

AMENDED ITEMS—MARCH 4, 2013

CONSENT AGENDA:

d. Contract approval

SUGGESTED MOTION:

Move to authorize the chairman to sign the following contracts submitted by respective department head, subject to state's attorney approval.

- Muscha Pavement Marking, Inc.—pavement marking installation on various county highways for 2013;
- ASTECH Corporation—crack, clean and seal projects on various county highways for 2013;
- ASTECH Corporation—sealcoat projects on various county highways for 2013.

e. Appointment to Road Advisory Committee

SUGGESTED MOTION:

Move to amend Commission Policy Section 14.01 County Standing Committees, and appoint Mark Brodshaug as the County Planning Commission representative to the Road Advisory Committee.

REGULAR AGENDA:

2d. Hazard Mitigation Grant Program agreement for Lake Shure bridge project

SUGGESTED MOTION:


Move to authorize the chairman to sign the Hazard Mitigation Grant Program sub-grant agreement with the North Dakota Department of Emergency Services for Phase I of the Lake Shure bridge project.

CONTRACT APPROVAL REQUEST

COMPANY REQUESTING CONTRACT: Muscha Pavement Marking Inc., 16545
70th St SE, Colfax, ND 58018

DATE OF REQUEST: March 1, 2013

DATE OF EXPECTED RETURN
TO THE COMMISSION OFFICE:
March 4, 2013

DEPARTMENT HEAD REQUESTING SIGNATURE: *Jason Benson, 298-2372* 
STATES ATTORNEY SIGNATURE: _____

STATES ATTORNEY COMMENTS: _____

PORTFOLIO COMMISSIONER SIGNATURE:

NOTE: Requests for quotes for Pavement Marking Installation on various County Highways in Cass County, North Dakota were opened on February 28, 2013. The Engineers estimate was \$231,326.00. The quotes are as follows:

- | | |
|----------------------------|--------------|
| 1. Muscha Pavement Marking | \$206,510.93 |
| 2. Fahrner Asphalt Seal | \$212,775.76 |
| 3. Swanston Equipment | \$216,704.35 |
| 4. North Star | \$233,264.69 |

SUGGESTED MOTION: AUTHORIZE CHAIRMAN TO SIGN CONTRACT WITH MUSCHA PAVEMENT MARKING, INC. FOR VARIOUS CASS COUNTY HIGHWAYS FOR PAVEMENT MARKING INSTALLATION.

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT**

This agreement made and entered into by Cass County, North Dakota, party of the first part, and Muscha Pavement Marking, Inc., 16545 70th St SE, Colfax, ND 58018 party of the second part (hereinafter called Contractor), WITNESSETH:

1. That for and in consideration of the payments to be made by the party of the first part, the contractor promises and agrees to furnish and deliver all labor, equipment, and materials, and to pay or cause to be paid as they become due, all claims for any work, labor, materials, equipment, including equipment rental or repair, and other supplies or insurance premiums, all of which are attributable to or utilized in and about the improvement and construction of Project CH1309. In accordance and in conformity with the provisions of this contract, the project proposal, the standard specification, supplemental specifications, special provisions, and all of which are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth in the body of this agreement. References in the Standard Specifications for Road and Bridge Construction, 2008 edition, to the North Dakota Department of Transportation or Department must be construed as referring to the owner. Likewise, a reference by the same works to engineer or director must be construed as referring to the owner of the project.

2. The party of the first part agrees and promises to pay to the Contractor for said work, when completed and accepted in accordance with the provisions of this contract, the price set forth in the said proposal, amounting approximately to Two Hundred Six Thousand, Five Hundred Ten and 93/100 (\$206,510.93) payments to be made as provided in said specifications upon presentation of the proper certificates of the County Engineer, or his representatives, and under the terms of this contract.

3. The said work shall be done in accordance with the terms of this contract, and the laws of the State of North Dakota, under direct supervision and to the entire satisfaction of the County Highway Department, subject at all times to the inspection and approval of the engineer.

4. The decision of the engineer upon questions connected with the execution of this agreement or any failure or delay in the prosecution of the work by the Contractor shall be final and conclusive.

