A BIDDER

After you have developed the specifications, you need to select bidders from whom you can solicit an informal quote from for your Level 3 purchase. You have many options, including:

- State Bidders List. OMB is required to maintain a Bidders List. You can find the bidders list on the [State Procurement Online \(SPO\) system](#). You are not required to use the Bidders List for purchases under \$10,000, but it is a good source for finding potential bidders.
- Printing Preference. If you are purchasing printing, you must comply with the North Dakota state law that requires all public printing, binding, and blank book manufacturing must be awarded to a resident North Dakota bidder (N.D.C.C. § [44-08-02](#)). Get quotes for printing from North Dakota bidders, unless it is determined to be not practicable (N.D.A.C. § [4-12-16-01](#)). See the Guidelines for State Procurement of Printing. State of ND Employees - ONLY.
- ND Secretary of State Registration. North Dakota Secretary of State business registration requirements are based upon the circumstances of the procurement, not the dollar value. It is always preferable to have a bidder register with the Secretary of State, as it provides much greater legal protection for the state. See the Guidelines to Vendor Registration (State of ND Employees – ONLY) to determine if registration is required. Check the ND Secretary of State [Business Records Search](#) to see if a vendor is registered.
- Contractors, Professional and Occupational Licenses. Certain types of businesses and individuals in certain professions or occupations are subject to licensing or registration with a state regulatory board or agency. If you are purchasing something that requires the contractor to have a North Dakota license, permit, or registration, be sure to obtain proof that they have complied with this requirement before award. Visit the [NDSU Extension Service website](#) for a list of licenses required by the state.
- List of Debarred and Suspended Vendors. OMB State Procurement maintains a list of vendors who have been debarred or suspended from doing business with the State. Do not get quotes from suspended or debarred vendors (N.D.A.C. § [4-12-05](#)). Some agencies and institutions also have requirements to check the Federal Debarred vendor list, so check your internal procurement policies.
- Federal Vendor List of Debarred and Suspended – [SAM.gov | Home](#)
 - a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000
 - (4) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
 - (5) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
 - (6) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

7.4 INFORMAL SOLICITATIONS

Informal solicitations may be in writing or verbal. Whether verbal or written, be sure to provide the same information to all potential bidders at the same time to ensure fairness.

- Verbal solicitations should only be used for simple purchases that can be awarded based upon "lowest responsible bidder meeting specifications."
- Written solicitations must be used for informal proposals because state law requires the evaluation criteria to be stated in the solicitation (ref. N.D.C.C. § 54-44.4-10). A written solicitation should also be used for complex or lengthy requirements.

Written Solicitations:

The solicitation document must describe the needed commodity or service, describe the type of response expected, and explain how the responses will be evaluated. Customize the solicitation document for the commodity or services being procured. The written solicitation should include:

- Contact Person: Provide the name and contact information for the person who bidders contact if they have any questions.
- Response Instructions: Describe how, when, and where vendors must respond. Give bidders adequate time to respond (ref. N.D.A.C. § 4-12-04-02).
- Delivery Instructions and Terms of Sale: Indicate the delivery location and state that price offered by the bidder is to include all shipping, delivery, and handling charges in the pricing quoted. Terms of sale address when title passes from the seller to the buyer, which party is responsible for freight, and which party files claims if commodities are damaged in transit. The OMB State Procurement Office recommends specifying F.O.B. Destination, Freight Prepaid, which requires the seller to own the commodities in transit, pay freight charges and file any claims. Title passes to the state at the delivery destination. See the OMB Freight Matrix.
- Specifications of the needed commodity or service: Provide all the information a bidder will require to prepare an accurate quotation or proposal. If a brand name is specified, vendors must be invited to offer competitive brands unless you have received approval to limit competition (see Section 4 of this plan).
- Required Delivery Date: The date commodities must be delivered, or service must be performed. Indicate a specific date or time (days/week/months) after receipt of order (ARO). Expect higher prices if expedited delivery is required.
- Evaluation Criteria: Informal bids must be awarded to the low bidder meeting specifications. Informal proposals must state the relative weight of cost and any other evaluation criteria that will be considered in making the award.

Verbal Solicitations:

When soliciting oral bids, follow the same process described in a written quotation, by contact the bidder and recite the requirements instead of issuing a written document. Bidders will normally respond by telephone, unless you ask for a written response. When making an oral solicitation, document quotes received, including any bidders that declines to bid, using the Informal Bid-Telephone Quote form, SFN 2706 (*Attachment 51*).

7.5 CLARIFICATIONS OR AMENDMENTS TO THE SOLICITATION

After the solicitation is issued, carefully consider any questions or criticisms raised by potential bidders about the solicitation. If you need to make a correction or modification, notify each bidder you solicited in the same manner as the original solicitation (verbal or written). State of ND Employees see the OMB State Procurement internal website for a sample Solicitation Amendment. Transit subrecipients see attached sample Solicitation Amendment (*Attachment 49*).

7.6 RECEIVING RESPONSES

The method you used to contact vendors will determine how you receive responses. Informal bids and proposals may be viewed immediately. If responses are received from all bidders solicited, response may be evaluated, and an award made. Document all bidders solicited and their responses, including those that responded with a "no bid". Send a Rejection Letter template. (*Attachment 3*) If any responses are received late. Bidders may not change their responses after the deadline.

7.7 EVALUATING RESPONSES

When evaluating bids or proposals, you can only consider those requirements or evaluation criteria specifically stated in the solicitation.

- “Responsive Bidder” means a firm or person who submits an offer that conforms to the requirements of the solicitation. Failure to meet specifications and submission of a late bid are common reasons for declaring a bid “not responsive”. Compare the offered products or service to the specifications and requirements stated in the solicitation. A bid or response that did not meet a stated minimum requirement must be rejected (ref N.D.A.C § [4-12-11-03](#)).
- “Responsible Bidder” means a firm or person who is capable of performing the work. If you suspect a bidder is not responsible, see N.D.A.C. § [4-12-11-04](#).
- Price Evaluation: If bids or proposals are received from nonresident bidders, apply any reciprocal preference (see Chapter 7.10 of this plan). Determine the lowest priced, responsive bid or proposal. Be sure each bidder's total price includes all shipping, handling, and installation costs, if any. Discounts for prompt payment or cash discounts can only be considered if so stated in the solicitation.

When evaluating proposals, the lowest priced proposal receives the maximum points for cost. Points for higher-prices proposals can be calculated:

- Price of Lowest Cost Proposal
Price of Proposal Being Rated X Number of Points = Awarded Points
- Discussions, negotiations, and best and final offers: No discussions or negotiations are permitted with competitive bidding. See N.D.A.C. §[4-12-08-04](#) and chapter [§4-12-12](#) for guidance about discussions, negotiations and best and final offers within an RFP process.
- Compare all-or-none, group, or split award: the solicitation should indicate whether the buyer intends to award all items to the one contractor (all or none award), award by category items (group award), or award each item separately (split award). If the solicitation or bidder's response did not specify whether the award would be an all-or-none or split award, the procurement officer has discretion to make that determination. The administrative costs of issuing multiple purchase orders may be considered to determine whether a split award will be advantageous. As a general rule of thumb, the administrative cost to issue a purchase order is \$50.
- Multiple Awards: A multiple award means that two or more bidders will be awarded contracts for similar products or services. The intent to make a multiple award must be stated in the solicitation, and the procurement officer must make a determination that a multiple award is in the best interest of the state. See N.D.C.C. § 54-44.4-051(1) and N.D.A.C. § [4-12-11-07](#).

7.8 FAIR AND REASONABLE PRICE

The procurement officer must perform a cost analysis before awarding a contract to determine if the bids provided are fair and reasonable. See NDDOT Transit Cost/Price Analysis and Price Reasonableness form (*Attachment 22*). The type (price or cost) and degree of analysis is dependent of the facts surrounding the particular procurement situation. In general, the rule behind whether to do a PRICE or COST analysis is the following:

- Price analysis (which is comparing quotes to catalog or market prices, via previous contracts or comparison with other competitive proposals) may be performed for most procurements.

Sources of information that are available to conduct a price analysis include:

- Comparisons with other competitive proposals
- Previous contracts
- Catalog or market prices
- Historical prices and trending

- Cost analysis (which includes examining variance from the independent estimate as well as the differences between bids recorded, rather than assuming that open market pricing always equates to appropriate pricing) must be performed for procurements that:
 - Require the contactor to submit estimates for labor hours, overhead, and materials
 - Result in a situation where price competition is lacking
 - Consist of a sole source procurement.

If the quote is fair and reasonable, you can award to the bidder. Keep documentation of the quote in your procurement file.

7.9 GETTING MULTIPLE PROPOSALS

Sometimes you are purchasing equipment, software or services for which it is difficult to write detailed specifications, or you would like to have an evaluation process.

Competitive proposals are a procurement strategy in which award is made to the responsible vendor whose proposal is determined to be most advantageous based upon cost and other evaluation criteria. The related weight of cost and the other evaluation criteria must be stated in the solicitation. Provide the same information to all bidders. Give bidders a deadline for responding. Do not share the price information with other bidders until after you have made the award.

The request for proposal process allows you to have discussions with vendors. You can also have vendors make changes to their proposals by requesting best and final offers. The request for proposal process is appropriate for equipment, information technology, and professional services. State of ND agencies visit the OMB State Procurement internal website for checklists and templates to help you conduct a competitive request for proposal process. Transit subrecipients see the attached checklists (*Attachments 30-33*).

7.10 NORTH DAKOTA PREFERENCE LAWS – RECIPROCAL PREFERENCE

If you are receiving multiple quotes, you need to be aware of "preference" laws that apply if you receive bids or proposals from out of state or nonresident vendors. The term "preference" as it relates to government purchasing is an advantage in consideration for award of a contract given to particular types of vendors. If you receive bids or proposals from nonresident bidders, contact your lead procurement officer for assistance in determining whether or not preference laws apply.

- The reciprocal preference law (N.D.C.C. § 44-08-01) requires the preference given to a resident North Dakota bidder be equal to the preference given or required by the state of the nonresident bidder. This is commonly called "reciprocal preference." A bidder is "resident" if it maintains a bona fide place of business within North Dakota for at least one year prior to the date the contract was awarded (N.D.C.C. § 44-08-02).
- You do not need to apply a preference if you receive quotes from only North Dakota vendors or only nonresident bidders. Apply preference when there is a mix of North Dakota and nonresident bidders. You also do not need to apply a preference if no vendors are from states with preference laws.

If the nonresident bidder's state has a preference law, increase the nonresident bidder price by the same percentage. For example:

A nonresident bidder submits a bid price of \$8,000. Laws in that bidder's state of residence require a 5% preference for vendors who are resident in that state. Increase the nonresident bidder's price by 5% before evaluation (\$400). So, you must evaluate the nonresident's bid as \$8,400.

North Dakota also has preference laws for certain commodities and services.

- Coal. N.D.C.C. § 48-05-02.1
- Food. 2003 Senate Concurrent Resolution No. 4018

- Environmentally Preferable Products – Bio-based Products. N.D.C.C. § [54-44.4-07](#)
- Paper, Recycled. N.D.C.C. § [54-44.4-08](#)
- Printing. N.D.C.C. § [46-02-15](#) and Guidelines for State Procurement of Printing.
- Soybean-based Ink. N.D.C.C. § [54-44.4-07](#)
- American Flags. N.D.C.C. § [44-08-22](#)
- Direct Manufacturer Motor Vehicle Sales Prohibited. N.D.C.C. § [39-22-25](#)
- Work Activity Centers. N.D.C.C. § [25-16.02](#)
- Work Activity Centers - Construction Stakes. N.D.C.C. § [25-16.2-02](#)

See the OMB [Guidelines to North Dakota Purchasing Preference Laws](#) for more information

Transit subrecipients must contact the NDDOT Transit Section for questions on purchases using federal and state funds.

If a subrecipient is part of a political subdivision, local rules may also apply.

7.11 TIE BIDS OR PROPOSALS – STATE OF ND EMPLOYEES - ONLY

If two or more bidders offer equal prices or receive equal evaluation scores after any reciprocal preference is applied.

Preference must first be given to bids submitted by North Dakota vendors (N.D.C.C. § [44-08-01.1](#)).

If a tie remains, preference must be given to approved vendors on the State Bidders List (N.D.C.C. § [54-44.4-09\(4\)](#)).

If a tie still remains, award shall be made accordance with N.D.A.C § [4-12-11-05](#).

7.12 ONLY ONE BID OR PROPOSAL RECEIVED

When only one bid or proposal is received, attempt to find out why the competitive process failed. The specifications and other requirements of the solicitation must be reviewed to ensure competition was not restricted. The situation must be handled in accordance with N.D.A.C. § [4-12-11-08](#).

7.13 PROTESTS

A vendor may protest a solicitation or award decision in accordance with N.D.C.C. § [54-44.4-12](#) and N.D.A.C. Chapter [4-12-14](#).

If you receive a protest, you must follow the laws and rules related to responding to protests. Contact your agency's lead procurement officer and legal counsel for assistance. See the [protest response \(Attachment 36\)](#) template.

Chapter 8: Level 4 Formal Purchase Procedures

<p>Level 4 Formal Purchase</p>	<p>Must be purchased using formal sealed bids or Request for Proposal (RFP). Solicitations must be posted using SPO Online with appropriate state bidders list. May send to additional bidders.</p>
<p>\$100,000 and over</p>	<p>State agencies: ITD must review IT purchases over \$25,000. Contact itdprocurement@nd.gov</p> <p>Transit subrecipients:</p> <p>SPO Online is not available for Transit Subrecipients.</p> <p>If purchasing ADA vehicles off the State Bid, approval required from the Transit</p>

	<p>Section before ordering. Contact transitnd@nd.gov</p> <p>Assets (vehicle, equipment, software, facility, etc.) must be added to Inventory in the BlackCat System if \$5,000 or greater.</p> <p><u>Documentation is required.</u></p> <p><u>Alternate Procurement form</u> required if:</p> <ul style="list-style-type: none"> • Competition is limited or not solicited, or competition is limited. • SPO Online is not used. SPO Online is not available for Transit Subrecipients. <p>Transit subrecipients: Approval required before purchase. Contact transitnd@nd.gov</p>
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8.1 LEVEL 4 FORMAL PURCHASE PROCEDURES

Solicit using formal sealed Invitation for Bid (IFB) or Request for Proposals (RFP) for purchases of \$100,000 and over. Procurement rules allow for these purchases to be made using adequate procedures to ensure goods and services are obtained at a fair and reasonable price, which includes using the Invitation for Bid template or Request for Proposal Template (*Attachments 17 & 44*) and post to the SPO Online. The terms “bids”, “quotes” or proposals are used interchangeably (N.D.C.C. § [54-44.4-11](#), N.D.A.C. § [4-12-08-02](#)).

Transit Subrecipients – Level 4 purchases require NDDOT Transit Section prior approval. SPO Online can only be used by State Agencies. Transit subrecipients must use the IFB or RFP templates, advertise, and solicit informal bids or proposals on their own.

Transit subrecipients are required to complete the Procurement File Checklist (*Attachments 30-33*) – Formal Purchase and maintain a file containing all documentation relating to the formal purchase. The checklist must be submitted to the NDDOT Transit Section for each formal purchase with the request for reimbursement.

8.2 ESTIMATED PURCHASE PRICE

The estimated price is needed to verify that adequate funds are available, determine what level of competition is required, and ensure the procurement officer has delegated purchase authority to make the purchase. Estimated price may be based upon previous purchases, market research, a published price list, or asking a vendor for a budgetary estimate. Consider the following:

- Goods. The entire amount of the purchase price including all shipping and handling, and all other related charges, such as installation or maintenance agreements. Generally, shipping costs can be estimated at 15%.
- Leases. The entire amount of an equipment lease is based upon all payments over the lease term, including any options for extension or renewals. For example, the value of a 24-month equipment lease with monthly payments of \$400 is \$9,600.
- Services. The entire amount of a service contract includes the initial term and all possible extension or renewal options. For example, the value of a one-year contract estimated at \$5,000 per year with three renewal options is \$20,000.
- Artificial Fragmentation Prohibited (N.D.A.C. § [4-12-04-08](#)). Procurement requirements may not be artificially divided as to constitute a small purchase [N.D.C.C. § [54-44.4-11\(3\)](#)].

Artificial fragmentation means splitting purchase requirements or splitting an invoice to stay below a certain dollar level to avoid competition or stay within delegated authority limits.

Transit subrecipients must perform an independent cost estimate (ICE) if the value of the procurement will exceed the Simplified Acquisition Threshold of \$250,000 to establish the anticipated cost or price to be

paid for an item, service, or project that is developed by an entity or entities not associated with the item, service or project to be procured. To be considered “independent,” the estimate cannot be developed by any potential source, supplier, or provider of the item, service, or project. However, it is acceptable to have an “independent” third party develop the estimate for the purchasing activity as long as that party has no interest in bidding or offering on the procurement.

An ICE is required for all procurement that meet the simplified threshold for all procurements that will exceed the Simplified Acquisition Threshold of \$250,000.

For more complex procurements, the ICE represents the documented result of a practical and unbiased analysis, assessment, and quantification of all costs and risks associated with a particular procurement. The ICE serves as an essential tool for conducting the subsequent required cost or price analysis. The NDDOT Transit Independent Cost Estimate (ICE) form (*Attachment 23*) must be completed and maintained as part of the procurement file if the value of the procurement will exceed the Simplified Acquisition Threshold of \$250,000.

8.3 SELECTING A BIDDER

After you have developed the specifications, you need to select bidders from whom you can solicit a quote from for your Level 4 purchase. You have many options, including:

- State Bidders List. OMB is required to maintain a Bidders List. You can find the bidders list on the State Procurement Online (SPO) system. You are not required to use the Bidders List for purchases under \$10,000, but it is a good source for finding potential bidders.
- Printing Preference. If you are purchasing printing, you must comply with the North Dakota state law that requires all public printing, binding, and blank book manufacturing must be awarded to a resident North Dakota bidder (N.D.C.C. § 44-08-02). Get quotes for printing from North Dakota bidders, unless it is determined to be not practicable (N.D.A.C. § 4-12-16-01). See the Guidelines for State Procurement of Printing. State of ND Employees - ONLY.
- ND Secretary of State Registration. North Dakota Secretary of State business registration requirements are based upon the circumstances of the procurement, not the dollar value. It is always preferable to have a bidder register with the Secretary of State, as it provides much greater legal protection for the state. See the Guidelines to Vendor Registration (State of ND Employees – ONLY) to determine if registration is required. Check the ND Secretary of State Business Records Search to see if a vendor is registered.
- Contractors, Professional and Occupational Licenses. Certain types of businesses and individuals in certain professions or occupations are subject to licensing or registration with a state regulatory board or agency. If you are purchasing something that requires the contractor to have a North Dakota license, permit, or registration, be sure to obtain proof that they have complied with this requirement before award. Visit the NDSU Extension Service website for a list of licenses required by the state.
- List of Debarred and Suspended Vendors. OMB State Procurement maintains a list of vendors who have been debarred or suspended from doing business with the State. Do not get quotes from suspended or debarred vendors (N.D.A.C. § 4-12-05). Some agencies and institutions also have requirements to check the Federal Debarred vendor list, so check your internal procurement policies.
- Federal Vendor List of Debarred and Suspended – SAM.gov | Home
 - a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000

(7) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded

(defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(8) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(9) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

8.4 FORMAL SOLICITATIONS

Formal solicitations require sealed proposals. Proposals can be received by mail, delivery service, or SPO Online secure electronic receipt. Proposals cannot be submitted by email or fax, unless a third party to place in a sealed envelope and deliver to the receiving address.

Transit Subrecipients – Level 4 purchases require NDDOT Transit Section prior approval. SPO Online can only be used by State Agencies. Transit subrecipients must use the IFB or RFP templates (*Attachments 17 & 44*), advertise, and solicit formal bids or proposals on their own.

8.5 CLARIFICATIONS OR AMENDMENTS TO THE SOLICITATION

After the solicitation is issued, carefully consider any questions or criticisms raised by potential bidders about the solicitation. If you need to make a correction or modification, notify each bidder you solicited in the same manner as the original solicitation (verbal or written). State of ND Employees see the OMB State Procurement internal website for a sample Solicitation Amendment. Transit subrecipients see attached sample Solicitation Amendment (*Attachment 49*).

8.6 RECEIVING RESPONSES

The method you used to contact vendors will determine how you receive responses. Informal bids and proposals may be viewed immediately. If responses are received from all bidders solicited, response may be evaluated, and an award made. Document all bidders solicited and their responses, including those that responded with a “no bid”. Send a [Rejection Letter template](#). (*Attachment 3*) If any responses are received late. Bidders may not change their responses after the deadline.

8.7 EVALUATING RESPONSES

When evaluating bids or proposals, you can only consider those requirements or evaluation criteria specifically stated in the solicitation.

- “Responsive Bidder” means a firm or person who submits an offer that conforms to the requirements of the solicitation. Failure to meet specifications and submission of a late bid are common reasons for declaring a bid “not responsive”. Compare the offered products or service to the specifications and requirements stated in the solicitation. A bid or response that did not meet a stated minimum requirement must be rejected (ref N.D.A.C § 4-12-11-03).
- “Responsible Bidder” means a firm or person who is capable of performing the work. If you suspect a bidder is not responsible, see N.D.A.C. § 4-12-11-04.
- Price Evaluation: If bids or proposals are received from nonresident bidders, apply any reciprocal preference (see Chapter 8.10 of this plan). Determine the lowest priced, responsive bid or proposal. Be sure each bidder's total price includes all shipping, handling, and installation costs, if any. Discounts for prompt payment or cash discounts can only be considered if so stated in the solicitation.

When evaluating proposals, the lowest priced proposal receives the maximum points for cost. Points for higher-priced proposals can be calculated:

- [Price of Lowest Cost Proposal](#)

Price of Proposal Being Rated X Number of Points = Awarded Points

- Discussions, negotiations, and best and final offers: No discussions or negotiations are permitted with competitive bidding. See N.D.A.C. §4-12-08-04 and chapter §4-12-12 for guidance about discussions, negotiations and best and final offers within an RFP process.
- Compare all-or-none, group, or split award: the solicitation should indicate whether the buyer intends to award all items to the one contractor (all or none award), award by category items (group award), or award each item separately (split award). If the solicitation or bidder's response did not specify whether the award would be an all-or-none or split award, the procurement officer has discretion to make that determination. The administrative costs of issuing multiple purchase orders may be considered to determine whether a split award will be advantageous. As a general rule of thumb, the administrative cost to issue a purchase order is \$50.
- Multiple Awards: A multiple award means that two or more bidders will be awarded contracts for similar products or services. The intent to make a multiple award must be stated in the solicitation, and the procurement officer must make a determination that a multiple award is in the best interest of the state. See N.D.C.C. § 54-44.4-051(1) and N.D.A.C. § 4-12-11-07.

8.8 FAIR AND REASONABLE PRICE

The procurement officer must perform a cost analysis before awarding a contract to determine if the bids provided are fair and reasonable. See NDDOT Transit Cost/Price Analysis and Price Reasonableness form (*Attachment 22*). This analysis must be used in conjunction with the independent cost estimate created prior to the solicitation of price quotes for all procurements that exceed the Simplified Acquisition Threshold of \$250,000 or more. The type (price or cost) and degree of analysis is dependent of the facts surrounding the particular procurement situation. In general, the rule behind whether to do a PRICE or COST analysis is the following:

- Price analysis (which is comparing quotes to catalog or market prices, via previous contracts or comparison with other competitive proposals) may be performed for most procurements.

Sources of information that are available to conduct a price analysis include:

- Comparisons with other competitive proposals
 - Previous contracts
 - Catalog or market prices
 - Historical prices and trending
 - Independent cost estimates
- Cost analysis (which includes examining variance from the independent estimate as well as the differences between bids recorded, rather than assuming that open market pricing always equates to appropriate pricing) must be performed for procurements that:
 - Require the contractor to submit estimates for labor hours, overhead, and materials
 - Result in a situation where price competition is lacking
 - Consist of a sole source procurement.

If the quote is fair and reasonable, you can award to the bidder. Keep documentation of the quote in your procurement file.

8.9 GETTING MULTIPLE PROPOSALS

Sometimes you are purchasing equipment, software or services for which it is difficult to write detailed specifications, or you would like to have an evaluation process.

Competitive proposals are a procurement strategy in which award is made to the responsible vendor whose proposal is determined to be most advantageous based upon cost and other evaluation criteria. The related weight of cost and the other evaluation criteria must be stated in the solicitation. Provide the

same information to all bidders. Give bidders a deadline for responding. Do not share the price information with other bidders until after you have made the award.

The request for proposal process allows you to have discussions with vendors. You can also have vendors make changes to their proposals by requesting best and final offers. The request for proposal process is appropriate for equipment, information technology, and professional services. State of ND agencies visit the OMB State Procurement internal website for checklists and templates to help you conduct a competitive request for proposal process. Transit subrecipients see the attached checklists (*Attachments 30-33*).

8.10 NORTH DAKOTA PREFERENCE LAWS – RECIPROCAL PREFERENCE

If you are receiving multiple quotes, you need to be aware of “preference” laws that apply if you receive bids or proposals from out of state or nonresident vendors. The term “preference” as it relates to government purchasing is an advantage in consideration for award of a contract given to particular types of vendors. If you receive bids or proposals from nonresident bidders, contact your lead procurement officer for assistance in determining whether or not preference laws apply.

- The reciprocal preference law (N.D.C.C. § [44-08-01](#)) requires the preference given to a resident North Dakota bidder be equal to the preference given or required by the state of the nonresident bidder. This is commonly called “reciprocal preference.” A bidder is “resident” if it maintains a bona fide place of business within North Dakota for at least one year prior to the date the contract was awarded (N.D.C.C. § [44-08-02](#)).
- You do not need to apply a preference if you receive quotes from only North Dakota vendors or only nonresident bidders. Apply preference when there is a mix of North Dakota and nonresident bidders. You also do not need to apply a preference if no vendors are from states with preference laws.

If the nonresident bidder's state has a preference law, increase the nonresident bidder price by the same percentage. For example:

A nonresident bidder submits a bid price of \$8,000. Laws in that bidder's state of residence require a 5% preference for vendors who are resident in that state. Increase the nonresident bidder's price by 5% before evaluation (\$400). So, you must evaluate the nonresident's bid as \$8,400.

North Dakota also has preference laws for certain commodities and services.

- Coal. N.D.C.C. § [48-05-02.1](#)
- Food. 2003 Senate Concurrent Resolution No. 4018
- Environmentally Preferable Products – Bio-based Products. N.D.C.C. § [54-44.4-07](#)
- Paper, Recycled. N.D.C.C. § [54-44.4-08](#)
- Printing. N.D.C.C. § [46-02-15](#) and Guidelines for State Procurement of Printing.
- Soybean-based Ink. N.D.C.C. § [54-44.4-07](#)
- American Flags. N.D.C.C. § [44-08-22](#)
- Direct Manufacturer Motor Vehicle Sales Prohibited. N.D.C.C. § [39-22-25](#)
- Work Activity Centers. N.D.C.C. § [25-16.02](#)
- Work Activity Centers - Construction Stakes. N.D.C.C. § [25-16.2-02](#)

See the OMB [Guidelines to North Dakota Purchasing Preference Laws](#) for more information

Transit subrecipients must contact the NDDOT Transit Section for questions on purchases using federal and state funds.

8.11 TIE BIDS OR PROPOSALS – STATE OF ND EMPLOYEES - ONLY

If two or more bidders offer equal prices or receive equal evaluation scores after any reciprocal preference is applied.

Preference must first be given to bids submitted by North Dakota vendors (N.D.C.C. § [44-08-01.1](#)).

If a tie remains, preference must be given to approved vendors on the State Bidders List (N.D.C.C. § [54-44.4-](#)

[09\(4\)](#)).

If a tie still remains, award shall be made accordance with N.D.A.C § [4-12-11-05](#).

If a subrecipient is part of a political subdivision, local rules may also apply.

8.12 ONLY ONE BID OR PROPOSAL RECEIVED

When only one bid or proposal is received, attempt to find out why the competitive process failed. The specifications and other requirements of the solicitation must be reviewed to ensure competition was not restricted. The situation must be handled in accordance with N.D.A.C. § [4-12-11-08](#).

8.13 PROTESTS

A vendor may protest a solicitation or award decision in accordance with N.D.C.C. § [54-44.4-12](#) and N.D.A.C. Chapter [4-12-14](#).

If you receive a protest, you must follow the laws and rules related to responding to protests. Contact your agency's lead procurement officer and legal counsel for assistance. See the [protest response](#) template (*Attachment 36*).

Chapter 9: Making the Award

9.1 MAKING THE AWARD

You are ready to make the purchase or "award" a contract after you confirm the goods or services the bidder is offering meet your specification and the price is fair and reasonable. You have several options for making the purchase and paying the vendor. Check with your agency or institution Lead Procurement Officer for internal procedures related to methods of making the award.

9.2 PURCHASE ORDERS

A purchase order is a written document to a vendor that formalizes all the details of a purchase transaction, such as a description of the requested item, price, and delivery date.

- PeopleSoft/Oracle Purchase Order (PO) system. OMB and NDUS have a PeopleSoft/Oracle Purchase Order system. This system is integrated with the PeopleSoft/Oracle Receiving and Accounts Payable applications, so receiving and payment can be done on-line. Contact your procurement or finance department. Visit the [OMB website](#) for more information.
- Field Purchase Order, SFN 53329. Field purchase orders are padded into books and can be handwritten. Purchase the field purchase order books from OMB Central Supply.
- Terms and Conditions. Terms and conditions are usually contained in the bid document and incorporated into the Purchase Order by reference. Simply type on the purchase order, "The attached terms and conditions of (Solicitation Type, Number, and Date) are incorporated and made part of this purchase order by reference."

9.3 CONTRACTS USING ATTORNEY GENERAL SAMPLE CONTRACT

The Office of the Attorney General [Contract Drafting and Review Manual](#) includes contract templates. Visit the OMB website to obtain [templates](#) (*Attachment 10*) that you can customize for your purchase.

A contract will be issued for most service contracts and term contracts. Use the Office of the Attorney General Contract and Review Manual and Sample Service Contract to create a contract appropriate for the good or service being procured. Ensure the final contract contains the statement of work agreed upon between the state and the successful vendor and incorporate all the terms and conditions from the solicitation. Be sure to have the agency's legal counsel review any changes to the standard clauses.

9.4 VENDOR-PROVIDED CONTRACTS

If a vendor gives you a contract or agreement, be sure to have legal counsel review the document before

you sign it. Contracts are usually written to protect the party that drafted the contract. The vendor contract or agreement may contain "terms and conditions" that the state cannot legally agree to accept. It is imperative to make modifications to these contracts to ensure the state is properly protected.

Chapter 10: Receiving, Contracting, and Closeout

10.1 RECEIVING, INSPECTION, AND ACCEPTANCE

The procurement officer's role in the procurement process should continue until the goods are delivered or the services have been performed. Purchase order or contract administration, which includes receiving, inspecting, acceptance, problem resolution, and payment is very important. The best specifications and broadest competition are wasted efforts if the state pays for goods received or services rendered that do not meet the requirements of the purchase order or contract.

- Follow-up. Ensure outstanding purchase orders and contracts are monitored to prevent missed deadlines, especially if the good or service is urgently needed. Document all communications with a vendor about outstanding orders. If your request needs an earlier delivery than originally agreed, you may need to authorize special shipping (usually at an additional cost).
- Deliveries. Delivery is expected at the time agreed upon when the order was placed. Although early deliveries are usually welcomed, an early delivery may be rejected if the delivery imposes a hardship for the agency. If a delivery is late, send a written notice to the contractor and require a written response explaining why delivery is late and when delivery can be expected. If the vendor's explanation and alternate delivery time are acceptable, document the file and communicate the new delivery date to the end-user. Contact your agency's procurement section for assistance.
- Receiving, Inspection, and Acceptance. When goods are delivered or services rendered, your agency must ensure that there is an inspection process. The goods or services need to be compared to your agency's requirements. Ensure that your agency received what was expected before you make payment. Inspect goods and services as soon as possible after delivery to ensure compliance with the specifications. Promptly notify the vendor if the good or service fails to meet specifications or damaged goods are received.

10.2 INVENTORY – FIXED ASSET REPORTING

Equipment and software valued at \$5,000 and over must be reported as fixed assets (N.D.C.C. § 54-27-21). Contact your agency or institution's asset manager.

10.3 AMENDMENTS AND CANCELLATIONS

Sometimes changes or mistakes are discovered after you have made an award. On occasion, administrative errors, omissions, or changing circumstances may create a need to cancel or amend a purchase order or contract after it has been issued.

- You cannot allow a change that would change the award decision (N.D.A.C. § 4-12-10-06)
- You cannot amend a contract to avoid competition requirements. (N.D.A.C. § 4-12-13)

See the OMB website for a [Sample Contract Amendment](#) template (*Attachment 8*). [Administrative Rules](#) address mistakes after award. Contact your Lead Procurement Officer for assistance.

10.4 CONTRACT AMENDMENT EXCEPTION APPROVAL

The alternate procurement form has a provision for contract amendment exceptions. A contract amendment exception may be appropriate:

- If you conducted the level of competition required and there is an unavoidable change that causes the purchase price to exceed the threshold. For example, you conducted a Level 1 procurement and had to amend the contract resulting in the contract exceeding \$10,000.
- If a contract has no remaining extensions or renewals, but unanticipated circumstances make extension of the contract period necessary.

You must obtain an Alternate Procurement approval. State of ND Agencies contact your lead procurement

officer or the State Procurement Office. Transit subrecipients must contact the NDDOT Transit Section for approval.

10.5 CONTRACT PROBLEMS

If the goods do not meet specifications or the services were not rendered satisfactorily, notify the contractor immediately. Demand corrective action in writing. Be sure to document all your communication with the vendor. See the OMB website for a Default Letter template (*Attachment 9*).

Please let the State Procurement Office know about problems with state contracts, vendors, defective products, or anything else purchasing related. Submit a complaint using the SPO Work Request System or email to infospo@nd.gov. OMB can suspend or debar vendors from the State Bidders List(N.D.A.C. § 4-12-05).

Transit Subrecipients – After the procurement is complete, the recipient is responsible for ensuring that the product or services procured are actually received.

The recipient should identify a person within their agency to oversee the contract and to be responsible for the following activities:

- Understand the nature of the solicitation, what was agreed to as part of the negotiations, and the structure and substance of the contract.
- Monitor the contract to ensure there is no scope creep, cardinal changes, or add-ons.
 - Scope creep is when small changes in service levels or commodity purchases are made to multi-year agreements over a period of time, resulting in a large change from the original procurement.
 - Cardinal changes are major deviations from the original purpose of the work or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract.
 - Add-ons are adding quantities on to the contracted quantities (base and option) as originally advertised, competed, and awarded, whether for the use of the buyer or for others and then treating the add-on portion as though it met the requirement of the original competition.
 - If modifications are required, complete the necessary paperwork listed in the appendices of the respective toolkit. Work with the person who conducted the procurement to complete the required paperwork.
 - For additional information: FTA Circular 4220 Third-Party Contracting Guidance
- Track the progress of the project.
 - Document the progress, deliverables reached, and decisions made.
 - If the contract requirements are not being met, document the areas of non-compliance. Discuss areas of non-compliance with the contractor, document the conversations and timeframe and deliverables of corrective actions. Discuss and document issues such as if the project is on time and on budget? If not, discuss and document what needs to happen to get it back on track?
 - Ensure that contract invoicing is consistent and compliant with contract provisions
 - Key documents in the contract administration file:
 - Statement of Work
 - Required Reports
 - Documentation necessary to review, approve and pay invoices
- Manage the project throughout the life of the contract.
 - If there are multiple years to the contract, know when the contract was executed, the original term of the contract (1 year or 2 years), were the options included in the contract, is a new solicitation needed. If it's in an option year, there is documentation needed to be completed a couple of months before the contract expires. If a new solicitation is needed, it should be started 6-12 months before the current contract expires.
 - If the contract has an option year(s), verify and document the following:
 - The price for the current year is fair and reasonable. Check the contract to see if there

is an escalator/de-escalator based on Consumer Price Index (CPI) or Producer Price Index (PPI). If CPI or PPI is the only factor, and the contractor is willing to sign an *Exercise of Options* to extend the contract for another year at the existing price, submit written documentation supporting that decision.

- If recipient does not execute an exercise of option year, then procurement must be resolicited.
 - Whether the contractor has performed as required in the contract. If not, consider resoliciting for a contractor that can perform satisfactorily.
 - The statement/scope of work for the next year. Check with all personnel that may be affected by the contract to verify completeness of the statement of work. Keep in mind, the scope of work must be consistent with the contract and should not include scope creep or cardinal changes.
 - Obtain signed federal clauses for each option year.
- *For Commodities*
- Verify the item received was the item on the purchase order. Complete any necessary paperwork and/or reporting. The recipient must ensure that the commodity met the specifications and document in writing any changes that may have been made in the procurement process. If the item does not meet the contract requirements, notify the contractor immediately. Payment must be held from the contractor until all contract requirements are met.
- *For Services:*
- Verify the service procured is thoroughly completed. A detailed statement of work must be included as part of the contract so both the recipient and the contractor understand the contract terms. Complete any necessary paperwork and/or reporting. If the service does not meet the contract requirements, notify the contractor in writing as soon as there is deviation from the contract. Develop a plan to allow the contractor to achieve compliance with the contract. A payment made for a service indicates acceptance that the service met all contractual requirements. Payment must be held from the contractor until all contract requirements are met.

Remember, don't tolerate poor performance – do something about it!

10.6 PAYMENT

After you have received and inspected the goods or services, you will need to make payment to the vendor. Be sure vendors receive payment in a timely manner.

- State Purchasing Card. Use the state purchasing card whenever possible. The state purchasing card saves time and money because the vendor is paid by the credit card company. Agencies and institutions avoid the work of processing payments by ACH or check. The State also receives rebates from the purchasing card provider. Visit the OMB Financial website for more information about the Purchasing Card Program. State of ND Employees - ONLY.
- Supplier Registration/IRS Form W-9. If you are paying by check or Automated Clearing House (ACH) vendors may need to be set up as Suppliers in PeopleSoft. OMB Fiscal Policy 110 requires all suppliers to complete an IRS Form W-9. Higher Education institutions should check with their Finance office. For state agencies, vendors can complete an online registration: See the OMB website Vendor Payments. NDUS Institutions check with your Finance Office for Supplier Registration requirements and procedures.
- IRS 1099 Reporting. Most services over \$600 require IRS 1099 reporting. Check with your agency finance department. See the OMB Fiscal Policy 110 and the website 1099 Reporting.

- Advanced Payments. Generally, the state does not make advanced payments for goods and services. Advanced payment is appropriate in some circumstances, such as a subscriptions, postage, and equipment rental.
- Vouchers. On occasion, purchases are made without using a purchasing card, purchase order, or contract. For example, maintenance is required on office equipment, and the service provider leaves an invoice. Agencies should develop internal procedures for these situations. These expenses can be paid on a voucher. Contact your Finance Department or OMB Fiscal Division for assistance.

10.7 OPEN RECORD REQUESTS

Vendors commonly ask for information about contract awards, evaluations, and request copies of other vendor's bids and proposals.

- Bids become open records after the deadline for receipt. (N.D.C.C. § [44-04-18.4](#), [54-44.4-05](#))
- Proposals become open records upon notice of award. (N.D.C.C. § [44-04-18.4](#), [54-44.4-10](#))

You also must be careful not to release information that is confidential. Contact your legal counsel if you receive an open records request for a bid or proposals that a vendor claims to be confidential.

10.8 DOCUMENTATION

Each procurement transaction must be adequately documented for audit and public record purposes. All required procurement documentation must be maintained in accordance with governing records retention requirements. (NDUS – see [SBHE 803.1](#) Purchasing)

Under the state Records Retention requirements, you must maintain documentation of the transaction. The records retention requirements vary depending upon the award and payment method selected.

Examples of current NDDOT Transit Section record retentions are:

- Purchase orders/Requisitions funded by Rural Transit Funds (5311) have a record retention of 3 years after the grant is closed
- Vehicle purchases have a record retention of life of the asset plus 3 years
- Buildings have a record retention of life of the asset plus 3 years

Chapter 11: Emergency Purchases

11.1 EMERGENCY PURCHASES

Emergency purchases are defined in N.D.C.C. § [54-44.4-02 \(7\)](#) as purchases that OMB cannot make within the required time that involve public health or public safety, or where immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.

Emergency purchases must be made with the level of competition practicable under the circumstances. A written determination of the basis for the emergency and selection of the particular contractor must be included in the contract file. An [Emergency Purchase Explanation form](#), SFN 51627 must be completed and promptly forward to the OMB State Procurement Office after the purchase has been made. See N.D.A.C. § [4-12-09-04](#).

11.2 URGENT – NON-EMERGENCY PURCHASES

Sometimes an unexpected requirement or poor planning creates an immediate need for goods or services, but the circumstance is not an “emergency” as defined in law. A noncompetitive procurement cannot be justified on the basis of a lack of advanced planning, administrative delays, or pending expiration of budget authority. [N.D.A.C. § [4-12-09-03\(2\)](#).]

If the purchasing is \$10,000 and over, an Alternate Procurement form must be approved by the State Procurement Office prior to deviating from the purchasing threshold competition requirements based upon the estimated purchase price. Complete an [Alternate Procurement Request form](#), SFN 51403 to request

approval to make a limited or competitive procurement. See N.D.A.C. § [4-12-09-04\(1\)](#). NDUS institutions contact your purchasing department.

Chapter 12: Special Procedures

Certain goods and services require special procedures.

12.1 REFRESHMENTS

Any purchases of refreshments must comply with OMB [Fiscal Policy 515](#) – Coffee and Soft Drink Expense. Coffee and soft drinks may be purchased by state agencies for meetings to inform and train the general public, interested parties, consultants, etc. Coffee and soft drinks for state employees' during staff meetings are not allowed.

12.2 MICROFILM EQUIPMENT AND SERVICES. – State of ND Employees - ONLY

All state agencies and institutions, except institutions under the State Board of Higher Education, must obtain approval from Information Technology Department, Records Management Division, before purchasing or leasing any microfilm equipment or services (N.D.C.C. § [54-46.1-05](#)). Contact ITD Records Management Division at 701-328-3585 regarding approval requests.

12.3 POSTAGE METERS. – State of ND Employees - ONLY

OMB Facility Management Division must approve the lease or rental of all postage meters by all state agencies. Agencies must submit an annual report of total postage used (N.D.C.C. § [54-06-18](#) and OMB [Fiscal Policy 111](#)). Contact OMB Facility Management at 701-328-2481 to request approval.

12.4 DESKTOP SUPPORT SERVICES – State of ND Employees - ONLY

N.D.C.C. § [54-59-22.1](#) requires specific state agencies to obtain centralized desktop support services from the Information Technology Department. Desktop support means, “technical assistance and device management related to the use of personal computers and peripheral devices. Agencies subject to this requirement must coordinate with ITD Help Desk at 701-328-4470. See ITD [Desktop Support Service Level Agreement](#).

12.5 FLAGS – State of ND Employees - ONLY

Use the [state contract](#) for Flags to ensure your agency complies with these laws.

- [North Dakota Flags](#). Reproductions of the North Dakota flag are required by law to adhere to the official design and industry color chart codes provided by the state historical society. Flags purchased by a state entity or a political subdivision must substantially meet their requirements of N.D.C.C. § [54-02-02](#).
- [American Flags](#). Under N.D.C.C. § [44-08-22](#), American flags purchased by a state entity or any political subdivision must be manufactured in the United States; this requirement does not apply to the purchase of items that portray the likeness of a flag.

12.6 INFORMATION TECHNOLOGY – State of ND Employees - ONLY

If you are planning to purchase information technology hardware, software, software maintenance, or services over \$25,000 that are not on a state term contract, submit the request to ITD for prior approval in accordance with North Dakota Enterprise Architecture Standard [STD-ITD-001](#). Major Information Technology contracts estimated to cost over \$500,000 are subject to NDCC § [54-59-32](#). Contact ITD Planning Division at 701-328-1992 for assistance.

12.7 MOTOR VEHICLES – State of ND Employees - ONLY

North Dakota Department of Transportation, State Fleet Services, must purchase or lease motor vehicles for state agencies (N.D.C.C. § [24-02-03.3](#)). Contact State Fleet Services at 701-328-2543 or visit www.dot.nd.gov/. When purchasing new motor vehicles, the state must comply with N.D.C.C. § [39-22-25](#) related to a prohibition of direct manufacturer sales of new motor vehicles.