5. In the employment of labor, other things being equal, preference shall be given to honorably discharged Veterans of the Armed Forces, and bona fide North Dakota residents, as determined by NDCC Section 43-07-20.

6. The Contractor shall begin construction work when so ordered by the Cass County Highway Department and shall maintain at all times thereon a maximum and efficient working force necessary to complete the work within the time established by this contract.

IN WITNESS THEREOF, the parties to this contract have set their hands and seal this _____ day of _____ 2013.

CASS COUNTY NORTH DAKOTA

Chairman, Cass County Board of Commissioners

Contractor

WITNESS TO CONTRACTOR'S SIGNATURE

By _____

Title _____

**Cass County Highway Department
Contract Bond**

Project No. CH1309

KNOW ALL MEN BY THESE PRESENTS, that we Muscha Pavement Marking Inc., 16545 70th St SE, Colfax, ND 58018 as principal, and _____

NAME AND ADDRESS OF SURETY

as surety, are held and firmly bound unto Cass County, North Dakota, as owner in the penal sum of Two Hundred Six Thousand, Five Hundred Ten and 93/100 (\$206,510.93) for the use of the owner and also for the use of any person having any lawful claim against the principal or any subcontractor on account of labor or supplies or materials as set forth in the conditions hereof; for the payment of which well and truly to be made we jointly and severally bind ourselves, and each of our heirs, executors, administrators, and successors, firmly by these presents.

WHEREAS, said principal has entered into a written contract with the owner for: _____

CH1309 Pavement Marking Installation on Various County Highways in Cass County, North Dakota, which contract and incorporated plans and specifications are by this reference made a part hereof, and are hereinafter referred to as the contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS THAT if the principal shall: (1) perform all the terms, covenants and conditions of said contract; (2) protect the owner against any loss or damage from any cause arising out of said contract; (3) pay or cause to be paid all bills and claims against the principal or any subcontractor on account of labor or services performed and all materials, equipment or supplies furnished, whether directly or indirectly arising out of the performance of said contract; (4) pay all insurance premiums and all items for which payment under the terms of the contract is to be made or guaranteed by the principal; (5) have made or will make, prior to the commencement of any work by the principal or any subcontractor under such contract, full and true report to the Worker's Compensation Bureau of the payroll expenditures for the employees to be engaged in such work, and that the principal has paid, or will pay, the premium thereon prior to the commencement of such work; (6) pay or cause to be paid all contributions due to the Unemployment Compensation Division; and (7) pay or cause to be paid any and all taxes that may be assessed or levied or to be a charge against such contractor or any subcontractor under such contract by the state or any of its subdivisions; then this obligation shall be null and void; otherwise it will remain in full force and effect.

And the said surety hereby stipulates and agrees that any change, extension, alteration, deduction or addition, with or without notice to the surety, in or to the terms of said contract or the plans or the specifications accompanying the same as provided for therein, shall not in anywise affect the obligation and liability of said surety on this bond.

SIGNED and SEALED this _____ day of _____ 2013.

(SEAL OF PRINCIPAL)

PRINCIPAL

By: _____

Title: _____

SURETY

COMPLETE MAILING ADDRESS

(SEAL OF SURETY)

By: _____

Title: _____

COMPLETE MAILING ADDRESS

IMPORTANT NOTICE

An individual doing business under a firm name must give both names, and the individual shall designate himself as sole owner.

If a partnership, so state, and at least one member of such partnership must sign.

If a corporation, the full corporate name must be used and the execution must be by an officer of the corporation.

Any other person executing for the principal or surety must attach a power of attorney.

**NOTICE TO SURETY
Section 26.1-03-01, N.D.C.C. Provides:**

"Limitation on risks acceptable by company. An insurance company transacting an insurance business in this state may not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its paid-up capital and surplus if a stock company, or ten percent of its surplus if a mutual company, unless the excess is reinsured."

If excess reinsurance agreements are required on this bond, an affidavit executed by an officer of the surety shall be attached, stating that such reinsurance agreements have been entered into and are in effect at the time the bond is executed, giving the name an address of all companies with whom such agreements have been entered, and that copies of such reinsurance agreements will be furnished to the North Dakota commissioner of insurance.

ACKNOWLEDGMENT OF PRINCIPAL

State of _____

ss.