12.8 INSURANCE

Insurance is subject to special requirements:

- [Fire and Tornado Insurance](#). State property must be insured with the North Dakota Insurance Department, State Fire and Tornado Fund. The State Fire and Tornado Fund provides affordable building and business personal property insurance coverage to state entities and political subdivisions (N.D.C.C. § [26.1-22](#)). Learn about coverage, rates, and filing claims by

calling the North Dakota Insurance Reserve Fund (NDRIF) at 701-224-1988 or visit its website at www.ndirf.com.

- **Flood Insurance:** All flood insurance policies, regardless of the company, are underwritten through the National Flood Insurance Program (NFIP). The Office of the State Engineer is the State NFIP Coordinator. Flood insurance may be purchased directly from any licensed property insurance agent. Flood insurance purchased over and above the NFIP coverage limits must use state procurement procedures. Contact the Office of the State Engineer at 701-328-4898 or swc@nd.gov for assistance in evaluating whether your agency should obtain flood insurance and NFIP flood hazard mapping. Additional information is available on the State Water Commission Special Projects website at www.swc.state.nd.us/
- **Liability Insurance (Reinsurance):** The Risk Management Fund provides tort liability coverage for the state and state employees acting within the scope of their employment up to \$250,000 per person and \$1 million per occurrence. OMB, through the Risk Management Fund, is given the authority to decide which state agencies may purchase liability insurance. All liability insurance purchased on behalf of the state must be authorized in writing by the OMB Director (ref. N.D.C.C. Chapter [32-12.2](#)). Reinsurance is insurance coverage purchased to address liability exposure that could exceed the statutory caps of the Risk Management Fund. Reinsurance is insurance coverage purchase to address liability exposure that could exceed the statutory caps of the Risk Management Fund. An agency wishing to purchase this coverage should contact Risk Management at 701-328-7584.
- **All Risk Insurance:** State of ND Employees - ONLY. Special coverage is available for mobile equipment, portable radios, computers, artwork, and similar property. An agency wishing to purchase this coverage should contact the Risk Management Division at 701-328-7584 or visit the OMB Risk Management Services website State of ND Agencies - ONLY. Transit subrecipients should refer to Guidelines to Managing Contractual Risk (*Attachment 15*).

Chapter 13: Purchasing Exemptions

13.1 EXEMPTIONS BY STATUTE – State of ND Employees - ONLY

Certain goods and services are not subject to state procurement laws. N.D.C.C. § [54-44.4-02](#) states, “The following goods and services, however, are not subject to the procurement requirements of this chapter (N.D.C.C. Chapter [54.44.4](#) State Purchasing Practices):

- Land, buildings, space, or the rental thereof. [Note: Leases for office space off the Capitol grounds must be reviewed by the Office of the Attorney General and approved by OMB Facility Management, N.D.C.C. § [54-21-24.1](#) and OMB Facility Procedures to Complete a State Office Lease and [OMB Leasing State Office Space](#) and [OMB Fiscal Policy 109](#)].
- Telephone and telegraph service and electrical light and power services.
- Public books, maps, periodicals, and technical pamphlets.
- Department of transportation materials, equipment, and supplies in accordance with section [24-02-16](#).
- Procurements by the industrial commission for energy-related programs under chapters [17-05](#), [54-17.5](#), [54-17.6](#), [54-17.7](#), and [54-63](#) and under those statutes in [title 38](#) authorizing the industrial commission to perform well and hole plugging, reclamation work, equipment removal, leak prevention, and similar work.
- Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment when the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or when such a contract would otherwise be advantageous to the state.

- Emergency purchases. See Chapter 11 of this plan.
- Goods and services costing less than a specified amount as determined by written directive by the director of the office of management and budget.
- Specified goods and services as determined by written directive by the director of the office of management and budget.
- Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services.

13.2 EXEMPTIONS BY RULE – State of ND Employees - ONLY

These OMB exemptions are stated in North Dakota Administrative Code (N.D.A.C. [4-12-01-04](#)) certain goods and services have been exempted from state procurement laws and rules:

- Those agencies or institutions governed by the state board of higher education, which are exempt under subsection 5 of North Dakota Century Code section [15-10-17](#) and North Dakota Century Code section [54-44.4-02](#);
- Contracts for services of legal counsel with attorneys who are not employed by the state, pursuant to N.D.C.C. § [54-12-08](#).
- Contracts for public buildings and public improvement contract bids, pursuant to North Dakota Century Code [Title 48](#);
- Contracts for architect, engineer, and land surveying services, pursuant to North Dakota Century Code [Chapter 54-44.7](#);
- Contracts for concessions, pursuant to North Dakota Century Code [Chapter 48-09](#);
- Grant programs, not including procurements using grant dollars [N.D.A.C. § [4-12-01-04 \(1\)\(h\)](#)]
- Professional memberships. [N.D.A.C. § [4-12-01-04 \(1\)\(i\)](#)][10.3](#)

13.3 EXEMPTIONS BY OMB WRITTEN DIRECTIVE – State of Employees ONLY

N.D.C.C. § [54-44.4-02](#) gives OMB the authority to exempt specified goods and services and purchases under specified dollar amounts by written directive.

Chapter 14: Other Purchasing Laws

14.1 OTHER PURCHASING LAWS

As a Procurement Officer, you need to know the laws that apply to the type of purchase you are making. The Procurement Plan applies to the purchase of goods and services that fall under N.D.C.C. Chapter [54-44.4](#) State Purchasing Practices.

Your agency may need to make purchases that are covered by other purchasing laws. It is important that you recognize these other types of purchases. Consult your legal counsel for assistance to determine which laws apply to the purchase.

If a subrecipient is part of a political subdivision, local rules may also apply.

14.2 CONCESSIONS – State of ND Employees - ONLY

Purchase of Concessions is subject to N.D.C.C. Chapter [48-09](#). Agencies must comply when granting concessions for cafes, restaurants, and confectioneries on public buildings and grounds.

14.3 ARCHITECTS, ENGINEER AND LAND SURVEYING SERVICES

Purchase of Architects, Engineering, and Surveying Services is subject to N.D.C.C. Chapter [54-44.7](#).

NDDOT is also required to follow the internal Contract Administration Services Procedure Manual when hiring for A & E services.

14.4 PUBLIC IMPROVEMENT

The OMB State Procurement guidelines are not intended for public improvement and construction contracts covered by N.D.C.C. Title [48](#). Agencies should consult their legal counsel for assistance in determining whether the intended purchase falls under N.D.C.C. § [48-01.2](#) Public Improvement Bids and Contracts or N.D.C.C. § [54-44.4](#) State Purchasing Practices.

“Construction” is defined in N.D.C.C. § [48-01.2-01](#) as “the process of building, altering, repairing, improving, or demolishing any public structure or building or other improvement to any public property. The term does not include the routine operation or maintenance of existing facilities, structures, buildings, or real property or demolition projects costing less than the threshold established under N.D.C.C. § [48-01.2-02.1](#).”

N.D.C.C. § [48-01.2-02](#) specifies the public improvement construction threshold for bidding construction of a public improvement and procuring plans, drawings, and specifications by an architect or engineer. Public improvements over the threshold must be advertised prior to the bid opening, except as otherwise provided when an emergency situation is declared (N.D.C.C. § [48-01.2-04](#)).

Contractor's License. North Dakota law requires any person engaged in the business of acting in the capacity of a contractor in this state to have a contractor's license when the cost, value, or price per job exceeds four thousand dollars (N.D.C.C. § [43-07-02](#)).

MISCELLANEOUS INFORMATION AND TEMPLATES

This section includes additional information and templates to be used in procurements to communicate information between the recipient and prospective bidders or proposers.

Note: Not all templates pertain to all procurements.

The attachments are presented in the order shown below:

1. All Federal Clauses
2. Alternate Procurement (AP) Request SFN 51403
3. Bid Proposal Rejection Letter Template
4. Bidders List Application Invitation Template
5. Bond Clauses
6. Confidential Information Determination
7. Conflict of Interest – Confidentiality Evaluator
8. Contract Amendment Template
9. Contract Default Letter Template
10. Contract Template
11. Draft Solicitation Cover Letter
12. Emergency Purchase Explanation SFN 51627
13. FTA Circular 4420.1F Third Party Contracting Guidance
14. FTA Master Agreement (28) 2021-02-09
15. Guidelines to Managing Contractual Risk
16. Informal Request for Quote Template
17. Invitation for Bid Template
18. Lease vs Purchase Cost Benefit Analysis Instructions
19. Lease vs Purchase Cost Benefit Analysis Template
20. Letter of Instruction for Successful Bidder
21. Minor Informality Template
22. ND Transit – Cost, Price and Reasonableness Template
23. ND Transit – Independent Cost Estimate Template
24. Non-disclosure Agreement Contractor Template
25. Notice of Intent – Limited Competition
26. Notice of Intent to Award Template
27. Notice of Intent to Award – Rescission Template
28. Only One Bid or Proposal Template
29. Printing Specifications Template
30. Procurement File Checklist – Micro Purchase
31. Procurement File Checklist – Small Purchase
32. Procurement File Checklist – Informal Written Purchase
33. Procurement File Checklist – Formal Purchase
34. Procurement Plan Adoption/Procurement Officer Designation Form
35. Protest Acknowledgement
36. Protest Response Template
37. Protect Response Extension Awarded
38. Protest Response Extension Protestor
39. Protest Response Mutual Agreement of Resolution
40. Protest Stay of Award
41. Receipt of Bid or Proposal Template
42. Reference Check General Template
43. Request for Information Template
44. Request for Proposal Template

45. RFP Evaluation Committee Introduction Letter Template
46. RFP Evaluators Guide
47. RFP Presentation-Demonstration Instructions
48. Sample Return Notice
49. Solicitation Amendment Template
50. Solicitation Cancelation Template
51. Telephone Quote SFN 02706
52. Work Activity Centers
53. Work Activity Center Determination

PROCUREMENT PLAN ADOPTION & PROCUREMENT OFFICER DESIGNATION

Paul W. Grindeland has been appointed
(Name of appointed Procurement Officer)

as the Procurement Officer for Valley Senior Services
(Name of Transit Agency)

I certify that my transit agency is in compliance with the Third Parting Contracting requirements established by FTA and the State.

My agency has met the requirements by:

- Adopting the North Dakota Department of Transportation Transit Procurement Manual.
- Completing our own Procurement Manual and keeping it up-to-date. A copy has been provided to NDDOT Transit Section for approval.

We confirm that the Procurement Manual has been adopted by our board and is being implemented by our agency.

Signed,

Board President

Date



MEMORANDUM

DATE: April 6, 2022

TO: Fargo Park Board Commissioners

FROM: Dave Leker, Executive Director

RE: Agenda Item No. 3 – Growing Together Community Gardens Presentation

At the Park Board Meeting on April 12, 2022, Jack Wood will share an overview of Growing Together Community Gardens and what they do and their partnership with the Fargo Park District.

If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.



MEMORANDUM

DATE: April 6, 2022

TO: Fargo Park Board Commissioners

FROM: Dave Leker, Executive Director

RE: Agenda Item No. 4 – Board to discuss and consider approval of recommendation for Independent Commissioning for the Fargo Parks Sports Complex

In alignment with our Procurement Policy, Policy No. 390, we publicly solicited a Request for Proposal (RFP) for Independent Commissioning for the Fargo Parks Sports Complex. Since then, we publicly advertised for these services and opened the proposals on March 17, 2022 at 10:00 am. We received three RFPs from Cooper Commissioning, KFI Engineers, and Martin Mechanical Design.

The RFPs for the three firms are attached along with an Independent Commissioning RFP Evaluations Matrix. Staff recommends awarding the project to KFI Engineers in the amount of \$94,250.

It was recommended at the March 30, 2022 Facilities Committee Meeting to bring this to the full board for consideration and approval.

Funds for this service are accounted for in the Fargo Parks Sports Complex total project cost. Construction timeline is below.

- Start of Construction: Spring 2022
- Project Completion: Spring/Summer 2024

If you should have any questions, please feel free to contact me prior to the meeting.

Thank you.

Sample Motion: I move to approve and award the bid to KFI Engineers in the amount of \$94,250 for Independent Commissioning for the Fargo Parks Sports Complex.

Dave Leker, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Stacey Griggs * Dawn Morgan * Jerry Rostad
CLERK – Dave Leker

Independent Commissioning RFP Evaluations Matrix

		Cooper Commissioning	Cooper Notes:	KFI Engineers	KFI Notes:	Mechanical Design Inc	Mech Des Inc Notes:
	Review & Selection Process: 1-5 Rating (5 best)						
1	Applicant's approach to providing the scope of services requested.	4	>Design Phase, Construction Phase, Acceptance Phase, Post-Acceptance Phase, Warranty Phase, Close-out >BlueRithm online software for check-sheets and test forms. >Seasonal testing and performance verification >10 month warranty review	4	>"KFI's commissioning staff is in the field on a daily basis testing and troubleshooting systems" >Building Start's AirNab Tab and Building Test Commissioning Software Platforms >Building Control Focus >Focused efforts with Building Operation Manager >"Zero open issues" commissioning report at the end of warranty >bi-monthly commissioning coordination meetings throughout the first season of occupancy	5	>Review of Pre-Functional Performance Testing, Functional Performance Testing, Review of O&M Manuals, Review of Owner's Training >Executive Construction Checklists (CC) - Checklist to contractor prior to functional testing >Test for Simulated Conditions >Deferred Commissioning >Seasonal Testing >"Lessons Learned" review is held onsite with entire Commissioning Team
2	Firm Demonstrated previous experience in providing system inspection/commissioning services for numerous projects of similar size and scope.	4	Percentage of overall business devoted to commissioning services: 100% Firm offered commissioning services: 4 years Number of commissioning projects performed each year: 15-20	5	Percentage of overall business devoted to commissioning services: 25% Firm offered commissioning services: 22 years Number of commissioning projects performed each year: 100	5	Percentage of overall business devoted to commissioning services: 20% Firm offered commissioning services: 22 years Number of commissioning projects performed each year: 5-10
3	Key Staff and experience dedicated to the project.	3	2 Staff	4	6 Staff	5	10 Staff
4	Defined Basis for compensation.	4	Did not include 30% of supplemental heating equipment	4	>1 review of equipment and HVAC/Lighting controls submittals in base fee. Review of resubmittals will be considered an additional service	2	Fixed Fee - Lump Sum
5	Experience in completion of projects.	4	NDSU AES Greenhouse & Research Center West Fargo Public School Middle School & High School Riverview Healthcare	5	NDSU SHAC HealthEast Sports Center Maslowski Community Wellness and Research Center	4	Horizon Middle School - Moorhead West Fargo Middle School Legacy Sports Park - Mesa, AZ
	Subtotal (25 possible)	19		22		21	

		Cooper Commissioning	KFI Engineers	Mechanical Design Inc	Notes
	Commissioning Responsibility Base Bid Items:				
1	50% Electrical lighting control systems and devices	\$2,500.00	\$3,750.00	\$25,000.00	
2	Mechanical systems to be commissioned include HVAC systems and associated automation/controls, with 100% of main equipment such as boilers, chillers, air handling units, energy recovery units, pumps, etc. being commissioned	\$35,000.00	\$19,750.00	\$75,000.00	
3	30% of terminal units such as variable air volume (VAV) boxes, terminal coils, etc.	\$15,000.00	\$2,500.00	\$15,000.00	
4	30% of supplemental heating equipment such as finned tube radiation, radiant panels, etc. Provide submittal review reports to the Owner and project team.	included	\$2,500.00	\$15,000.00	
5	Plumbing systems to be commissioned include domestic water heaters, and recirc pump/booster pumps.	\$2,000.00	\$1,500.00	\$10,000.00	
	All specific tasks (as indicated in RFP for which the Commissioning Authority for this project will be responsible for) for Preconstruction/Construction Phase, Building Acceptance Phase, and Building Turnover/Occupancy Phase shall be included in Commissioning Responsibility Bid Items and Commissioning Responsibility Add Service Items.	\$14,250.00	\$43,250.00	included	
	Subtotal	\$68,750.00	\$73,250.00	\$140,000.00	
	Commissioning Responsibility Add Service Items:				
A	Increase to 100% Electrical lighting control systems and devices	\$2,500.00	\$8,000.00	\$25,000.00	
B	Increase to 100% of Terminal Units and supplemental heating equipment	\$8,000.00	\$3,750.00	\$20,000.00	
C	Any voluntary alternates for any additional services and/or scope of work, not specifically addressed in the Request for Proposals that may be considered to be a benefit to the Owner.	\$2000	\$5,500 Generator Blackout Test	Hourly	
			\$9,000 Additional Construction Site Visits		
			\$6,750 Additional Construction Meeting Participation		
			\$3,750 System Manual		



Commissioning Services Proposal for the Fargo Park District Sports Complex Project

Prepared for:
Tyler Kirchner, Fargo Parks

Proposal issued:
03/17/2022

Date: 03.17.2022
Re: Fargo Park District Sports Complex

To Whom It May Concern,

Thank you for allowing Cooper Commissioning to submit our proposal to provide building commissioning services for the Sports Complex Project with the Fargo Park District.

Cooper Commissioning is one of the only, truly independent 3rd-party commissioning firms in the area providing technical commissioning. **We also are one of the few commissioning providers who have the knowledge and experience in-house for building envelope commissioning.** We have the personnel and expertise to execute the commissioning process so that you, our client, receives the best functioning building possible.

Within this proposal submission is our understanding of the project requirements and our responses to the RFP requests. We understand that you are busy and are reviewing multiple submissions, so we have done our best to keep the contents of this proposal clear and to-the-point. Workflow and service offering descriptions are given at a bird's-eye view, and if you would like greater detail, we are happy to provide more information.

Cooper Commissioning goes above and beyond in our building commissioning and is committed to making sure that all systems in your building are working together to function as efficiently as possible. We work closely with the entire project team to understand the overall vision and requirements of the project to ensure that the building functions to meet those expectations. We can do this because of our detail-oriented and technical approach to every aspect of the project.

Thank you,



Andrew Cooper
President

Cooper Commissioning
701-212-9513
andy.cooper@coopercx.com

FIRM INFORMATION

Cooper Commissioning formed in 2018 with the goal of providing an exceptional service to our clients that goes above and beyond the industry standard. We believe commissioning should be an independent (3rd-party), detail-oriented process of verifying and documenting that equipment and systems are installed and operating to meet our clients' needs.



We have EXPERIENCE

Our team has over 20 years of commissioning experience and over 40 years of industry experience. Commissioning is all we do, every day, all day.

We have a broad background of experience of HVAC, electrical, and building envelope systems for commercial, healthcare, educational, and industrial facilities. Our staff are highly trained and dedicated to continually growing our knowledge to allow us to better serve our clients. Our staff hold certifications through NEBB, Building Commissioning Association, University of Wisconsin-Madison and the Building Envelope Science Institute.



You have many REASONS to choose us

We are completely independent of Architects, Engineers and Contractors, allowing us to provide a true 3rd-party commissioning service.

Cooper Commissioning is a true 3rd-party commissioning firm independent of Architects, Engineers, and Contractors. We specialize in the TECHNICAL COMMISSIONING approach, which means we are on-site more often than other commissioning providers. When we tell you your building is commissioned and working, we can tell you with certainty because WE are the ones who personally inspected, tested, and documented installation and performance.

We have the tools and equipment necessary to fully commission your building.

Also, we have the knowledge and experience in-house to commission the HVAC, electrical, and building envelope systems in your building.

COOPER COMMISSIONING FAST FACTS

STARTED IN //	2018
STAFF NUMBER //	4
CURRENT PROJECTS //	37
COMPLETED PROJECTS //	35
WORK AREA //	USA
CERTIFICATIONS //	6



WE ARE COMPLETELY INDEPENDENT FROM THE DESIGN TEAM AND CONTRACTORS. WE ARE A TRUE 3RD PARTY TECHNICAL COMMISSIONING PROVIDER.



We stand for INTEGRITY

We believe in honest, straight-forward communication and service.



We do amazing WORK

Whether it's a new or existing building, our projects see increased performance and efficiency.



We are NIMBLE AND EFFICIENT

We quickly react to the projects needs and are effective and efficient in our work.

Every project is unique and has its own challenges. We have commissioned many different types of buildings, but we treat each one as an individual. All checksheets and tests are written specifically for each project!

TEAM RESUMES



Andy Cooper, NEBB BSC, BCxA CCP, CxA+BE, BEC-2 President

01 Background

Andy's background comes from over 14 years of commissioning experience on over 5.5 million square feet of new and existing construction in the healthcare, educational (pre-k through higher ed.), military, government, and public/private buildings. His career started in drafting and designing HVAC systems in the same markets as above and has over 8 years of experience in that role. Andy also has experience and training in building envelope commissioning. This is an essential aspect of the operation of a building and is often not in-house in a commissioning firm. Andy's strengths are his attention to detail, knowledge of building systems and components, building codes, communication skills, and project management.

02 Experience / Education

Project Examples

- NDSU Greenhouse
- NSU Stadium
- SDSU Wrestling Addtn.
- St. Cloud VA
- Riverview Health
- Sioux Falls State Penitentiary
- Williston Rec. Center

- AAS - Mechanical Design and Detailing - Northwestern Technical College, Moorhead, MN

03 Certifications / Degrees

- NEBB Building Systems Commissioning
- BCxA Certified Commissioning Professional
- University of Wisconsin-Madison Building Enclosure Commissioning Process Provider, Commissioning Authority + Building Enclosure Knowledge Requirements
- Building Envelope Science Institute - BEC-2

04 Project Responsibilities - 50% Project Time

- Overall project management
- Review documents and perform shop drawing reviews
- Creation of commissioning plan and delivery
- Assist with prefunctional checklists
- Execution of functional performance testing
- Follow-up verification of all deficiency items
- Execution of post acceptance seasonal reviews and verifications, owner training, etc.
- Generate final commissioning report and close-out meeting

Brody Lavelle, QCxP

Vice-President

01 Background



Brody has over 10 years of construction and 8 years of commissioning experience. Over the past 7 years, Brody has completed over 14 million square feet of retro/re-commissioning projects around the country primarily in healthcare facilities. Brody also has experience in the operation and troubleshooting of mechanical systems, energy analysis, energy benchmarking, monitoring-based commissioning, energy audits, and facility condition assessments. Brody's strengths are his communication skills, project management experience, diverse background, and dedication to his projects.

02 Experience / Education

- | | |
|-------------------------------------|--|
| Project Examples | • B.S. - Construction Management Minnesota State University Moorhead, MN |
| • MPS Operations Center | • AAS - Business Management - M-State, Moorhead, MN |
| • FFPS Adams Elementary | |
| • NDSU Greenhouse | |
| • West Fargo Heritage Middle School | |

03 Certifications / Degrees

- University of Wisconsin-Madison Commissioning Process for Existing Buildings, The Commissioning Process for Delivering Quality Constructed Projects, Fundamentals of Energy Auditing, Qualified Commissioning Process Provider

04 Project Responsibilities - 50% Project Time

- Review documents to gain a full understanding of the design intent
- Write commissioning test sheets
- Execution of prefunctional checklists during the construction period
- Assist in execution of functional performance testing
- Follow-up verification of deficiency items
- Assist in execution of post acceptance seasonal reviews, O&M reviews, As-Built reviews, etc.





Jim Nelson, PE

01 Background

Jim has been involved in the design of innovative mechanical systems for commercial, industrial, educational, and medical facilities for over 36 years. He has experience in the design of plumbing, HVAC, fire protection, and controls systems. Not only does Jim have extensive experience in designing systems, but he has also performed troubleshooting, retro-commissioning and re-commissioning services. Jim's strengths are his communication skills, project management experience, diverse background, and knowledge of building systems.

02 Experience / Education

List Project Examples

- Lincoln, NE VAMC
- Grand Island VAMC
- Riverview Hospital
- Omaha VAMC

- B.S. Mechanical Engineering - North Dakota State University, Fargo, ND

03 Certifications / Degrees

- Registration: North Dakota - 3150, Minnesota - 19509, South Dakota - 5556
- Memberships: ASHRAE

04 Project Responsibilities

- Assist with any functional testing as necessary

WHY WE STAND OUT

We are very hands-on and proactive in our approach. We place the burden of executing and documenting the commissioning verifications on ourselves.

WE ENSURE YOUR BUILDING WORKS FOR YOU

We know anything short of the technical commissioning process leaves the Owner with sub-optimal building performance. Our commissioning agents bring years' worth of experience to every phase of the design and construction process; this experience is unique in being able to identify potential problems **BEFORE** they are expensive issues during and after construction.



CLIENT REFERENCES

AND OUR TEAM'S SIMILAR PROJECT EXPERIENCE

NDSU AES GREENHOUSE AND RESEARCH CENTER

CLIENT NAME:	North Dakota State University	SIZE:	156,000 sq.ft.
CONTACT:	Julie Hochhalter, 701-231-5577	YEAR COMPLETED:	ON-GOING

PROJECT DESCRIPTION

THE BRIEF

This project is a project that started out as a retro-commissioning project to assist the facility determine what was not operating correctly and how to correct it. It then turned into a controls upgrade project and we are currently in the final stages of commissioning the facility again with the new DDC system as well as assist in problem resolution of the geothermal heatpump systems.

SERVICES PERFORMED

SCOPE OF WORK

- Retro-commissioning/commissioning
- Controls upgrade with revised sequence of operations
- Functional performance testing
- Commissioning report

WEST FARGO PUBLIC SCHOOLS

CLIENT NAME:	West Fargo Public Schools	SIZE:	392,000 sq.ft. combined
CONTACT:	Mark Lemer, 701-499-1004	YEAR COMPLETED:	2022

PROJECT DESCRIPTION

THE BRIEF

We have worked with West Fargo Public Schools on two of their buildings. One was a new Middle School and the other current one is a new High School. Both of these schools include gymnasium spaces, administrative and learning spaces, kitchen areas, and mechanical spaces.

SERVICES PERFORMED

SCOPE OF WORK

- Commissioning plan
- Prefunctional checklists/inspections
- Functional performance testing
- 10-Month warranty review
- Commissioning Report

RIVERVIEW HEALTHCARE

CLIENT NAME:	Mortenson Construction	SIZE:	73,250 sq.ft.
CONTACT:	Alex LaVoy, 218-261-1274	YEAR COMPLETE:	2022

PROJECT DESCRIPTION

THE BRIEF

This project is an addition onto the existing hospital facility. The project included patient stay spaces, exam rooms, pharmacy area, laboratory spaces, physicians offices, general public spaces, etc.

SERVICES PERFORMED

SCOPE OF WORK

- Shop drawing reviews
- Prefunctional checklist inspections and building envelope commissioning inspections
- Functional performance testing - finishing
- Commissioning Report - in progress

04

PROJECT COMMISSIONING PLAN



**FROM START TO FINISH, WE
MAKE SURE YOUR BUILDING
PERFORMS!**

Starting with individual components and working up to system-to-system interaction, we make sure the building functions as a whole.



Our specific process

We utilize the **technical** commissioning approach. That means that WE are the ones who personally check every piece of equipment in your building to verify proper installation and performance. We also understand that every project is unique and will be treated as such.



Attention to detail

Proper verification of the complex components and interactions within a building takes time and expertise. We not only verify individual components, but check the interactions between systems as well to ensure performance.



Effective communication

We utilize the BlueRithm cloud-based software for housing our check-sheets and test forms. The project master issues log is also housed here. All team members have access to the program for live, up-to-date information and communication.

COMMISSIONING PLAN WORKFLOW STAGES

DESIGN PHASE

-DESIGN REVIEW

CONSTRUCTION PHASE

-CONST. PHASE CX PLAN
-CONST. CX KICK-OFF MEETING
-SUBMITTAL REVIEWS
-SITE VISITS FOR PREFUNCTIONAL
CHECKS

ACCEPTANCE PHASE

-EQUIPMENT START-UP
-TAB REVIEW
-FUNCTIONAL TESTING STARTS

DESIGN PHASE

The design phase is essentially completed for this project.

Commissioning would begin with a review of the CD documents and discussion with the Owner and Design Team if there are any concerns observed that would affect building performance or commissioning tasks.

CONSTRUCTION PHASE

This will be when the boots-on-the-ground commissioning work begins.

This is when we dig in and get started with the actual building. The commissioning plan is written and presented to the team during the kick-off meeting. We will also review the submittals to help us create check and test sheets. Equipment installation is verified as construction progresses.

Commissioning meetings will be held to discuss commissioning items.

ACCEPTANCE PHASE

This is where most of our time is spent on the project.

Contractors will execute start-up of major pieces of equipment at this time. Once all prefunctional deficiencies are corrected, TAB, and temperature controls work is completed, we will start functional performance testing with a minimum of 2 of our staff members: one at the end device and one at the front end computer. Depending on the final DDC system will determine if we can run multiple teams during testing.



Effective commissioning is a time-intensive process; however, we remain flexible in our process and schedule to work with the flow of construction.



POST-ACCCEPTANCE PHASE

Following initial functional checks, any seasonal checks are completed here.

Throughout this phase of the project we will be carrying out final functional testing as well as back-checking any issues that were resolved for completion. Items like deferred testing will take place during this time. We will continue to hold regular commissioning meetings to ensure open communication and ensure issues are resolved.

The construction team will conduct owner training and resolve any deficiencies during this time as well.

WARRANTY PHASE

We remain committed and active throughout the warranty period.

Seasonal testing and performance verification will take place during the warranty period. We will continue to work with Fargo Parks to track building performance and any issues. We will work with Fargo Parks staff to make sure they fully understand how their facility is supposed to work and attend a 10-month warranty review.

CLOSE-OUT

The project is wrapped up and final report documentation is compiled.

Once all commissioning work is completed and the warranty is over, we will compile the final commissioning report. This report will include copies of all commissioning documents as well as final issues log and summary reports. This report will be presented to the Fargo Park District, and a review meeting will be scheduled and held to review the report and commissioning process.

FEE PROPOSAL COST BREAKDOWN

50% Electrical lighting control systems

This would include the prefunctional and functional testing and verification of 50% of the lighting control devices which includes occupancy sensors and scheduled lighting. **\$2,500**

100% Mechanical systems

Systems included within this would be main equipment and systems such as boilers, pumps, chiller, air handling units, energy recovery units, make-up air units, humidifiers, EF's, etc. prefunctional and functional testing. **\$35,000**

30% Mechanical terminal devices

Systems and equipment to be sampled at a random 30% selection include smaller terminal devices such as VAV boxes, finned tube radiation, terminal coils, unit heaters, and radiant ceiling panels. This includes prefunctional and functional testing. **\$15,000**

Plumbing systems

Plumbing systems include the domestic water heaters, booster pumps, and domestic recirculation pump prefunctional and functional testing. If there is high water alarms on sump pumps, we will test them as well. **\$2,000**

All remaining specified tasks

All other commissioning tasks identified in the RFP as well as project management, checksheet and test sheet creation, shop drawing reviews, design review, reports, owner training verification, warranty review, etc. **\$14,250**

***Note: All expenses are built into the fee's so there will be no reimbursable expenses.**

BASE-BID SUB-TOTAL: \$ 68,750

Increase to 100% electrical lighting control systems

This would test all lighting control devices **+\$2,500**

Increase to 100% of terminal units and systems

This would test all terminal coils, VAV's, radiant ceiling panels, and finned tube radiation. **+\$8,000**

Additional voluntary alternates for consideration

Include the emergency power genset and automatic transfer switches in the commissioning functional testing verifications. **\$2,000**

ALTERNATES SUB-TOTAL: \$ 11,500

CLIENT ACCEPTANCE

Address:

701 Main Avenue
Fargo, ND 58103
Phone:701-551-5882
E-mail: tkirchner@fargoparks.com

Name:

Tyler Kirchner
Owner Representative

Signature and date below:

Exhibit 1: Commissioning Firm Experience
 FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Cooper Commissioning	Andrew Cooper	President	Cooper Commissioning
Company Name	Contact Person	Title	
3239 15th St. S., Unit 1	Fargo	ND	58104
Address	City	State	Zip/Postal Code
701-212-9513	N/A	andy.cooper@coopercx.com	
Telephone	Fax	E-Mail	

Description of Business

Cooper Commissioning is a full-time building commissioning firm. By that we mean that commissioning is all we do, all day, every day. We are not an engineering firm who has staff who commission projects on the side. We are fully equipped and experienced to give you the type of commissioning service that no one else does. We are also a small and agile company that can react with the ebbs and flows of a project schedule.

Commissioning Activities

Percentage of overall business devoted to commissioning services 100 %
 How long has the firm offered commissioning services 4 years
 Number of commissioning projects performed each year Avg. 15-20 projects

Number of registered engineers on staff who have directed commissioning projects: We do have 1 registered engineer on staff that we can use if needed.

The firm has provided commissioning services in the following: (check all that apply)

<u>Building Sector</u>	New Construction	Existing Building	Equipment
	Major Renovation	Retro/Re	Replacement
Office or retail	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hospitals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Assisted Living	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Laboratories	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sports / Entertainment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Industrial / Manufacturing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special purpose—prisons, museums, libraries, etc.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other; Describe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

We have commissioned projects in just about every sector. This includes military bases, educational, higher ed, sports, science, office, and medical facilities. Since commissioning is all we do, this allows us the unique opportunity to be able to work on a large selection of project and building types as well as work with many different design and construction teams.

Exhibit 2: Commissioning Task Experience for Similar Projects

FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Project (Name, Date, Bldg Size, Type, new or existing)	West Fargo Heritage Middle School, finished in 2021 Approx. 182,000 sq.ft. new construction
Owner Contact (Title, City, State, and Phone)	Mark Lemer, Project Manager
	West Fargo, ND
	701-499-1004
Name & Role of Persons(s) Assigned to Project by Firm (identify any sub-consultants)	Andy Cooper
	Brody Lavelle
	There were no sub-consultants

	Task	<input checked="" type="checkbox"/>	Comments
Commissioning	Developed Owner's Project Requirements	<input type="checkbox"/>	
	Wrote commissioning plan	<input checked="" type="checkbox"/>	
	Wrote commissioning specs	<input type="checkbox"/>	
	Wrote construction checklists	<input checked="" type="checkbox"/>	
	Wrote functional test procedures	<input checked="" type="checkbox"/>	
	Witnessed and documented functional tests	<input type="checkbox"/>	
	Performed functional tests (hands-on)	<input checked="" type="checkbox"/>	
	Wrote systems manual	<input type="checkbox"/>	
	Used data loggers or EMS trend logs for testing	<input checked="" type="checkbox"/>	
	Developed or approved staff training	<input type="checkbox"/>	
	Reviewed completed O&M manuals	<input type="checkbox"/>	

Management	Commissioning provider was part of the firm	<input checked="" type="checkbox"/>	
	Supervised a sub-consultant commissioning provider to our firm.	<input type="checkbox"/>	
	Worked with a commissioning provider hired by others	<input type="checkbox"/>	

	✓	System or Equipment
Commissioning Tasks Performed	<input checked="" type="checkbox"/>	Central building automation system
	<input checked="" type="checkbox"/>	All equipment of the heating, ventilating and air conditioning systems
	<input type="checkbox"/>	Enhanced Filtration Units
	<input type="checkbox"/>	Scheduled or occupancy sensor lighting controls
	<input type="checkbox"/>	Daylight dimming controls
	<input type="checkbox"/>	Refrigeration systems
	<input type="checkbox"/>	Emergency power generators and automatic transfer switching
	<input type="checkbox"/>	Uninterruptible power supply systems
	<input type="checkbox"/>	Life safety systems (fire alarm, egress pressurization, fire protection)
	<input type="checkbox"/>	Electrical (service switchgear, switchboards, distribution panels, transformers, motor control centers, power monitoring and metering, transient voltage surge suppressors, variable speed drives, grounding and ground fault systems, over current protective devices, low voltage busway, thermographic survey, white sound system).
	<input type="checkbox"/>	Domestic and process water pumping and mixing systems
	<input type="checkbox"/>	Equipment sound control systems and testing
	<input type="checkbox"/>	Data and communication
	<input type="checkbox"/>	Paging systems
	<input type="checkbox"/>	Security system
	<input type="checkbox"/>	Irrigation
	<input type="checkbox"/>	Plumbing
	<input type="checkbox"/>	Vertical transport
	<input type="checkbox"/>	Building envelope including the different types of curtain wall assemblies (specify roofing, windows and doors, construction joints, etc.)

Note: The tasks performed that we checked were ONLY from this one reference project which we chose as it has a very similar HVAC system and many similar use spaces as the Sports Complex will have. We do have experience in commissioning everything from building envelope, electrical systems, and HVAC systems. We have also completed all commissioning task items on the previous pages.

FARGO SPORTS COMPLEX

Fargo Park District



March 17, 2022

Dear Mr. Kirchner and Selection Team Members,

KFI Engineers (KFI) is uniquely qualified to provide commissioning services for Fargo Park District's Fargo Sports Complex. Our team is passionate about what we do and are committed to making certain your building functions properly. We understand the importance of effective planning, monitoring of commissioning activities, and working as part of a team to ensure systems are working optimally.

As you will see from our proposal, we are truly experts in all of the solicited areas of work. **We have the expertise, depth of staff, and ability to foster team cooperation necessary to deliver successful project results.** We have experience in several similar facilities, and we understand the nature and complexities that can be associated with performing technical commissioning within large community athletic facilities, and more importantly, we know how to address them.

The following is what sets KFI apart and allows us to provide exceptional performance and value:

- 1) **KFI has commissioning team members residing in the Fargo Area.** Paul Danielson, NEBB CP and Nathan Hansen LEED AP, QCP, are located in KFI's Fargo office and can be on site as necessary.
- 2) **KFI has extensive experience with Dedicated Outside Air Systems (DOAS)** in a variety of environments. The specific sporting facilities we have included in Exhibit 2 are traditional mixed-air HVAC systems, albeit with levels of CO2 control to accommodate varying occupancy.
- 3) We are **National Environmental Balancing Bureau (NEBB)** certified for commissioning as well as test and balance (TAB) for air and hydronic systems. Additionally, we hold ASHRAE certifications for commissioning services.
- 4) Our **full-time commissioning staff** includes licensed professional engineers, former controls technicians, and sheet metal workers who can interpret installation quality and practical functionality. All of our commissioning staff work in the field and operate building control systems and utilize HVAC testing instruments on a continual basis.
- 5) Our inventory of test equipment for all air, water, noise, vibration, air quality, and psychrometric conditions, allows us to **provide quick and accurate evaluation of performance problems** in systems.
- 6) We understand the anticipated controls system will be a Trane system for your building automation system controls. **KFI has included a former Trane controls technician on our team** who can work directly with the controls contractor to close out and troubleshoot potential issues.

KFI prides itself on technical commissioning. We believe it is imperative as the Owner's Commissioning Agent that we **spend the majority of our time in the field performing inspections and physically testing equipment ourselves.** Our team will be on-site as necessary to make this project a success.

Thank you for the opportunity to submit our proposal, we look forward to working with you on this important project. Should you have any questions regarding our qualifications or submittal, please do not hesitate to contact Casey Batenhorst or myself at 651.254.9019 or crbatenhorst@kfi-eng.com/rpchristenson@kfi-eng.com.

Sincerely,

KFI ENGINEERS

A handwritten signature in black ink that reads 'Randy Christenson'.

Randy Christenson, PE

DIRECTOR

FIRM OVERVIEW AND QUALIFICATIONS

KFI Engineers (KFI) is an engineering and commissioning firm that provides services for a wide range of customers including public, educational, industrial, commercial, institutional, retail, and healthcare organizations.

KFI's dedicated team has been providing commissioning services since 1998 and is at the forefront of advanced system optimization and Owner representation. We are proud to have successfully executed hundreds of millions of dollars in retrofits and new construction. To this day, we adhere to a diligent standard of care for our clients, getting involved during the design stage to establish the level of quality expected on our projects. We understand the difference between a proper installation and a marginal one and establish the required level of quality early in construction. There is no substitute for measurement and testing.

UNIQUE QUALIFICATIONS

Our staff has experience in the operations of building HVAC and control systems along with ASHRAE and NEBB certifications. KFI also has extensive design experience from renovations to new construction and **understands the level of effort required to meet project goals.**

Dedicated Commissioning Team

At KFI, our **dedicated commissioning team** includes 12 fulltime engineers and technicians (four of which are registered PE's) who fully understand all aspects of the commissioning process. As a testament to this, four of our staff members have been actively involved in the National Environmental Balancing Bureau (NEBB) Building Systems Commissioning Committee participating in the development of their technical commissioning standards and teaching classes. We believe this is a distinct advantage over other firms whose commissioning team members only intermittently oversee commissioning projects. KFI's commissioning staff is **in the field on a daily basis testing and troubleshooting systems**, which allows us to quickly look for and address issues we have found to be typical pitfalls for installing contractors.

Building Start

KFI uses Building Start's AirNab TAB and Building Test commissioning software platforms for documentation management. Some of the features of these platforms include:

- The Owner and project management team have the ability to see stat-tracking dashboards to identify the active percentage of tests and checklists completed, number of active open issues (and whose responsibility they are), rate of issues identified and completed, as well as other performance metrics.

- Allows contractors to utilize a web interface to execute construction checklists and pre-functional and functional test procedures. Multiple users can access their portions of checklists at once to keep pace in the field instead of handing off completed lists between parties.
- Issues are logged and tracked in real-time as test forms are executed. All parties can see and respond to the issues lists via the web interface to have constant access to the most up-to-date issues log.

Test and Balance Certification

KFI is a NEBB TAB certified firm for both air and hydronic systems. NEBB TAB certification involves both written and practical (hands-on) examinations. Our staff is proficient in industry-standard TAB procedures, required reporting, and the use and applications of the TAB instrumentation. KFI has the background to identify deficiencies and, if necessary, perform an independent investigation into air-side or hydronic issues to assist with identifying solutions.

Controls Design

Our controls team within the building performance group includes 19 team members who **actively perform DDC and PLC controls programming for select clients. With experienced programmers as part of our team, we understand the details necessary to control a building.** 11 of our staff members (including seven of our commissioning staff) also hold Niagara AX/N4 certifications. Our expansive controls design experience allows us to deliver what is needed for all the equipment to perform in concert. Our control strategies are simulated and tested at our controls lab prior to release. We excel at creating well-defined, industry standard, written sequences of operation, and basic schematics. In addition, we uniquely offer documents beyond these to also include schematics enhanced with control arcs, function block diagrams, graphical user interface layouts, and installation drawings. Finally, when building control is paramount, KFI will write the actual programming code alongside the system designers to ensure that nothing is lost in translation.



PROJECT APPROACH AND UNDERSTANDING

PROJECT UNDERSTANDING

We understand the project will consist of the construction of 275,000 square feet of new construction in the form of a state-of-the-art sports complex. The building will be comprised of an indoor field, walking track, indoor court spaces, therapy, public spaces, a dedicated section for Sanford Health POWER training, and offices for various groups including the Fargo Parks District. The project is in the early stages of construction and is anticipated to be complete in April 2024. The construction cost estimate was \$68,782,637 and the therapy pool and generator alternates were accepted as well as alternates #3, 8, 9, 13B, 13C, 14, 17, 19, 22A and B, 27, 28, 29, which are included in our scope:

As this will be a showcase facility with many stakeholders our team will work closely with the new building operator (when available) to ensure understanding of system interaction and how the building is supposed to run. This can be accomplished through on-the-job training by working closely with our seasoned technicians and engineers during startup and commissioning. The value of having this person involved with our team from the start cannot be overlooked and will pay dividends in the future operation and maintenance of the facility. With future expansions already being considered, it is imperative that the base building systems are all optimized so future projects are not compromised by misses on the original construction. Our team can help get you there.



PROJECT APPROACH

For brevity's sake, we will not hit every aspect of our technical approach in this document. We have highlighted a few key tenants that we touched on in our discussion and feel are worth repeating.

Multiple Personnel Per Project

Although it may seem unnecessary on paper, we have found it extremely beneficial to include a combination of engineers and technicians to support the project manager. Having multiple personnel familiar with your project and expectations allows KFI to be extremely flexible with ever-changing construction schedules and quickly deploy additional staff to projects if needed.

Hands-on During Construction and Testing

KFI is a hands-on organization that believes in not only identifying operational issues but also finding the root causes of these issues and providing effective solutions in the field. Our staff actively engage in field activities, including detailed construction installation inspections. One of the core tasks our personnel executes on every commissioning project is physically performing the critical BAS point-to-point tests ourselves, in lieu of assuming the contractors performed this work. Once this critical step is complete to ensure we can trust the BAS software, we can then proceed to sequence of operation and integrated systems testing.

Our team's diverse expertise, especially in the TAB and controls fields, allows KFI to make active balancing corrections while we test, as well as the ability to read control logic in real-time to help identify the root cause of sequence issues. This approach is key for quickly improving and optimizing system operations. We recognize the value of making a difference as soon as possible within each facility - instead of simply providing a long list of recommendations that will need to be contracted out and managed. We focus on items that can provide immediate savings and document capital opportunities for future implementation. We believe in training staff to continue to optimize system operations and establish a benchmark to which future operations can be compared against.