County of _____

On this _____ day of _____ 2013, before me a notary public in and for the state of _____, personally appeared _____, known to me to be _____ (title) of the principal described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said principal.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

My Commission expires _____

ACKNOWLEDGMENT OF SURETY

State of _____

ss.

County of _____

On this _____ day of _____ 2013, before me a notary public in and for the state of _____, personally appeared _____, known to me to be _____ (title) of the surety described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said surety.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

My commission expires _____

Approved as to form this _____ day of _____ 2013.

Cass County States Attorney

Approved by owner this _____ day of _____ 2013.

By _____
Chairman, Cass County Board of Commissioners

CONTRACT APPROVAL REQUEST

COMPANY REQUESTING CONTRACT: Asphalt Surface Technologies Corporation a/k/a Astech Corp. P.O. Box 1025, St. Cloud, MN 56302

DATE OF REQUEST: March 1, 2013

DATE OF EXPECTED RETURN
TO THE COMMISSION OFFICE:
March 4, 2013

DEPARTMENT HEAD REQUESTING SIGNATURE: *Jason Benson, 298-2372* 
STATES ATTORNEY SIGNATURE: _____

STATES ATTORNEY COMMENTS: _____

PORTFOLIO COMMISSIONER SIGNATURE:

NOTE: Requests for quotes for Seal Coat on various County Highways in Cass County, North Dakota were opened on February 28, 2013. The Engineers estimate was \$467,980.71. The quotes are as follows:

- | | |
|---------------------------------|--------------|
| 1. Astech Corp. | \$398,638.98 |
| 2. Morris Sealcoat | \$400,869.57 |
| 3. Bituminous Paving, Inc. | \$461,322.02 |
| 4. Asphalt Preservation Company | \$472,834.57 |

SUGGESTED MOTION: AUTHORIZE CHAIRMAN TO SIGN CONTRACT WITH ASTECH CORPORATION FOR VARIOUS CASS COUNTY HIGHWAYS FOR SEAL COAT.

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT**

This agreement made and entered into by Cass County, North Dakota, party of the first part, and Asphalt Surface Technologies Corporation a/k/a Astech Corp., P.O. Box 1025, St. Cloud, MN 56302 party of the second part (hereinafter called Contractor),
WITNESSETH:

1. That for and in consideration of the payments to be made by the party of the first part, the contractor promises and agrees to furnish and deliver all labor, equipment, and materials, and to pay or cause to be paid as they become due, all claims for any work, labor, materials, equipment, including equipment rental or repair, and other supplies or insurance premiums, all of which are attributable to or utilized in and about the improvement and construction of Project CH1308. In accordance and in conformity with the provisions of this contract, the project proposal, the standard specification, supplemental specifications, special provisions, and all of which are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth in the body of this agreement. References in the Standard Specifications for Road and Bridge Construction, 2008 edition, to the North Dakota Department of Transportation or Department must be construed as referring to the owner. Likewise, a reference by the same works to engineer or director must be construed as referring to the owner of the project.

2. The party of the first part agrees and promises to pay to the Contractor for said work, when completed and accepted in accordance with the provisions of this contract, the price set forth in the said proposal, amounting approximately to Three Hundred Ninety-Eight Thousand, Six Hundred Thirty-Eight and 98/100 (\$398,638.98) payments to be made as provided in said specifications upon presentation of the proper certificates of the County Engineer, or his representatives, and under the terms of this contract.

3. The said work shall be done in accordance with the terms of this contract, and the laws of the State of North Dakota, under direct supervision and to the entire satisfaction of the County Highway Department, subject at all times to the inspection and approval of the engineer.

4. The decision of the engineer upon questions connected with the execution of this agreement or any failure or delay in the prosecution of the work by the Contractor shall be final and conclusive.

5. In the employment of labor, other things being equal, preference shall be given to honorably discharged Veterans of the Armed Forces, and bona fide North Dakota residents, as determined by NDCC Section 43-07-20.

6. The Contractor shall begin construction work when so ordered by the Cass County Highway Department and shall maintain at all times thereon a maximum and efficient working force necessary to complete the work within the time established by this contract.