Issue Management and Closeout

KFI's goal is to always provide a "zero open issues" commissioning report at the end of warranty. To that end, we typically do not issue our final report until the warranty review is completed and we can work with the contractors to resolve issues thoroughly. One of the most effective methods we have found to ensure progress on open issues is to hold bi-

monthly commissioning coordination meetings throughout the first season of occupancy. Since regular construction meetings have typically ended at this point, these meetings help facilitate communication between all parties, particularly if off-hours work is being completed on punchlists. Typical discussion points are:

- Review schedule for any work to be completed
- Review issues list status
- Allow for immediate response/direction from the design team to any contractor questions.

To manage our custom construction checklists, functional test forms, and issue tracking logs, KFI uses Building Start's commissioning software.

BASIC SERVICES SCOPE OF WORK

KFI understands the scope of work requested in the RFP. We have the following clarifications to that scope of work. Additional alternates that we recommend have been included and defined on the fee page.

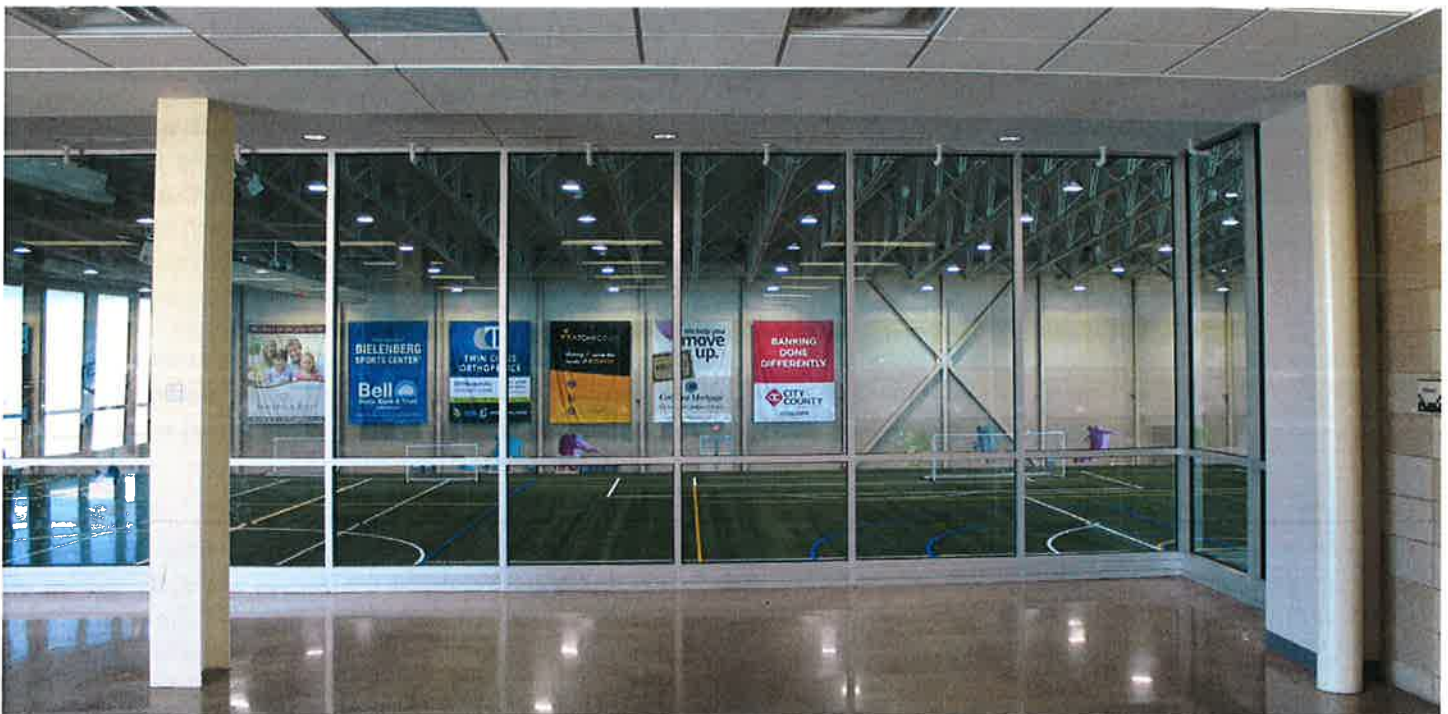
1. The anticipated project schedule is a approximately a 26 month construction period starting in February of 2022.
2. We have included one (1) review of equipment and HVAC/ Lighting controls submittals in our base fee. Review of resubmittals will be considered an additional service.
3. Distribution of commissioning related review comments,

issues logs, and checklists will be through KFI's forms or web-tools. We have not included time for reformatting our documents into other software platforms.

4. Our budget estimate is based upon the sampling rates identified for the base bid scope of work for combined construction inspections (4), functional testing (20), retesting (5), and monthly warranty (12) inspections results in approximately 40 man-days of on site time for our commissioning team. Accepting all of our recommended alternates 1 through 4 would result in approximately 60 total man-days on site for commissioning inspections/ testing and support as requested in the RFP.

CLARIFICATIONS

1. We have included one (1) review of equipment and controls submittals in our base fee. Review of resubmittals will be considered an additional service.
2. Distribution of commissioning related review comments, issues logs, and checklists will be through KFI's forms or web-tools. We have not included time for reformatting our documents into other software platforms.



PROJECT TEAM

We are confident that we have the resources and the right personnel to ensure this project is a positive experience for you and your team. As this project's intensive field work will be in 2023 and 2024, we have fewer obligations and can commit the team members highlighted below as your project team.

Matt Swanson, PE will serve as the project manager for this project. Matt is a licensed engineer with over 17 years of experience in building operation and optimization, as well as controls troubleshooting, and commissioning. Matt will be engaged immediately upon contract award and will be involved through the warranty review. He will serve as your primary point of contact and will lead, direct, and support other KFI team members as necessary.

Casey Batenhorst, PE, NEBB CP, CEM, LEED AP will serve as our dedicated quality control/quality assurance resource. In addition to his QA/QC role, Casey will support other KFI team members as necessary during periods of heavy testing or system troubleshooting. Casey is a licensed professional engineer and has been providing commissioning services for over 14 years and has managed hundreds of commissioning/recommissioning projects. He is a licensed engineer and holds NEBB certifications as a Certified Supervisor for both commissioning and TAB.

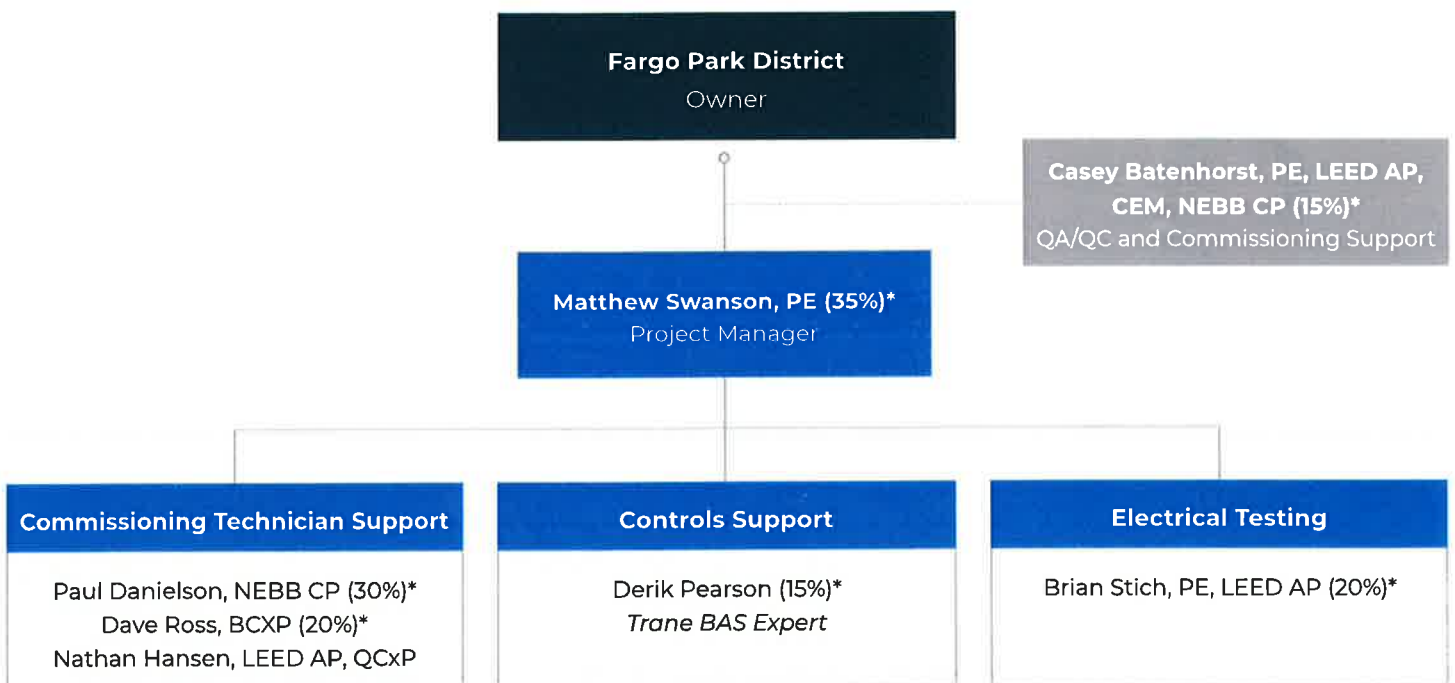
Paul Danielson, NEBB CP, Dave Ross, BCXP, and Nathan Hansen, LEED AP, QCxP will provide the commissioning technician support for this project. Paul has over 25 years of experience, Dave has over 41 years of experience, and Nathan has over 20 years of experience. Dave, Paul, and Nathan have

extensive knowledge and experience in the operation and troubleshooting of HVAC systems. Prior to joining KFI, Dave served as the lead building engineer for the Fargo YMCA. This knowledge gained by operating a sports facility for over 10 years will be beneficial during discussions of future use and O&M considerations.

Brian Stich, PE, LEED AP is an electrical engineer who will work in parallel with our mechanical staff to provide electrical systems commissioning, specifically the generator testing if necessary. Brian is a professional engineer with over 30 years of experience and is also a master electrician.

Rounding out our team, we have included **Derik Pearson**. He is a controls engineer within our performance group lending his 8 years of controls design experience to our commissioning and controls projects. **Prior to KFI, Derik worked for Trane and his expertise and intimate knowledge of this system down to the programming level will ensure you get the most of out your controls contractor.**

The organization chart provided below outlines our team structure as well as anticipated project allocation percentages. A representative sampling of team members' similar project experience is reflected on their resume excerpts included on the following pages. Due to page limitations, resumes for Dave Ross, Nathan Hansen, Brian Stich, and Derik Pearson have been omitted. However, they can be provided upon request. Our team members are available and ready to start work immediately.



*Indicates % of available time based upon current obligations



AVAILABILITY FOR FARGO SPORTS COMPLEX - 35%

Matthew Swanson, PE

Project Manager | Commissioning Engineer | Years of Experience: 17 | Education: B.S. Mechanical Engineering, North Dakota State University | **Licensure:** Minnesota #57119, Licensed Boiler Operator | **Certifications:** Niagara N4 Technical Certification

Technical Expertise: Commissioning, Retrocommissioning, System Optimization, LEED, Operation and Maintenance, Controls

Matt is a licensed mechanical engineer with over 17 years of industry experience. Matt has extensive knowledge of Class A high rise and low rise building systems design and infrastructure and has operated and managed a variety of system types including full chiller plants, district fed systems, and heat pump operated buildings.

Through his experience with commissioning, recommissioning, and building operations, Matt has become proficient in several building automation system platforms including Trane Tracer Summit, Trane ES, and Niagara. Using his controls knowledge, he has managed upgrades and implemented energy saving programs in multiple buildings.



AVAILABILITY FOR FARGO SPORTS COMPLEX - 15%

Casey Batenhorst, PE, LEED AP, CEM, NEBB CP (TAB, BSC)

QA/QC and Commissioning Support | Commissioning Engineer | Years of Experience: 14 | **Education:** B.S. Mechanical Engineering, UW-Madison | **Licensure:** Minnesota #49887, WI, IA, AZ | **Certifications:** NEBB, LEED AP, Certified Energy Manager (CEM), Niagara N4 Technical Certification

Technical Expertise: QA/QC, Commissioning, Retrocommissioning, TAB, System Optimization, LEED, Project Management, Special Electrical Systems, Building Envelope, Fire Protection, Controls, Building Pressurization

Casey is a licensed mechanical engineer who has over 14 years of experience as an engineer and project manager in KFI's building performance group. He oversees and executes commissioning, re/retrocommissioning, and TAB projects at KFI. His background as an engineer, coupled with his technical field experience developed at KFI, allows Casey to excel at all tasks in a commissioning project, from design review through functional testing and reporting.

In addition, Casey is a NEBB Certified Professional (CP) for both TAB and building systems commissioning (BSC). He is active in NEBB, currently serving at the local chapter board level, as well as on the National Commissioning Committee.



AVAILABILITY FOR FARGO SPORTS COMPLEX - 30%

Paul Danielson, NEBB CP (RCX, BSC, TAB)

Commissioning Technician Support | Field Technician | Years of Experience: 25 | Certifications: NEBB, Niagara N4 Technical Certification

Technical Expertise: Commissioning, Retrocommissioning, TAB, System Optimization, LEED, Mechanical Installation Means and Methods, HVAC Air and Hydronic Systems Troubleshooting

Paul is a field technician within KFI's performance group where he provides commissioning, recommissioning, and controls assistance services. Paul brings over 25 years of industry experience encompassing commissioning, controls design, project management, TAB, and mechanical systems installation. This extensive expertise gives Paul unique comprehension of all phases of the commissioning process from performing installation reviews to completing final functional testing, and controls troubleshooting.

Paul has the ideal experience for a commissioning agent. First working in the field as a tinner and sheet metal worker, TAB technician, and then controls technician utilizing his TAB and controls skills to ensure proper operations. Paul's experience in these three trades provides a unique background to truly understand the root causes creating mechanical issues.

Exhibit 1: Commissioning Firm Experience
 FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

KFI Engineers	Casey Batenhorst		Commissioning Engineer
Company Name	Contact Person		Title
670 County Road B West	Saint Paul	MN	55113
Address	City	State	Zip/Postal Code
651-254-9019	651-771-0878	crbatenhorst@kfi-eng.com	
Telephone	Fax	E-Mail	

Description of Business

Commissioning Activities

Percentage of overall business devoted to commissioning services 25 %
 How long has the firm offered commissioning services 22 years
 Number of commissioning projects performed each year 100 projects

Number of registered engineers on staff who have directed commissioning projects:

The firm has provided commissioning services in the following: (check all that apply)

<u>Building Sector</u>	New	Existing Building	Equipment
	Construction	Retro/Re	Replacement
Office or retail	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Hospitals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Assisted Living	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Laboratories	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sports / Entertainment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Industrial / Manufacturing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Special purpose—prisons, museums, libraries, etc.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other; Describe	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

RELEVANT EXPERIENCE AND REFERENCES

KFI provides **top quality commissioning and controls design services**, and has, for over 20 years. We have an extensive list of commissioning experience, having provided commissioning services for over 1,300 buildings, totaling more than 50,000,000 square feet. We strive to **provide our clients with the highest possible value**. Our clients' best interests are at the forefront of everything we do. Our advocacy covers a lot of ground, not just with our clients, but with their clients as well. They know that when we walk into a meeting with stakeholders, we will be prepared, effective communicators who inspire confidence. And in the field, working with contractors, we make sure they deliver. KFI has many clients who will attest to our Owner advocacy and performance. **We invite you to reach out to our references** included in the project summaries provided on the following pages.

Exhibit 2: Commissioning Task Experience for Similar Projects

FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Project (Name, Date, Bldg Size, Type, new or existing)	North Dakota State University Sanford Health and Athletic Complex Completion Date: March 2017
	255,000 square feet, new construction
Owner Contact (Title, City, State, and Phone)	North Dakota State University - Fargo, ND
	Brent Dekrey
	Associate Director, Maintenance and Repairs
	(e) brent.dekrey@ndsu.edu (c) 701-936-0379
Name & Role of Persons(s) Assigned to Project by Firm (identify any sub-consultants)	Casey Batenhorst - Supervisor
	Dave Ross - Project Manager

	Task	✓	Comments
Commissioning	Developed Owner's Project Requirements		KFI was not contracted until construction was underway
	Wrote commissioning plan	X	
	Wrote commissioning specs		
	Wrote construction checklists	X	
	Wrote functional test procedures	X	
	Witnessed and documented functional tests	X	
	Performed functional tests (hands-on)	X	
	Wrote systems manual		Owner omitted systems manual from scope
	Used data loggers or EMS trend logs for testing	X	
	Developed or approved staff training	X	
	Reviewed completed O&M manuals	X	

Management	Commissioning provider was part of the firm	X	
	Supervised a sub-consultant commissioning provider to our firm.		
	Worked with a commissioning provider hired by others		

	✓	System or Equipment
Commissioning Tasks Performed	<input checked="" type="checkbox"/>	Central building automation system
	<input checked="" type="checkbox"/>	All equipment of the heating, ventilating and air conditioning systems
	<input type="checkbox"/>	Enhanced Filtration Units
	<input checked="" type="checkbox"/>	Scheduled or occupancy sensor lighting controls
	<input type="checkbox"/>	Daylight dimming controls
	<input checked="" type="checkbox"/>	Refrigeration systems
	<input type="checkbox"/>	Emergency power generators and automatic transfer switching
	<input type="checkbox"/>	Uninterruptible power supply systems
	<input type="checkbox"/>	Life safety systems (fire alarm, egress pressurization, fire protection)
	<input type="checkbox"/>	Electrical (service switchgear, switchboards, distribution panels, transformers, motor control centers, power monitoring and metering, transient voltage surge suppressors, variable speed drives, grounding and ground fault systems, over current protective devices, low voltage busway, thermographic survey, white sound system).
	<input type="checkbox"/>	Domestic and process water pumping and mixing systems
	<input type="checkbox"/>	Equipment sound control systems and testing
	<input type="checkbox"/>	Data and communication
	<input type="checkbox"/>	Paging systems
	<input type="checkbox"/>	Security system
	<input type="checkbox"/>	Irrigation
	<input type="checkbox"/>	Plumbing
	<input type="checkbox"/>	Vertical transport
<input type="checkbox"/>	Building envelope including the different types of curtain wall assemblies (specify roofing, windows and doors, construction joints, etc.)	



Exhibit 2: Commissioning Task Experience for Similar Projects

FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Project (Name, Date, Bldg Size, Type, new or existing)	HealthEast Sports Center
	Completion Date: March 2017
Owner Contact (Title, City, State, and Phone)	110,000 square feet, addition and remodel
	City of Woodbury - Woodbury, MN
	Eric Gager
	Building Maintenance Supervisor (e) egager@ci.woodbury.mn.us (c) 651-714-3539
Name & Role of Persons(s) Assigned to Project by Firm (identify any sub-consultants)	Casey Batenhorst - Commissioning Engineer
	Dave Ross - Field Technician

	Task	✓	Comments
Commissioning	Developed Owner's Project Requirements	X	
	Wrote commissioning plan	X	
	Wrote commissioning specs	X	
	Wrote construction checklists	X	
	Wrote functional test procedures	X	
	Witnessed and documented functional tests	X	
	Performed functional tests (hands-on)	X	Complex geothermal central plant with central AHU's and FCU
	Wrote systems manual	X	
	Used data loggers or EMS trend logs for testing	X	
	Developed or approved staff training	X	
	Reviewed completed O&M manuals	X	

Management	Commissioning provider was part of the firm	X	
	Supervised a sub-consultant commissioning provider to our firm.		
	Worked with a commissioning provider hired by others		

The facility includes both indoor/outdoor ice sheets, fieldhouse, office/support spaces, and recently the city and local healthcare provider attached a sports-focused physical therapy clinic to the facility (with HVAC served by the base building central plant). KFI's worth within the facility has continued since completion of initial construction.

	✓	System or Equipment
Commissioning Tasks Performed	<input checked="" type="checkbox"/>	Central building automation system
	<input checked="" type="checkbox"/>	All equipment of the heating, ventilating and air conditioning systems
	<input type="checkbox"/>	Enhanced Filtration Units
	<input checked="" type="checkbox"/>	Scheduled or occupancy sensor lighting controls
	<input checked="" type="checkbox"/>	Daylight dimming controls
	<input checked="" type="checkbox"/>	Refrigeration systems
	<input type="checkbox"/>	Emergency power generators and automatic transfer switching
	<input type="checkbox"/>	Uninterruptible power supply systems
	<input type="checkbox"/>	Life safety systems (fire alarm, egress pressurization, fire protection)
	<input type="checkbox"/>	Electrical (service switchgear, switchboards, distribution panels, transformers, motor control centers, power monitoring and metering, transient voltage surge suppressors, variable speed drives, grounding and ground fault systems, over current protective devices, low voltage busway, thermographic survey, white sound system).
	<input checked="" type="checkbox"/>	Domestic and process water pumping and mixing systems
	<input type="checkbox"/>	Equipment sound control systems and testing
	<input type="checkbox"/>	Data and communication
	<input type="checkbox"/>	Paging systems
	<input type="checkbox"/>	Security system
	<input type="checkbox"/>	Irrigation
	<input checked="" type="checkbox"/>	Plumbing
	<input type="checkbox"/>	Vertical transport
	<input type="checkbox"/>	Building envelope including the different types of curtain wall assemblies (specify roofing, windows and doors, construction joints, etc.)

Additional Commissioning Tasks Performed: Geothermal and Solar PV



Exhibit 2: Commissioning Task Experience for Similar Projects

FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Project (Name, Date, Bldg Size, Type, new or existing)	Maslowski Community Wellness and Research Center
	Completion Date: December 2016
Owner Contact (Title, City, State, and Phone)	53,000 square feet, new construction
	City of Wadena - Wadena, MN
	Bradley Swenson
	Project Manager
Name & Role of Persons(s) Assigned to Project by Firm (identify any sub-consultants)	(e) wadenacity@arvig.net (c) 218-371-9421
	Casey Batenhorst - Commissioning Engineer
	Dave Ross - PM/Lead Technician

	Task	✓	Comments
Commissioning	Developed Owner's Project Requirements	X	
	Wrote commissioning plan	X	
	Wrote commissioning specs	X	
	Wrote construction checklists	X	
	Wrote functional test procedures	X	
	Witnessed and documented functional tests	X	
	Performed functional tests (hands-on)	X	
	Wrote systems manual	X	
	Used data loggers or EMS trend logs for testing	X	
	Developed or approved staff training	X	
	Reviewed completed O&M manuals	X	

Management	Commissioning provider was part of the firm	X	
	Supervised a sub-consultant commissioning provider to our firm.		
	Worked with a commissioning provider hired by others		

The facility included basketball courts, gym/wellness facilities, and a pool.

	✓	System or Equipment
Commissioning Tasks Performed	<input checked="" type="checkbox"/>	Central building automation system
	<input checked="" type="checkbox"/>	All equipment of the heating, ventilating and air conditioning systems
	<input checked="" type="checkbox"/>	Enhanced Filtration Units
	<input checked="" type="checkbox"/>	Scheduled or occupancy sensor lighting controls
	<input checked="" type="checkbox"/>	Daylight dimming controls
	<input type="checkbox"/>	Refrigeration systems
	<input type="checkbox"/>	Emergency power generators and automatic transfer switching
	<input type="checkbox"/>	Uninterruptible power supply systems
	<input type="checkbox"/>	Life safety systems (fire alarm, egress pressurization, fire protection)
	<input type="checkbox"/>	Electrical (service switchgear, switchboards, distribution panels, transformers, motor control centers, power monitoring and metering, transient voltage surge suppressors, variable speed drives, grounding and ground fault systems, over current protective devices, low voltage busway, thermographic survey, white sound system).
	<input checked="" type="checkbox"/>	Domestic and process water pumping and mixing systems
	<input type="checkbox"/>	Equipment sound control systems and testing
	<input type="checkbox"/>	Data and communication
	<input type="checkbox"/>	Paging systems
	<input type="checkbox"/>	Security system
	<input type="checkbox"/>	Irrigation
	<input checked="" type="checkbox"/>	Plumbing
	<input type="checkbox"/>	Vertical transport
	<input type="checkbox"/>	Building envelope including the different types of curtain wall assemblies (specify roofing, windows and doors, construction joints, etc.)



PROPOSED FEE

KFI will provide commissioning services described in the scope of work section for the base fee provided below. Direct and reimbursable costs are included in our base fee.

PRICING SCHEDULE		
	COMMISSIONING RESPONSIBILITY ADD SERVICE ITEMS:	TOTAL COST
1	50% Electrical lighting control systems and devices.	\$3,750
2	Mechanical systems to be commissioned include HVAC systems and associated automation/controls, with 100% of main equipment such as boilers, chillers, air handling units, energy recovery units, pumps, etc. being commissioned.	\$19,750
3	30% of terminal units such as variable air volume (VAV) boxes, terminal coils, etc.	\$2,500
4	30% of supplemental heating equipment such as finned tube radiation, radiant panels, etc. Provide submittal review reports to the Owner and project team.	\$2,500
5	Plumbing systems to be commissioned include domestic water heaters, and recirc pump/booster pumps.	\$1,500
	All specific tasks (as indicated in RFP for which the Commissioning Authority for this project will be responsible for) for Preconstruction/Construction Phase, Building Acceptance Phase, and Building Turnover/Occupancy Phase shall be included in Commissioning Responsibility Bid Items and Commissioning Responsibility Add Service Items.	\$43,250
	SUBTOTAL	\$73,250

	COMMISSIONING RESPONSIBILITY ADD SERVICE ITEMS:	
A	Increase to 100% Electrical lighting control systems and devices.	\$8,000
B	Increase to 100% of Terminal Units and supplemental heating equipment.	\$3,750
C	Generator Blackout Test	\$5,500
D	Additional Construction Site Visits	\$9,000
E	Additional Construction Meeting Participation	\$6,750
F	Systems Manual	\$3,750

COMMISSIONING RESPONSIBILITY ADD SERVICE ITEMS DEFINED

- A. 100% VAV Testing:** Increase VAV sampling rate from 30% to 100% testing.
- B. 100% Lighting Testing:** Increase lighting systems testing from 50% room sample to 100% testing.
- C. Generator Blackout Test:** In addition to the contractor start-up and load bank testing KFI recommends the following tasks:
- Review start-up plan and completed documentation
 - Develop, with the contractors on site, a full building “blackout” test procedure to simulate an actual loss of power. This test involves verification that each system served by the generator is observed to transfer from normal power, onto generator power, and back to normal power to ensure full functionality. Any systems requiring manual manipulation during this process will be documented for the Owner’s standard operating procedures.
- D. Additional Construction Site Visits:** Based upon the complex nature of the project systems and scheduling, KFI recommends ten (10) additional construction site visits to conduct on-site field inspections and meetings. We anticipate additional inspections would revolve around:
- Additional general MEP rough-in progress
 - Witness the first duct pressure test to observe procedures, and spot check thereafter
 - Witness select start-ups (boilers, chillers, AHUs, generator)
- E. Additional Construction Meeting Participation:** Due to the fast-paced nature of changes on large projects, we recommend additional weekly virtual meeting participation by KFI during the project. This allows our commissioning to listen in on regular construction meetings between milestones to provide quick input and stay up to speed on any scheduling changes.
- F. Systems Manual:** Create a systems manual, to supplement the contractor’s O&M manuals, that includes:
- Executive summary
 - Owner’s project requirements
 - Basis of design
 - System single-line diagrams
 - Approved submittals (if not included in the O&Ms)
 - As-built drawings (if not included in the O&Ms)
 - As-built sequence of operation
 - Original setpoints for all systems commissioned
 - Recommended schedule for recommissioning
 - Recommended schedule for sensor recalibration
 - Equipment operations and maintenance manuals
 - Equipment preventive maintenance schedules
 - Confirmation of completed training for the Owner and occupants
 - Ongoing system optimization procedures

FARGO PARKS DISTRICT

FARGO SPORTS COMPLEX

COMMISSIONING / INSPECTIONS

March 17th, 2022



Submitted by:



Martin Mechanical Design, Inc.
1201 25th Avenue North
Fargo, North Dakota 58102
701-293-7957



WIR3D Electric
331 23rd Street North
Fargo, ND 58102
701-347-1972



Wednesday, March 17, 2022

**Re: Fargo Park District
Fargo Sports Complex**

Tyler Kirchner

We are pleased to submit this Statement of Qualifications for the above referenced project. Martin Mechanical Design, Inc. and WIR3D Electric have a dedicated, local team ready to provide the highest quality consulting services.

The enclosed resumes best describe the breadth of experience and quality of work our professional staff has provided for several different clients throughout the past 22 years. The combined team of design and commissioning professionals will ensure all aspects of the project will be completed at the utmost priority.

Our recent experience in commissioning and sports complex design provide us with unique local qualifications which will greatly benefit the outcome of the Fargo Sport Complex both during construction and during occupancy.

Thank you for considering Martin Mechanical Design for your commissioning needs. We welcome the opportunity to become part of your team.

Respectfully,

A handwritten signature in black ink, appearing to read 'Brian Martin', is written over a light blue horizontal line.

Brian Martin, P.E., C.E.M.
Professional Mechanical Engineer

Martin Mechanical Design, Inc.

1201 25th Avenue North
Fargo, North Dakota 58102
Phone: 701-293-7957
bmartin@martinmech.com

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CONTACT INFORMATION:

Brian Martin, P.E., C.E.M.

PHONE: 701-293-7957

FAX: 701-293-7381

EMAIL:

bmartin@martinmech.com

WEBPAGE: martinmech.com

LOCATIONS:

Fargo, North Dakota:

1201 25th Avenue North

Fargo, North Dakota 58103

*Location Work Will be Performed

Grand Forks, North Dakota:

667 Demers Avenue Suite 2001

Grand Forks, North Dakota 58201

Perham, Minnesota:

155 2nd Street Southwest Suite D

Perham, Minnesota 56573

PROFESSIONAL REGISTRATIONS:

Licensed Professional Engineer:

- Arizona
- California
- Colorado
- Connecticut
- Florida
- Illinois
- Indiana
- Kansas
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Nevada
- New Jersey
- New York
- North Dakota
- Ohio
- Pennsylvania
- Rhode Island
- South Carolina
- South Dakota
- Texas
- Wisconsin
- Wyoming

DUNS: 005122598

CAGE: 5K7N3

NAICS: 541330 – Engineering Services

- Includes: 541310, 541340, 541350, 541380, 541420, 541490, 541512

Martin Mechanical Design

Mechanical Engineering, Building Commissioning and Energy Services



CORE COMPETENCIES:

- Professional Mechanical Design
- Commissioning Services
- Energy Conservation Services
- Mechanical Consultations
- HVAC, Controls and Plumbing Design

RESOURCES AND SPECIALIZED SERVICES

- Small Business Certified
- Healthcare Facilities Design Professional on staff
- Certified Energy Manager on staff
- Building Commissioning Association members on staff
- Assist with long term cost, creating payback of over 10 years
- LEED Certified Consultants Available

FEATURED PROJECTS:

- Commissioning Contract – University of North Dakota – Grand Forks, ND
- Commissioning Contract – U.S. Fish and Wildlife – Multiple Locations
 - Desoto National Wildlife Refuge Visitor Center – Missouri Valley, IA
 - Big Muddy National Wildlife Refuge – Columbia, MO
 - Ottawa National Wildlife Refuge – Oak Harbor, OH
 - Tamarac Wildlife Refuge – Detroit Lakes, MN
 - Jordan River National Fish Hatchery – Elmira, MI
 - Sherburne Wildlife Refuge – Zimmerman, MN
- Building Commissioning Contract – Moorhead Public Schools
 - Probstfield Elementary School
 - S.G. Reinertsen Elementary School
 - Energy Services
 - High School Remodel
 - Ellen Hopkins Elementary – Tunnel Insulation
 - Horizon Middle School Addition
- Menahga Public Schools – Building Commissioning – Menahga, MN
- Aviation Hangar Commissioning – Northland Community and Technical College – Thief River Falls, MN
- Building Commissioning – Tharaldson Hospitality
 - Residence Inn – Roseville, CA
 - Home2 Suites – Roseville, CA
 - Hilton Garden Inn – Austin, TX
 - Hampton Inn & Suites – Sparks, NV

CONTACT INFORMATION:

Josh Holte

Owner

PHONE:

701-347-1972

EMAIL:

josh@wir3d-electric.com

WEBPAGE:

wir3d-electric.com

LOCATIONS:

Fargo-Moorhead Area

449 Knutson Street
Mapleton, ND 58059

Bismarck-Mandan Area

1341 South 20th Street
Bismarck, ND 58504

SUPPLIERS:

Honeywell WEBS

Tridium Niagara

PROFESSIONAL REGISTRATIONS:

Master Electrical License

North Dakota

#3204

Electrical Contractors License

Minnesota

#EA660847

WIR3D Electric, Inc.

Electrical Engineer, Temperature Controls and Systems Integration



ABOUT US:

Long on experience, short on excuses – WIR3D delivers superior results through a unique combination of extensive HVAC automation and control capabilities provided by a cohesive, flexible team of service professionals. Engineers and building owners alike trust us to respond quickly with a range of services typically reserved for larger firms. Whether your project involves HVAC system design, retrofit, energy management or preventive and emergency service, WIR3D Electric has the expertise to help you fully manage your build project or completed facility while reducing costs.

OUR SERVICES:

- Service Contracts
- HVAC Services
- Energy Management
- Commissioning

OUR EXPERTISE:

- HVAC Controls
- System Integration
- Lighting Control Systems
- Telecommunication Systems
- Control Strategy Optimization

FEATURED PROJECTS:

We include commissioning services on all our temperature control projects. Our team has completed hundreds of these.

- Coal Creek Station – Underwood, ND
- Intertek Labs – Bismarck, ND
- USDA Lab – Fargo, ND

PROJECTS COMPLETED WITH MARTIN MECHANICAL DESIGN:

- Coal Creek Station Commissioning – Underwood, ND
- Heritage Middle School – Horace, ND
- Three Affiliated Tribes Housing – Bismarck, ND
- Border States Electric – Bismarck, ND
- USDA – Fargo, ND
- Grand Forks Cities Area Transit Maintenance and Administrative Facility
- Blue Line Club Arena – Grand Forks, ND





Brian Martin, P.E., C.E.M.

President

Project Qualifications

Brian has over 20 years of specialized mechanical engineering and project coordination experience. He has worked on many high-profile projects across the United States and has become one of the most well-respected mechanical leaders in the nation. He focuses on efficiency, return of investment and the long-term cost for the client. He believes that the relationship with the client is just as important as the quality of the work.

Education

- North Dakota State University
 - B.S. Mechanical Engineering

Professional Registrations

Arizona	Nevada
California	North Dakota
Florida	Pennsylvania
Illinois	South Carolina
Iowa	South Dakota
Maryland	Texas
Minnesota	Wisconsin
Montana	Wyoming

Professional Certifications

Certified Energy Manager

Professional Affiliations

- National Society of Professional Engineers
- American Society of Heating, Refrigerating and Air Conditioning

Related Project Experience

- North Dakota State University Projects
 - Minard Hall
 - Research 1
 - Memorial Union
 - Churchill Hall
 - Steam Tunnel
 - Ag Services Building
 - Water Chiller Re-Piping
 - Indoor Practice Facility
- Coal Creek Station – Underwood, ND
- Concordia College
 - Brown Hall Energy Conservation
- Building Commissioning - Minnesota State University Moorhead – Moorhead, MN
 - Student Wellness Center
 - Kise Food Service Center
- Building Commissioning – First District Dairy Lab – Litchfield, MN
- Building Commissioning – Fergus Falls Public School – Fergus Falls, MN
- Commissioning – Bemidji State University/Northwest Technical College
- Building Commissioning Contract for U.S. Fish and Wildlife – Multiple Locations
 - Jordan River Rearing Facility – Elmira, MI
 - Interior Department – Fergus Falls, MN
 - Neal Smith Visitor Center – Prairie City, IA





Chad Hansen, BCxA

Project Manager and Commissioning Agent

Project Qualifications

Chad Hansen has 18 years of experience in the mechanical engineering field. His responsibilities range from contract document production to mechanical design to full project management. His hard work has resulted in hundreds of satisfied clients, who have continued to use him as a resource over the years.

Chad Hansen has an extensive history working on Education projects, and has a successful track record of commissioning several different types of projects. He stays in contact until long after project completion, making sure the client continues to be satisfied.

Education

- Associates in Applied Science
 - Architectural Technology

Professional Affiliations

- Building Commissioning Association

Professional Qualifications:

- Extensive knowledge on TAB Procedures
- Experience working on complex teams
- Experience with troubleshooting HVAC systems, fire protection, plumbing, life safety codes and all other design codes
- Experience in energy efficient equipment design

Related Project Experience

- Building Commissioning Contract for Moorhead Public Schools – Moorhead, MN
 - Probstfield Elementary School
 - S.G. Reinertsen Elementary School
 - Energy Services
 - High School Remodel
 - Ellen Hopkins Elementary – Tunnel Insulation
 - Horizon Middle School Addition
- Building Commissioning Contract for United States Fish and Wildlife
 - Ottawa National Wildlife Refuge – Oak Harbor, OH
 - Tamarac Wildlife Refuge – Detroit Lakes, MN
 - Jordan River National Fish Hatchery – Elmira, MI
 - Sherburne Wildlife Refuge – Zimmerman, MN
- Building Commissioning Contract for Menahga Public Schools – Menahga, MN
- Churchill Hall – North Dakota State University – Fargo, ND
- Aviation Hangar Commissioning – Northland Community and Technical College – Thief River Falls, MN
- Humanities Building – University of Minnesota Morris





Cody Bartholomew, P.E.

Professional Mechanical Engineer

Project Qualifications

Cody has over 20 years of experience in the field as a mechanical engineer. His current duties include project management, cost estimating, mechanical systems design, plumbing design, shop drawing review and all other aspects of construction administration.

Education

University of North Dakota

- B.S., Mechanical Engineering

Professional Registrations

North Dakota, Minnesota

Professional Affiliations

- National Society of Professional Engineers
- North Dakota Society of Professional Engineers
- American Society of Heating, Refrigerating and Air Conditioning Engineers

Professional Qualifications

- Extensive knowledge with design codes, ordinances, regulations and procedures
- Experience monitoring/analyzing system operation using energy management control system and stand alone data-logging equipment

Related Project Experience

- Building Commissioning – Tharaldson Hospitality
 - Residence Inn – Roseville, CA
 - Home2 Suites – Roseville, CA
 - Hilton Garden Inn – Austin, TX
 - Hampton Inn & Suites – Sparks, NV
 - Residence Inn – Sparks, NV
 - Residence Inn – Livermore, CA
 - Hilton Garden Inn – Tempe, AZ
 - Hilton Garden Inn – Las Vegas, NV
 - Element Hotel – Natomas, CA
- University of North Dakota – Grand Forks, ND
 - Commissioning Contract
 - North Dakota University Systems Information Technologies Building
 - University of North Dakota Law School
 - Steam System Review and Reconstruction
 - Leonard Hall – HVAC Lab Review
 - Wellness Center Louver Report
- Northland Community and Technical College – East Grand Forks, MN
 - Classroom and Lab Remodel
 - Water Chiller and Generator
 - Commissioning
 - Auditorium HVAC Upgrade



Northland Community and Technical College Laboratory – East Grand Forks, MN



Josh D Lunski, P.E., H.F.D.P.

Professional Mechanical Engineer

Project Qualifications

Josh Lunski has over 20 years of experience in mechanical engineering and project administration. He has participated in all phases of mechanical design and construction. His responsibilities include consulting, engineering design and project administration.

Education

University of North Dakota

- B.S., Mechanical Engineering

Professional Registrations

North Dakota, Minnesota, Montana

Professional Certifications

Healthcare Facility Design Professional

Professional Affiliations

- National Society of Professional Engineers
- American Society of Heating, Refrigerating and Air Conditioning Engineers

Professional Qualifications

- Experience troubleshooting HVAC systems, plumbing systems and energy management control systems
- Extensive knowledge on design codes, rules and regulations

Related Project Experience

- Commissioning Contract – U.S. Fish and Wildlife – Multiple Locations
 - Desoto National Wildlife Refuge Visitor Center – Missouri Valley, IA
 - Neosho Oxygen Generator – Neosho, MO
 - Big Muddy National Wildlife Refuge – Columbia, MO
 - Detroit River Center – Detroit, MI
 - Egg Incubation – Upper Peninsula, MI
- University of North Dakota – Grand Forks, ND
 - Commissioning Contract
 - EERC VAV Study
 - University of North Dakota Law School
 - Central Campus Condensate Distribution
 - Wilkerson Hall – Grease Interceptors
 - Airport Boiler Plant Piping Replacement
 - Memorial Union
 - Museum of Art – Ventilation System
 - Terrace Café – Fire Sprinklers
 - Laundry Relocation
 - Starcher Hall – Lab Renovations
 - Squires Hall
 - Hyslop Sports Center





Matt Krueger, .
Mechanical Engineer

Project Qualifications:

Matt has been with Martin Mechanical for over 3 years. He is involved from start to finish, making sure that everything gets done in the most cost effective, energy efficient way. His knowledge in the industry helps him to communicate effectively with clients, making sure all their needs are met.

Education:

North Dakota State University
Fargo, ND

- B.S. in Mechanical Engineering

Cochise College
Sierra Vista, AZ

- Associates in Applied Science in Intelligence Operation Studies

Professional Affiliations:

- United States Army – Veteran
 - Corporal – All-Source Intelligence Analyst
 - Received Army Commendation Medal, Battlefield Promotion and Certificate of Achievement for duties performed while deployed
- Advance Individual Training
 - Served as a team leader for 5 man section of personnel

Related Project Experience:

Military Experience:

- Previously maintained a Top Secret/SCI Security Clearance
- Served as a security manager for a brigade which consisted of 3,000 personnel.
 - Primary screener for all security clearance requests
 - Maintained all security clearances for brigade personnel
 - Responsible for all orders involving transfer of secure documents of both on and off post.
- Served as a All Source Analyst, NCO and personnel security manager

Mechanical Engineering Experience:

- U.S. Fish and Wildlife
 - Jordan River Fish Hatchery – Elmira, MI
 - Big Muddy National Fish and Wildlife Refuge - Rocheport, MO
- Education
 - Heritage Middle School – Horace, ND
 - Moorhead Area Public Schools Career Academy – Moorhead, MN
 - North Dakota State University Steam Tunnel – Fargo, ND
 - Holy Redeemer School – Marshall, MN
 - Brown Hall – Concordia College – Moorhead, MN
 - UND Laundry Relocation – Grand Forks, ND
- Commercial
 - Pioneer Television – Granite Falls, MN
 - Eventide Senior Housing – Fargo, ND
 - Valley Senior Living – Grand Forks, ND
- Hospitality
 - Hampton Inn & Suites – Sparks, NV
 - Holiday Inn Express – Fargo, ND
 - Residence Inn – Roseville, CA
- Industrial
 - Mid America Steel – Fargo, ND
 - Kenny's Candy – Perham, MN
 - Shearer's Snacks – Perham, MN
 - Coal Creek Station – Underwood, ND
- City
 - Park Rapids Transfer Station – Park Rapids, MN
 - Crookston Transfer Station – Crookston, MN
 - Remer Fire Department – Remer, MN
 - Remer Ambulance Facility – Remer, MN

Staff Roles

Primary Project Contacts

Matt Krueger PE
Mechanical Engineer
Controls and Inspections

Chad Hansen
Primary Project Contact
HVAC Equipment and Inspections

Plumbing

Josh Lunski PE
20 Years Experience
Designer and Inspections

Mick Foss
30+ Years Experience
Inspection

Commissioning / Inspections

Matthew Krueger, PE
6 Years Experience
Mechanical Engineer

Chad Hansen
20 Years Experience
Project Manager

Jake Uglem EIT
Mckinnon Bathie EIT
Mechanical Engineers

Controls/Automation

Matthew Krueger, PE
6 Years Experience
Mechanical Engineer

Josh Holte
20 Years Experience
Electrical/Controls
Engineer

Electric

Josh Holte
20 Years Experience
Electrical/Controls
Engineer

Contracts and Quality Control:

Brian Martin, P.E., C.E.M.
25 Years Experience

Narrative:

Martin Mechanical Design, Inc. and WIR3D Electric will provide Mechanical and Electrical Commissioning Services and coordinate the commissioning activities of team members related to the HVAC systems on this project. The information herein is intended to outline the specific tasks to be performed by each team member according to their area of expertise.