IN WITNESS THEREOF, the parties to this contract have set their hands and seal this _____ day of _____ 2013.

CASS COUNTY NORTH DAKOTA

Chairman, Cass County Board of Commissioners

Contractor

WITNESS TO CONTRACTOR'S SIGNATURE

By _____

Title _____

**Cass County Highway Department
Contract Bond**

Project No. CH1308

KNOW ALL MEN BY THESE PRESENTS, that we Asphalt Surface Technologies Corporation a/k/a Astech Corp., P.O. Box 1025, St. Cloud, MN 56302 as principal, and _____

NAME AND ADDRESS OF SURETY

as surety, are held and firmly bound unto Cass County, North Dakota, as owner in the penal sum of Three Hundred Ninety-Eight Thousand, Six Hundred Thirty-Eight and 98/100 (\$398,638.98) for the use of the owner and also for the use of any person having any lawful claim against the principal or any subcontractor on account of labor or supplies or materials as set forth in the conditions hereof; for the payment of which well and truly to be made we jointly and severally bind ourselves, and each of our heirs, executors, administrators, and successors, firmly by these presents.

WHEREAS, said principal has entered into a written contract with the owner for: _____

CH1308 Seal Coat on Various County Highways in Cass County, North Dakota, which contract and incorporated plans and specifications are by this reference made a part hereof, and are hereinafter referred to as the contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS THAT if the principal shall: (1) perform all the terms, covenants and conditions of said contract; (2) protect the owner against any loss or damage from any cause arising out of said contract; (3) pay or cause to be paid all bills and claims against the principal or any subcontractor on account of labor or services performed and all materials, equipment or supplies furnished, whether directly or indirectly arising out of the performance of said contract; (4) pay all insurance premiums and all items for which payment under the terms of the contract is to be made or guaranteed by the principal; (5) have made or will make, prior to the commencement of any work by the principal or any subcontractor under such contract, full and true report to the Worker's Compensation Bureau of the payroll expenditures for the employees to be engaged in such work, and that the principal has paid, or will pay, the premium thereon prior to the commencement of such work; (6) pay or cause to be paid all contributions due to the Unemployment Compensation Division; and (7) pay or cause to be paid any and all taxes that may be assessed or levied or to be a charge against such contractor or any subcontractor under such contract by the state or any of its subdivisions; then this obligation shall be null and void; otherwise it will remain in full force and effect.

And the said surety hereby stipulates and agrees that any change, extension, alteration, deduction or addition, with or without notice to the surety, in or to the terms of said contract or the plans or the specifications accompanying the same as provided for therein, shall not in anywise affect the obligation and liability of said surety on this bond.

SIGNED and SEALED this _____ day of _____ 2013.

(SEAL OF PRINCIPAL)

PRINCIPAL

By: _____

Title: _____

SURETY

COMPLETE MAILING ADDRESS

(SEAL OF SURETY)

By: _____

Title: _____

COMPLETE MAILING ADDRESS

IMPORTANT NOTICE

An individual doing business under a firm name must give both names, and the individual shall designate himself as sole owner.

If a partnership, so state, and at least one member of such partnership must sign.

If a corporation, the full corporate name must be used and the execution must be by an officer of the corporation.

Any other person executing for the principal or surety must attach a power of attorney.

**NOTICE TO SURETY
Section 26.1-03-01, N.D.C.C. Provides:**

"Limitation on risks acceptable by company. An insurance company transacting an insurance business in this state may not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its paid-up capital and surplus if a stock company, or ten percent of its surplus if a mutual company, unless the excess is reinsured."

If excess reinsurance agreements are required on this bond, an affidavit executed by an officer of the surety shall be attached, stating that such reinsurance agreements have been entered into and are in effect at the time the bond is executed, giving the name and address of all companies with whom such agreements have been entered, and that copies of such reinsurance agreements will be furnished to the North Dakota commissioner of insurance.

ACKNOWLEDGMENT OF PRINCIPAL

State of _____

ss.

County of _____

On this _____ day of _____ 2013, before me a notary public in and for the state of _____, personally appeared _____, known to me to be _____ (title) of the principal described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said principal.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

My Commission expires _____

ACKNOWLEDGMENT OF SURETY

State of _____

ss.