Our commissioning service are intended to achieve the following specific objectives in accordance with the Contract Documents:

- **Review of Pre-Functional Performance Testing:**
 - The Pre-Functional Testing is performed by the contractor of the related systems installed.
- **Functional Performance Testing:**
 - Working with contractors to verify and document proper performance of equipment and systems. The contractor will provide test and balance information and MMD will provide test equipment to verify actual operation as required.
- **Review of O & M Manuals:**
 - Review Operations & Maintenance Manuals to verify that the documentation left on site is complete. Contractor to provide O&M Manuals and Training Material in PDF format.
- **Review of Owner's Training:**
 - Review and Record Owner's Training to verify that the operating personnel are trained in the operation and maintenance of the HVAC systems.

Communication among the team members and the facility staff is paramount for proper commissioning of the HVAC systems. A successful commissioning effort also depends on a deep understanding of building systems and a firm grasp on how people interact to operate the building systems from day to day. Please contact our office with any questions or comments you may have.



Commissioning Planning Meeting (Design/Construction Phase)

The scoping meeting brings together all members of the design, construction, and operations team that will be involved in the commissioning process. In attendance are the respective representatives of the GC, CM, CA, PM, A/E and the mechanical, electrical, controls, and TAB subs. Each building system to be commissioned is addressed, including commissioning requirements, and completion and start-up schedules.

During the scoping meeting, all parties agree on the scope of work, tasks, schedules, deliverables, and responsibilities and lines of reporting and communication for implementation of the Commissioning Plan. A commissioning scoping meeting is planned and conducted by the CxA before the beginning of construction. Prior to this meeting the CxA is given, by the GC, all drawings and specifications and the construction schedule by trade. The CxA keeps notes from the meeting and distributes them to each team member.

The CxA finalizes the draft Commissioning Plan using the information gathered from the scoping meeting. The initial commissioning schedule is also developed along with a detailed timeline. The timeline is fine-tuned as construction progresses.

Mechanical and Electrical Completion and Testing (CA Phase)

Execute Construction Checklists (CC) are important to ensure that the equipment and systems are connected and operational and that performance testing may proceed without unnecessary delays. Each piece of equipment receives full checkout by the contractor. No sampling strategies are used. In general, the contractor will complete CCs for all equipment and systems prior to formal performance testing of equipment or subsystems of the given system. These checklists will be verified by the CxA. The table below lists the CCs that will be provided for this project. Additional CCs will be added as necessary.

The CCs are primarily static inspections and procedures to prepare the equipment or system for initial operation (e.g., oil levels OK, fan belt tension, labels affixed, gages in place, sensor calibration, etc.). However, some Construction Checklist items entail simple testing of the function of a component, a piece of equipment or system which will be combined with the manufacturer's start-up checklist.

The following applicable prerequisite checklist items are required to be listed on each written test form and be completed and checked off by the Commissioning Authority (CxA) prior to functional testing.

1. All related equipment has been started up and start-up reports have been submitted and approved by the A/E and Construction Checklists have **completed by contractor**.
2. All control system functions for this and all interlocking systems are programmed and operable per contract documents, including final set-points and schedules with debugging, loop tuning and sensor calibrations completed.
3. Piping system flushing complete and required report approved.
4. Water treatment system complete and operational.
5. Test and balance (TAB) complete and approved for the hydronic and air system.
6. All A/E punch list items for this equipment corrected.
7. Safeties and operating ranges reviewed by Operations.
8. Test requirements and sequences of operation attached.
9. Schedules and set-points attached.
10. Crankcase heaters have been on long enough for immediate startup.
11. Sufficient clearance around equipment for servicing.

12. Record of all values for pre-test set-points changed to accommodate testing has been made and a check box provided to verify return to original values (control parameters, limits, delays, lockouts, schedules, etc.).
13. Other miscellaneous checks of the CC checklist and start-up reports completed successfully.

Direct Functional Testing

The performance testing shall demonstrate that each system is operating according to the documented design intent and contract documents. Performance testing facilitates bringing the systems from a state of individual substantial completion to full dynamic operation. Additionally, during the testing process, areas of deficient performance are identified and corrected, improving the operation and functioning of the systems.

The contractor shall provide sufficient notice, regarding their completion schedule for the construction checklists and startup of all equipment and systems to allow the performance testing to be scheduled. The commissioning team shall oversee, witness, and document the performance all equipment and systems. The CxA in association with the contractor/subcontractors and facility staff shall execute the tests. Performance testing shall be conducted after the construction checklists, and startup has been satisfactorily completed. The control system shall be sufficiently tested and approved by the CxA before it is used, to verify performance of other components or systems. The air balancing and water balancing shall be completed before performance testing of air or water-related equipment or systems. Testing proceeds from components to sub-systems to systems. When the proper performance of all interacting, individual systems has been achieved, the interface or coordinated responses between systems shall be checked.

1. **Test Methods.** Performance testing and verification may be achieved by manual testing or by monitoring the performance and analyzing the results using the control system's trend log capabilities or by stand-alone data loggers. The CxA may substitute specified methods or require an additional method to be executed other than what was specified, with the approval of the A/E and owner/CM. The CxA will determine which method is most appropriate for tests that do not have a specified method.
2. **Simulated Conditions.** Simulating conditions shall be allowed, though timing the testing to experience actual conditions is encouraged wherever practical.
3. **Overridden Values.** Overriding sensor values to simulate a condition, such as overriding the outside air temperature reading in a control system to be something other than it really is, is acceptable.
4. **Simulated Signals.** Using a signal generator which creates a simulated signal to test and calibrate transducers and DDC constants is generally recommended over using the sensor to act as the signal generator via simulated conditions or overridden values.
5. **Altering Setpoints.** Rather than overriding sensor values, and when simulating conditions is difficult, altering setpoints to test a sequence is acceptable.
6. **Indirect Indicators.** Relying on indirect indicators for responses or performance shall be allowed only after visually and directly verifying and documenting, over the range of the test parameters, that the indirect readings through the control system represent actual conditions and responses.
7. **Setup.** Each performance test shall be performed under conditions that simulate actual conditions as closely as is practically possible. The contractor/subcontractor(s) assisting the CxA in executing the test shall provide all necessary materials, system modifications, etc., to produce the necessary flows, pressures, temperatures, etc., necessary to execute the test according to the specified conditions. At completion of the test, the contractor/subcontractor(s) shall return all affected equipment and systems to their approved operating settings.

Deferred Commissioning

Unforeseen Deferred Tests: If any test cannot be completed due to the building structure, required occupancy condition, or other deficiency, the functional testing may be delayed upon approval of the owner. These tests are conducted in the same manner as the seasonal tests as soon as possible.

Seasonal variation in operations or control strategies may require additional testing during the opposite season to verify performance of the HVAC system and controls. During the warranty period, seasonal testing and other deferred testing is completed as required to fully test all sequences of operation. Operation coordinates these activities. Tests are executed and documented, with deficiencies corrected by the appropriate contractors. Any final adjustments to the O&M manuals and as-builts due to the testing are also completed.

Documentation and Owner Training (Post CA Phase)

Final Commissioning Report including an executive summary, list of participants and roles, brief building description, overview of commissioning and testing scope and a general description of testing and verification methods. For each piece of commissioned equipment, the report should contain the disposition of the commissioning authority regarding the adequacy of the equipment, documentation and training meeting the contract documents in the following areas: 1) equipment meeting the equipment specifications, 2) equipment installation, 3) performance and efficiency, 4) equipment documentation and design intent, and 5) operator training. All outstanding non-compliance items shall be specifically listed. Recommendations for improvement to equipment or operations, future actions, commissioning process changes, etc. shall also be listed. Each non-compliance issue shall be referenced to the specific performance test, inspection, trend log, etc. where the deficiency is documented. The performance and efficiency section for each piece of equipment shall include a brief description of the verification method used (manual testing, BAS trend logs, data loggers, etc.) and include observations and conclusions from the testing.

Warranty Period and Lessons Learned

During the warranty period, seasonal testing and other deferred testing required is completed according to the specifications. Tests are executed and deficiencies corrected by the appropriate subs, witnessed by the CxA. Any final adjustments to the O&M manuals and as-builts due to the testing are made. Approximately 10 months into the warranty period, a one-day review session is held on site to review systems operation with O&M staff prior to expiration of the warranty.

After completion of all commissioning activities and before the end of the warranty period, a **lessons learned** review is held on site with the entire Commissioning Team in attendance. The purpose of the review session is to obtain honest, objective, and constructive feedback on the effectiveness of the commissioning process used and changes that will improve the delivered project. The CxA documents the issues, benefits, and recommendations of this session for inclusion in the final commissioning report.

United States Fish and Wildlife Service – Big Muddy NWR Visitor's Center Commissioning

Boonville, MO



Project Description:

This project was part of a contract between Martin Mechanical Design and the U.S. Fish and Wildlife Service throughout the Midwest. Our contract included many commissioning projects over the course of 5 years.

The complete scope of commissioning services for this location included both mechanical and electrical systems. Commissioning the VRV system included installation inspection and programming the extensive controls system that comes integrated into the equipment. An energy recovery ventilator was also integrated into the building's BAS system. Electrical systems included in the commissioning process included verification of programming on the installed daylight harvesting system and proper installation and operation of the photovoltaic solar array.

Project Size:

6,500 square feet

Project Cost:

\$3,700,00 (Total Cost)

Project Completion Date:

March 2017

Owner:

U.S. Fish and Wildlife Service

Reference:

Andrew McDermott
andrew_mcdermott@fws.gov



Moorhead Public Schools – Dorothy Dodds Elementary School and Horizon Middle School Commissioning Moorhead, MN



Project Description:

Chad Hansen was hired as the lead commissioning agent as part of the Moorhead Area Public Schools 2015 Bond Referendum. The Minnesota Department of Education requires all new educational facilities to be commissioned.

The Horizon Middle School project consisted of an approximately 200,000 square foot, two story addition onto the existing Horizon Middle School building. The addition was designed to accommodate 1,200 students in grades 5-6.

Dorothy Dodds Elementary School is a 108,000 sq. ft. single story facility designed to accommodate 750 K-4 students. Services provided by Martin Mechanical Design were preliminary plan review, pre-functional inspections, functional performance testing, and controls integration.

Systems commissioned at both sites were an air-cooled chiller coupled with thermal ice storage tanks, high efficiency hot water boiler plant, variable primary flow heating and cooling pumps, variable volume air handling units, VAV terminal units, power ventilators, and domestic water booster pumps.

After these projects, Martin Mechanical Design was asked to commission more projects throughout the Moorhead Public School System and has been their trusted partner ever since.

Project Size:

Horizon Middle School – 200,000 square feet

Dorothy Dodds – 108,000 square feet

Project Cost:

Horizon Middle School – \$7,500,000 (Mechanical Cost)

Dorothy Dodds Elementary School - \$4,500,000 (Mechanical Cost)

Project Completion Date:

Horizon Middle School – April 2018

Dorothy Dodds – August 2017

Reference:

Brandon Lunak
blunak@moorheadschoools.org

Northland Community and Technical College – Aviation Hangar Commissioning Thief River Falls, MN



Project Description:

Northland Community & Technical College hired our firm as an owner's representative to oversee the mechanical construction of its new aviation maintenance hangar. The building systems commissioned included geothermal water-to-air heat pumps, a large energy recovery ventilator, and a hangar destratification system. All systems were commissioned to meet current B3 requirements. In the end, the college received a facility that will meet the educational needs of future generations of aviation mechanicals, while ensuring the most efficient, cost effective solution.

Project Size:

105,000 square feet

Project Cost:

\$4,980,000 (Total)

Project Completion:

June 2016

Owner:

Northland Community and
Technical College

Reference:

Clinton Castle
clinton.castle@northlandcolleg
e.edu

Coal Creek Station – Underwood, ND and Dickinson, ND



Project Description:

Coal Creek Station is North Dakota's largest power plant, which provides electricity that is used by about two-thirds of Minnesota. The 3,370 acre plant was first built in the 1970s.

Martin Mechanical Design and WIR3D Electric were involved with a \$100 million+ valve hall upgrade which was constructed simultaneously at the Underwood and Dickinson sites. The team was tasked with design, construction and commissioning of the valve hall mechanical system and integration into the MACH system. The system is responsible for providing 100% redundancy and switch over of critical systems to ensure uniform power and distribution to the electrical grid.

Between redundancy and proven design approaches, Martin Mechanical and WIR3D Electric deliver an on-time and on-budget solution to meet the strict requirements.

Project Size:

105,000 square feet

Project Cost:

\$100 Million+

Project Completion:

June 2019

Reference:

Nate Cole
nate@psmhvac.com

Legacy Sports Park – Mesa, AZ



Description:

The large 475,000 square foot complex accommodates a variety of both indoor and outdoor sports and event including soccer, basketball, baseball/softball, and volleyball. **Martin Mechanical Design** provided all mechanical, plumbing and fire protection design for the facility including the large kitchen and concessions areas. The design used a combination of Air Rotation, Dedicated Outdoor Air System, Variable Air Volume, and Heat Recovery. The facility includes the following:

- Multi-field Soccer Complex that includes (20) artificial turf soccer fields, (4) sand-based soccer fields, and (11) sod on native soccer fields
- (40) Pickleball Courts and (1) Stadium Pickleball Court
- (10) Sand Volleyball Courts and (1) Stadium Volleyball Court
- (4) Artificial Turf Baseball Fields
- (4) Artificial Turf Softball Fields
- 25-acre Special Events Area for concerts, festivals, and events
- 3-acre Great Lawn area for concerts and events
- (50) Volleyball Courts including (1) Multipurpose Arena
- (8) 94' NBA/NCAA basketball courts with (1) Multipurpose Arena
- (8) 84' High School/Youth Basketball courts with (1) Multipurpose Arena
- (6) Olympic size futsal courts
- 24,000 sf Gymnastics Center
- 10,000 sf Cheer Center
- 8,000 sf Dance Center
- 26,500 sf Performance Training Center
- 17,000 sf General Fitness Center with health, fitness, wellness, and nutrition coaches
- 14,000 sf Esports/Arcade Center
- 40,000 sf Multi-Purpose / Event Floor
- 12,000 sf Restaurant / Bar
- Kids Club
- Yoga Studios
- Athletic Apparel Shops.

Arena Califino – San Diego, CA



Description:

This oceanside arena will be home to the San Diego Sockers, who are a part of the American Indoor Soccer League. The 5,000 seat arena was designed with future capabilities to host indoor ice hockey. The mechanical system was designed with high efficiency mechanical air to air heat pumps located on the roof. The project construction budget was \$30 Million.

Mason City Multi-Purpose Arena – Mason City, IA



Description:

The Mason City Multi-Purpose Arena is a 52,500 square foot event center and ice arena which is part of the City's downtown redevelopment project. The \$15 Million facility will accommodate around 3,000 people for sporting events, concerts, tradeshow and other events. The project was completed under a strict timeline of one-year for design and construction. Construction was completed in 2019.

Cullen Hockey Center – Moorhead, Minnesota



Reference: Bob Gramer – Executive Director of Moorhead Youth Hockey

Description:

The Moorhead Youth Hockey Association renovated and expanded their city-owned building and renamed it the Cullen Hockey Center, in 2016. The upgrades included a new roof, insulation, new entrance, lobby and third sheet of ice. The mechanical design uses high efficiency heating and cooling equipment designed to react to the ever-changing conditions in a hockey arena.

ICON Sports Center – Grand Forks, North Dakota



Reference: Bill Palmiscno – Executive Director of Grand Forks Park District

Description:

This \$13,000,000 arena has a two-sheet ice rink to serve youth hockey throughout Grand Forks and surrounding communities. The floor plan features common lobby areas, a general club room viewing booth, several locker rooms and concessions. This 91,500 square foot project was completed in 2014. Our focus was to keep the rink cool while keeping the temperature comfortable for guests. The end result has benefited the Grand Forks community greatly, by allowing them to host tournaments and expand their hockey classes and competitions.

Lake of the Woods Community Arena – Baudette, MN



Reference: Michael Johnston – Principal Architect – MJ Architectural Studios

Description:

The Lake of the Woods Community Arena is still under construction, but plans to finish up in the summer of 2019. The \$7,000,000 facility is 38,000 square feet and will accommodate 650 guests. Once completed, it will be used for other events such as graduations and weddings. The goal for the arena is to keep operating costs as low as possible, so our design is the most cost efficient solution possible.

North Dakota State University Indoor Practice Facility – Fargo, ND



Description:

The North Dakota State University Indoor Practice Facility was designed to accommodate football, soccer, golf, baseball and track. The facility will be a full 120 yards long and 60 yards wide with a 70-foot height clearance over the field. We completed the design in 2019 and the project is in construction.

Recent Projects (Local)	End Date
Moorhead Public School Operation and Transportation Center	Construction Complete
Moorhead High School	Under Construction
West Fargo Schools Rocking Horse / Brooks Harbor	Under Construction
Fargo Jet Center Hanger Addition	Construction Nearing
NDSU Practice Facility	Phase I Construction

Current Projects	End Date
Kenny's Candy	Design Ongoing
Hospitality	Design Ongoing
Industrial Process Piping	Nearing Completion
NDSU Practice Facility	Phase II Design

Willingness to meet time and budget requirements:

Our team has completed hundreds of projects with strict time and budget guidelines. We pride ourselves on delivering a top-quality project on time and on budget. We actively manage our professional staff to ensure we can achieve the project goals in a timely manner while maintaining professionalism and quality. We are confident that we can **manage and maintain** the staff required to complete your project.

"I am confident in Martin Mechanical Design's ability to provide exceptional results while remaining on-time and on-budget. I would highly recommend them for any mechanical engineering or commissioning service."

- Brandon Lunak, Moorhead Area Public Schools



Fargo Parks Sports Complex

Fargo ND

Submitted by:

Martin Mechanical Design and WIR3D Electric

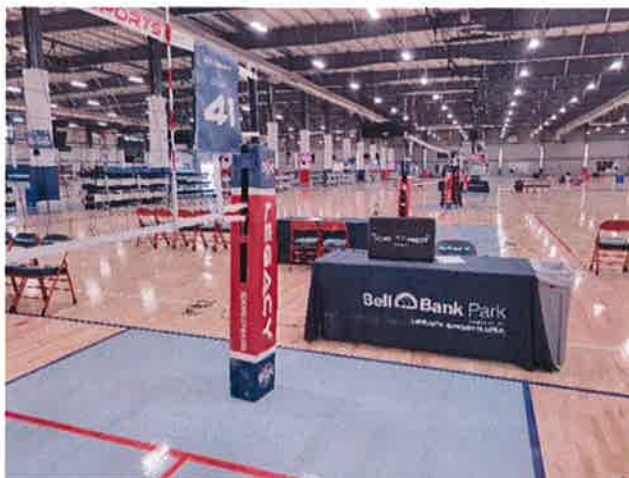
Fixed Fee – Lump Sum:

\$140,000

(One Hundred Forty Thousand and No/100)



Pricing Schedule		
	Commissioning Responsibility Base Bid Items:	Total Cost
1	50% Electrical lighting control systems and devices	25,000
2	Mechanical systems to be commissioned include HVAC systems and associated automation/controls, with 100% of main equipment such as boilers, chillers, air handling units, energy recovery units, pumps, etc. being commissioned	75,000
3	30% of terminal units such as variable air volume (VAV) boxes, terminal coils, etc.	15,000
4	30% of supplemental heating equipment such as finned tube radiation, radiant panels, etc. Provide submittal review reports to the Owner and project team.	15,000
5	Plumbing systems to be commissioned include domestic water heaters, and recirc pump/booster pumps.	10,000
	All specific tasks (as indicated in RFP for which the Commissioning Authority for this project will be responsible for) for Preconstruction/Construction Phase, Building Acceptance Phase, and Building Turnover/Occupancy Phase shall be included in Commissioning Responsibility Bid Items and Commissioning Responsibility Add Service Items.	Included
	Subtotal	140,000
Commissioning Responsibility Add Service Items:		
A	Increase to 100% Electrical lighting control systems and devices	25,000
B	Increase to 100% of Terminal Units and supplemental heating equipment	20,000
C	Any voluntary alternates for any additional services and/or scope of work, not specifically addressed in the Request for Proposals that may be considered to be a benefit to the Owner.	Hourly to agreed amount



Alternate Proposal:

Hourly to a maximum fee of \$140,000. The maximum fee will be adjusted as the team approves reductions in scope as itemized by Martin Mechanical Design's Commissioning Team either prior to or during the commissioning process as seen as redundant or not necessary.



MOORHEAD
AREA PUBLIC SCHOOLS

Independent School District 152
Probstfield Center for Education
2410 14th St. S., Moorhead, MN 56560 ■ Fax: 218-284-3333
www.moorheadschoools.org
■ Superintendent: 218-284-3330
■ Assistant Superintendent for Finance and Operations: 218-284-3370
■ Assistant Superintendent for Learning and Accountability: 218-284-3310
■ Human Resources: 218-284-3350

September 10, 2019

To Whom It May Concern:

I have had the privilege of working with Martin Mechanical Design on several projects over the years. Throughout this time, I have seen the exceptional communication, teamwork and attention to detail they provide to every project.

Martin Mechanical Design was trusted with all commissioning services during our 2015 referendum for the 400,000 sq. ft. addition to Horizon Middle School and our new Dorothy Dodds Elementary School. The services they provided ensured the projects were installed correctly and are operating as efficiently as possible.

The team at Martin Mechanical Design has assisted on many projects with Moorhead Area Public Schools over the years, including the remodel of the high school, Transportation and Operations Center and multiple elementary schools remodel projects. Throughout this time, Martin Mechanical Design proved to be an outstanding, trustworthy firm. They are quick to get their paperwork done, respond in a timely matter to all inquiries and are very open and honest about the project.

I am confident in Martin Mechanical Design's ability to provide exceptional results while remaining on-time and on-budget. I would highly recommend them for any mechanical engineering or commissioning service, and I look forward to doing additional business with them in the future.

Sincerely,

Brandon Lunak, Superintendent
Moorhead Area Public Schools
218-284-3335

Exhibit 1: Commissioning Firm Experience

FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Martin Mechanical Design Inc.

Company Name	Contact Person	Title
1201 25th Avenue North, Fargo, ND 58102		
Address	City	State
Zip/Postal Code		
701-293-7957	NA	bmartin@martinmech.com
Telephone	Fax	E-Mail

Description of Business

Commissioning Activities

Percentage of overall business devoted to commissioning services 20% %
 How long has the firm offered commissioning services 22 years
 Number of commissioning projects performed each year 5-10* projects

*** Straight Commissioning/Inspection projects.**

Number of registered engineers on staff who have directed commissioning projects: 4

The firm has provided commissioning services in the following: (check all that apply)

<u>Building Sector</u>	New Construction Major Renovation	Existing Building Retro/Re	Equipment Replacement
Office or retail	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Hospitals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Assisted Living	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Laboratories	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sports / Entertainment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Industrial / Manufacturing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Special purpose—prisons, museums, libraries, etc.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other; Describe ELCTRICAL TRANSMISSION	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Exhibit 2: Commissioning Task Experience for Similar Projects

FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Project (Name, Date, Bldg Size, Type, new or existing)	Dorothy Dodds / Horizon Middle School
	New Middle School / 308,000 square feet
Owner Contact (Title, City, State, and Phone)	Moorhead Public Schools
	Brandon Lunak 218-284-3330
	Moorhead, MN 56560
Name & Role of Persons(s) Assigned to Project by Firm (identify any sub-consultants)	Chad Hansen - Inspections and Testing
	Brian Martin PE - Quality Control and Contracts

	Task	<input checked="" type="checkbox"/>	Comments
Commissioning	Developed Owner's Project Requirements	X	
	Wrote commissioning plan	X	
	Wrote commissioning specs	X	
	Wrote construction checklists	X	
	Wrote functional test procedures	X	
	Witnessed and documented functional tests	X	
	Performed functional tests (hands-on)	X	
	Wrote systems manual		
	Used data loggers or EMS trend logs for testing	X	
	Developed or approved staff training	X	
	Reviewed completed O&M manuals	X	

Management	Commissioning provider was part of the firm	X	MMD has acted as owner rep, engineer, and commissioning agent on many projects and believes working as a team provides the best outcome for all parties involved.
	Supervised a sub-consultant commissioning provider to our firm.	X	
	Worked with a commissioning provider hired by others	X	

	✓	System or Equipment
Commissioning Tasks Performed	<input checked="" type="checkbox"/>	Central building automation system
	<input checked="" type="checkbox"/>	All equipment of the heating, ventilating and air conditioning systems
	<input checked="" type="checkbox"/>	Enhanced Filtration Units
	<input checked="" type="checkbox"/>	Scheduled or occupancy sensor lighting controls
	<input type="checkbox"/>	Daylight dimming controls
	<input checked="" type="checkbox"/>	Refrigeration systems
	<input type="checkbox"/>	Emergency power generators and automatic transfer switching
	<input type="checkbox"/>	Uninterruptible power supply systems
	<input checked="" type="checkbox"/>	Life safety systems (fire alarm, egress pressurization, fire protection)
	<input type="checkbox"/>	Electrical (service switchgear, switchboards, distribution panels, transformers, motor control centers, power monitoring and metering, transient voltage surge suppressors, variable speed drives, grounding and ground fault systems, over current protective devices, low voltage busway, thermographic survey, white sound system).
	<input checked="" type="checkbox"/>	Domestic and process water pumping and mixing systems
	<input type="checkbox"/>	Equipment sound control systems and testing
	<input type="checkbox"/>	Data and communication
	<input type="checkbox"/>	Paging systems
	<input type="checkbox"/>	Security system
	<input checked="" type="checkbox"/>	Irrigation
	<input checked="" type="checkbox"/>	Plumbing
	<input type="checkbox"/>	Vertical transport
<input type="checkbox"/>	Building envelope including the different types of curtain wall assemblies (specify roofing, windows and doors, construction joints, etc.)	

Exhibit 1: Commissioning Firm Experience
 FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Wired Electric	Josh Holte	President	
Company Name	Contact Person	Title	
331 23rd Street North, Fargo, ND 58102			
Address	City	State	Zip/Postal Code
701-347-1972	NA	josh.holte@gmail.com	
Telephone	Fax	E-Mail	

Description of Business

Commissioning Activities

Percentage of overall business devoted to commissioning services 10% %
 How long has the firm offered commissioning services 11 years
 Number of commissioning projects performed each year 5-10 projects

Number of registered engineers on staff who have directed commissioning projects: **0 - Master Electrician**

The firm has provided commissioning services in the following: (check all that apply)

<u>Building Sector</u>	New		
	Construction	Existing Building	Equipment
	Major Renovation	Retro/Re	Replacement
Office or retail	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Hospitals	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Assisted Living	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Laboratories	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sports / Entertainment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Industrial / Manufacturing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Special purpose—prisons, museums, libraries, etc.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other; Describe ELCTRICAL TRANSMISSION	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Exhibit 2: Commissioning Task Experience for Similar Projects

FILL OUT A SEPARATE FORM FOR EACH FIRM ON THE TEAM

Project (Name, Date, Bldg Size, Type, new or existing)	West Fargo Public Schools - Middle School
	New Middle School
Owner Contact (Title, City, State, and Phone)	Mark Lemer
	Lemer@west-fargo.k12.nd.us
	701-499-1004
Name & Role of Persons(s) Assigned to Project by Firm (identify any sub-consultants)	Josh Holte, Dan Knutson

	Task	✓	Comments
Commissioning	Developed Owner's Project Requirements		
	Wrote commissioning plan		
	Wrote commissioning specs		
	Wrote construction checklists		
	Wrote functional test procedures		
	Witnessed and documented functional tests		
	Performed functional tests (hands-on)	X	
	Wrote systems manual	X	
	Used data loggers or EMS trend logs for testing	X	
	Developed or approved staff training	X	
	Reviewed completed O&M manuals	X	

Management	Commissioning provider was part of the firm		
	Supervised a sub-consultant commissioning provider to our firm.		
	Worked with a commissioning provider hired by others	X	

	✓	System or Equipment
Commissioning Tasks Performed	<input checked="" type="checkbox"/>	Central building automation system
	<input checked="" type="checkbox"/>	All equipment of the heating, ventilating and air conditioning systems
	<input type="checkbox"/>	Enhanced Filtration Units
	<input checked="" type="checkbox"/>	Scheduled or occupancy sensor lighting controls
	<input checked="" type="checkbox"/>	Daylight dimming controls
	<input checked="" type="checkbox"/>	Refrigeration systems
	<input checked="" type="checkbox"/>	Emergency power generators and automatic transfer switching
	<input checked="" type="checkbox"/>	Uninterruptible power supply systems
	<input checked="" type="checkbox"/>	Life safety systems (fire alarm, egress pressurization, fire protection)
	<input checked="" type="checkbox"/>	Electrical (service switchgear, switchboards, distribution panels, transformers, motor control centers, power monitoring and metering, transient voltage surge suppressors, variable speed drives, grounding and ground fault systems, over current protective devices, low voltage busway, thermographic survey, white sound system).
	<input type="checkbox"/>	Domestic and process water pumping and mixing systems
	<input type="checkbox"/>	Equipment sound control systems and testing
	<input checked="" type="checkbox"/>	Data and communication
	<input type="checkbox"/>	Paging systems
	<input checked="" type="checkbox"/>	Security system
	<input type="checkbox"/>	Irrigation
	<input type="checkbox"/>	Plumbing
	<input type="checkbox"/>	Vertical transport
<input type="checkbox"/>	Building envelope including the different types of curtain wall assemblies (specify roofing, windows and doors, construction joints, etc.)	



MEMORANDUM

DATE: April 6, 2022

TO: Fargo Park Board Commissioners

FROM: Carolyn Boutain, Enterprise Director

RE: Agenda Item No. 5 – Board to discuss and consider approval of priorities for the next Park Master Planning Services

In the 2022 budget, the board approved money for three park master plans. The first plan that was awarded was for Island Park. This plan is expected to be completed in June 2022.

At the March Facilities Committee meeting, the staff presented three different options for the development of the next master plan. The parks under consideration for master planning are Lindenwood Park, Yunker Farm and Johnson Park.

- 1) Lindenwood Park is a very active park and the improvements last year with the road have been completed. The public is interested in what will happen next.
- 2) Yunker Farm has been active with the Northern Plains Botanical Garden Society, the dog park and the community gardens. In 2021, 13 groups met to discuss their interest in creating a conservancy park. The group is waiting for the master plan discussions in order to proceed.
- 3) Johnson Park is an active space with three soccer fields, playground, small shelter and a warming house. The neighborhood is interested in plans for updates.

Each park is unique and each will eventually have a complete master plan. The committee recommended moving this to the full board for further discussion to determine the priority.

Once the project is decided upon, staff would develop a plan for soliciting Request for Qualifications (RFQ) proposals. The timeline for final approval for awarding the bid would be expected this summer.

If you have any questions, please contact me before the meeting.

Thank you.

Sample Motion: I move to have the staff proceed with the soliciting Request for Qualifications (RFQ) for the development of a master plan for XXXXXX park.

Dave Leker, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Stacey Griggs * Dawn Morgan * Jerry Rostad
CLERK – Dave Leker



MEMORANDUM

DATE: April 6, 2022

TO: Fargo Park Board Commissioners

FROM: Dave Bietz, Parks Director

RE: Agenda Item No. 6 – Board to consider for approval option to collaborate with Fargo Public Schools relating to North High/Coliseum parking lot project

This topic was discussed at the March 30th Facilities Committee meeting. Staff has made design changes to the plan of the parking lot for the portion that sits on Park District property. Staff incorporated all comments discussed in the March 8th Board meeting into the final design. Included with this memo is a site plan that shows the changes that were made by Park District staff in collaboration with architects and engineers.

We recommend a parking lot buffer to be added on the south portion of the parking lot and we also advocate to add pedestrian walkways that connect the amenities on this site. We have also requested to add speed tables as traffic calming devices to again aid in pedestrian and vehicle safety. A drop off loop was also explored near the entrance of the coliseum but was not pursued as the options we developed increased safety concerns. We also looked at the option of increasing the grass space on the north side of the Coliseum entrance by eliminating approximately twelve stalls and replacing that area with grass. This option was not pursued as we did not find it prudent to eliminate the parking and invite additional grass space so near the driving lane of the parking lot where kids may want to play.

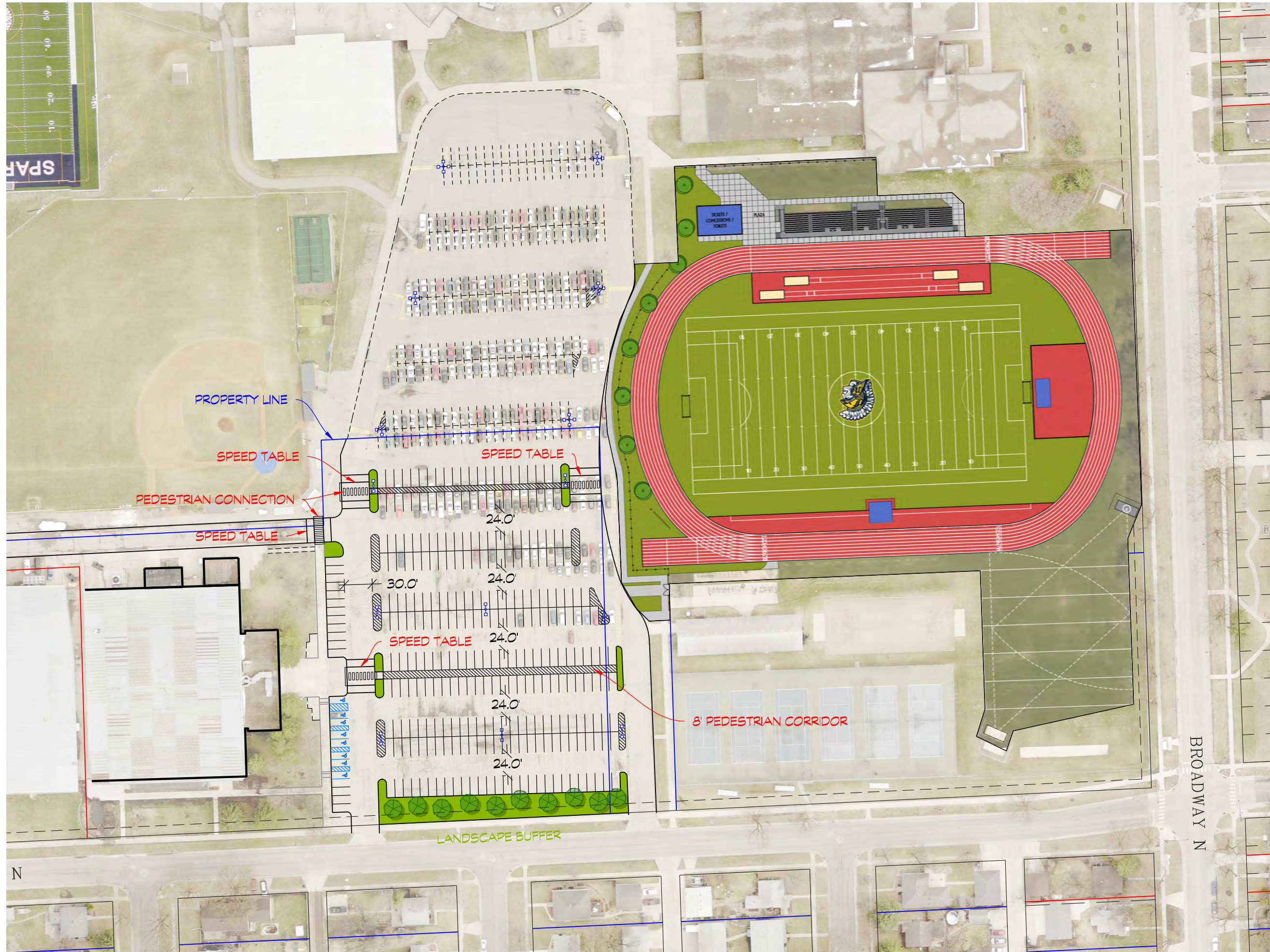
Also included with this memo is a draft Joint Powers Agreement that lists out how the financing of this project will be handled. The final agreement will not be executed until the School District sells the bonds for the total of the parking lot project and the other improvements they are making at North High. This is planned to happen on May 24th. Also included is an estimated amortization schedule that shows the annual estimated payments. It is important to note that the payments will not result in additional requests of dollars, but rather will be accounted for in the yearly operational budget for Asphalt and Concrete. The estimated annual payment is \$103,500 to \$107,500.

It was recommended at the March 30th Facilities Committee meeting to bring this to the full board for consideration and approval.

If you should have any questions, please feel free to contact me prior to the meeting.

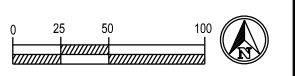
Sample Motion: I move to approve the design of the Coliseum parking lot and commit to partnering with the Fargo Public Schools to pay for this improvement.

Dave Leker, Executive Director
PARK COMMISSIONERS – Vicki Dawson * Joe Deutsch * Stacey Griggs * Dawn Morgan * Jerry Rostad
CLERK – Dave Leker



COLISEUM PARKING RECONSTRUCTION

XXXXXX
XXXXXX
Fargo, ND 58102



THIS SET OF PLANS SHOULD BE CONSIDERED PRELIMINARY AND NOT FOR ANY BIDDING, FINAL ESTIMATE OR CONSTRUCTION. THIS SET OF PLANS SHALL NOT BE DEEMED FINAL UNTIL ALL APPROVALS HAVE BEEN OBTAINED FROM ALL CODE AUTHORITIES HAVING JURISDICTION. ANY BID SUBMITTED, BASED ON THIS SET OF PRELIMINARY PLANS, IS SUBJECT TO CHANGE AND IS INCOMPLETE.

FP JOB #: XXXXX

SITE PLAN

L100

**FARGO NORTH HIGH SCHOOL TRACK PARKING LOT
JOINT POWERS AGREEMENT**

This Joint Powers Agreement (“Agreement”) is entered into by and between the Board of Education of the City of Fargo (“School District”) and the Park District of the City of Fargo (Park District”), pursuant to North Dakota Century Code (N.D.C.C.) ch. 54-40.3.

RECITALS

1. The School District is the owner of certain property identified as Parcel “A” on the survey attached as Exhibit A.
2. The Park District is the owner of certain property identified as Parcel “B” on the survey attached as Exhibit A.
3. The School District desires to construct, develop, maintain, and manage a track and outdoor field for purposes of providing recreation, physical education, and sports programs which is adjacent to the property identified in Exhibit A. As a result, the School District desires to repair and improve its portion of the adjacent parking lot identified in Exhibit A.
4. The Park District desires to repair and improve its portion of the adjacent parking lot identified in Exhibit A.
5. The School District and Park District desire to cooperate in the repair and improvement of the shared parking lot to reduce costs to the public.

Now, therefore, the Parties are entering into this Agreement according to the following terms and conditions:

1. Property. The parking lot subject to repairs and improvements consists of Parcel A and Parcel B as depicted in Exhibit A.
2. Design and Construction. The School District shall be responsible for the bidding process and the awarding of contracts to successful bidders for the construction related to the repair and improvements of the parking lot. In addition, the School District will be responsible for hiring an architect to design and a construction manager to manage the construction related to the repairs and improvements to the parking lot. Any modifications to the design due to a specific request of one Party shall be the sole expense of the requesting Party.
3. Payment and Financing for Construction. The construction costs identified to be applicable to the repair and improvement of the parking lot shall be financed by the School District over a (INSERT NUMBER) year period. The projected budget for the construction related to the repair and improvement of the parking lot is \$(INSERT AMOUNT) and the Estimated Project Budget is attached as Exhibit B. Payments in an amount of \$(INSERT NUMBER) will be made by the Park District to the School District semi-annually for a period of (INSERT NUMBER) years. The Park District must approve any increases to the Estimated Project Budget that are related to the repair and improvement of the parking lot.
4. Term. This Agreement shall be for a (INSERT NUMBER) year term, expiring on the 30th day of June 20XX, provided, however, that it shall automatically renew for an additional one year term unless terminated.

5. Liability. The School District and Park District each agree to assume their own liability for any and all claims of any nature including all costs, expenses and attorney's fees which in any manner may result from or arise out of this agreement or the services provided hereunder. Each party shall be responsible for its own acts and omissions and those of its officers or employees acting within the scope of their employment.
6. Notices. Notices provided for in this Agreement, unless expressly provided for otherwise, shall be in writing and may be delivered personally or by placing in the United States mail, first class and certified, return receipt requested with postage prepaid and addressed as follows:

School District:

Park District:

Business Manager
Fargo Public School District
700 7th Street South
Fargo, ND 58102

Notices delivered by mail shall be deemed effective three (3) days after mailing in accordance with this section. Notices delivered in person shall be deemed effective upon receipt. The provisions of this section do not supersede any statutes or rules of court regarding notice of claims or service of process. In the event of a conflict between this section and any statutes or rules of court, the statutes or rules of court shall govern.

7. Assignment. Neither party may assign or otherwise transfer or delegate any right or duty without the other party's express written consent.
8. Entire Agreement. This Agreement constitutes the entire Agreement and supersedes all prior agreements and understandings, oral and written, between the parties hereto with respect to the subject matter hereof.
9. Merger and Modification. This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations oral or written, not specified within this Agreement. This Agreement may not be modified, supplemented, or amended in any manner, except by written agreement signed by all of the parties.
10. Severability. If any paragraph, sentence, clause, or phrase of this Agreement is for any reason invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Agreement.
11. Government Purpose. All services or activities performed under or pursuant to this Agreement shall be deemed for public and governmental purposes only. It is the intention of the parties that all privileges, protections, defenses, immunities, and damage limitations afforded by law to the parties hereto shall remain in full effect. This Agreement shall not be construed, in any matter, to abrogate or limit the rights, defenses, immunities, exemptions, powers, duties or functions of either party hereto.

12. Authority for Agreement. This Agreement is made under the authority of Chapter 54-40.3 of the North Dakota Century Code relating to Joint Powers Agreements and Section 15.1-09-33(4) and Section 40-49-12.

SIGNATURES

Board of Education of the City of Fargo

Rebecca Knutson
President

Date

Park District of the City of Fargo

NAME:
TITLE:

Date

DRAFT

EXHIBIT A

EXHIBIT B

DRAFT

DETAILED BOND DEBT SERVICE

Park District Portion

Bond Component

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
02/01/2023			29,833.33	29,833.33	
08/01/2023	55,000	4.000%	22,375.00	77,375.00	107,208.33
02/01/2024			21,275.00	21,275.00	
08/01/2024	65,000	4.000%	21,275.00	86,275.00	107,550.00
02/01/2025			19,975.00	19,975.00	
08/01/2025	65,000	4.000%	19,975.00	84,975.00	104,950.00
02/01/2026			18,675.00	18,675.00	
08/01/2026	70,000	4.000%	18,675.00	88,675.00	107,350.00
02/01/2027			17,275.00	17,275.00	
08/01/2027	70,000	4.000%	17,275.00	87,275.00	104,550.00
02/01/2028			15,875.00	15,875.00	
08/01/2028	75,000	4.000%	15,875.00	90,875.00	106,750.00
02/01/2029			14,375.00	14,375.00	
08/01/2029	75,000	4.000%	14,375.00	89,375.00	103,750.00
02/01/2030			12,875.00	12,875.00	
08/01/2030	80,000	4.000%	12,875.00	92,875.00	105,750.00
02/01/2031			11,275.00	11,275.00	
08/01/2031	85,000	2.000%	11,275.00	96,275.00	107,550.00
02/01/2032			10,425.00	10,425.00	
08/01/2032	85,000	2.000%	10,425.00	95,425.00	105,850.00
02/01/2033			9,575.00	9,575.00	
08/01/2033	85,000	2.000%	9,575.00	94,575.00	104,150.00
02/01/2034			8,725.00	8,725.00	
08/01/2034	90,000	2.100%	8,725.00	98,725.00	107,450.00
02/01/2035			7,780.00	7,780.00	
08/01/2035	90,000	2.150%	7,780.00	97,780.00	105,560.00
02/01/2036			6,812.50	6,812.50	
08/01/2036	90,000	2.200%	6,812.50	96,812.50	103,625.00
02/01/2037			5,822.50	5,822.50	
08/01/2037	95,000	2.250%	5,822.50	100,822.50	106,645.00
02/01/2038			4,753.75	4,753.75	
08/01/2038	95,000	2.300%	4,753.75	99,753.75	104,507.50
02/01/2039			3,661.25	3,661.25	
08/01/2039	100,000	2.350%	3,661.25	103,661.25	107,322.50
02/01/2040			2,486.25	2,486.25	
08/01/2040	100,000	2.400%	2,486.25	102,486.25	104,972.50
02/01/2041			1,286.25	1,286.25	
08/01/2041	105,000	2.450%	1,286.25	106,286.25	107,572.50
	1,575,000		438,063.33	2,013,063.33	2,013,063.33