County of _____

On this _____ day of _____ 2013, before me a notary public in and for the state of _____, personally appeared _____, known to me to be _____ (title) of the surety described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said surety.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

My commission expires _____

Approved as to form this _____ day of _____ 2013.

Cass County States Attorney

Approved by owner this _____ day of _____ 2013.


By _____
Chairman, Cass County Board of Commissioners

CONTRACT APPROVAL REQUEST

COMPANY REQUESTING CONTRACT: Asphalt Surface Technologies Corporation a/k/a Astech Corp. P.O. Box 1025, St. Cloud, MN 56302

DATE OF REQUEST: March 1, 2013

DATE OF EXPECTED RETURN
TO THE COMMISSION OFFICE:
March 4, 2013

DEPARTMENT HEAD REQUESTING SIGNATURE: *Jason Benson, 298-2372* 

STATES ATTORNEY SIGNATURE: _____

STATES ATTORNEY COMMENTS: _____

PORTFOLIO COMMISSIONER SIGNATURE:

NOTE: Requests for quotes for Crack, Clean and Seal on various County Highways in Cass County, North Dakota were opened on February 28, 2013. The Engineers estimate was \$194,707.45. The quotes are as follows:

- | | |
|------------------------------------|--------------|
| 1. Astech Corp. | \$175,908.11 |
| 2. Roadway Services | \$184,636.37 |
| 3. Northwest Asphalt & Maintenance | \$186,650.59 |
| 4. Scodeller Construction, Inc. | \$186,650.59 |
| 5. Fahrner Asphalt Sealers | \$215,252.44 |

SUGGESTED MOTION: AUTHORIZE CHAIRMAN TO SIGN CONTRACT WITH ASTECH CORPORATION FOR VARIOUS CASS COUNTY HIGHWAYS FOR CRACK, CLEAN AND SEAL.

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT**

This agreement made and entered into by Cass County, North Dakota, party of the first part, and Asphalt Surface Technologies Corporation a/k/a Astech Corp., P.O. Box 1025, St. Cloud, MN 56302 party of the second part (hereinafter called Contractor), WITNESSETH:

1. That for and in consideration of the payments to be made by the party of the first part, the contractor promises and agrees to furnish and deliver all labor, equipment, and materials, and to pay or cause to be paid as they become due, all claims for any work, labor, materials, equipment, including equipment rental or repair, and other supplies or insurance premiums, all of which are attributable to or utilized in and about the improvement and construction of Project CH1307. In accordance and in conformity with the provisions of this contract, the project proposal, the standard specification, supplemental specifications, special provisions, and all of which are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth in the body of this agreement. References in the Standard Specifications for Road and Bridge Construction, 2008 edition, to the North Dakota Department of Transportation or Department must be construed as referring to the owner. Likewise, a reference by the same works to engineer or director must be construed as referring to the owner of the project.

2. The party of the first part agrees and promises to pay to the Contractor for said work, when completed and accepted in accordance with the provisions of this contract, the price set forth in the said proposal, amounting approximately to One Hundred Seventy-Five Thousand, Nine Hundred Eight and 11/100 (\$175,908.11) payments to be made as provided in said specifications upon presentation of the proper certificates of the County Engineer, or his representatives, and under the terms of this contract.

3. The said work shall be done in accordance with the terms of this contract, and the laws of the State of North Dakota, under direct supervision and to the entire satisfaction of the County Highway Department, subject at all times to the inspection and approval of the engineer.

4. The decision of the engineer upon questions connected with the execution of this agreement or any failure or delay in the prosecution of the work by the Contractor shall be final and conclusive.

5. In the employment of labor, other things being equal, preference shall be given to honorably discharged Veterans of the Armed Forces, and bona fide North Dakota residents, as determined by NDCC Section 43-07-20.

6. The Contractor shall begin construction work when so ordered by the Cass County Highway Department and shall maintain at all times thereon a maximum and efficient working force necessary to complete the work within the time established by this contract.

IN WITNESS THEREOF, the parties to this contract have set their hands and seal this _____ day of _____, 2013.

CASS COUNTY NORTH DAKOTA

Chairman, Cass County Board of Commissioners

Contractor

WITNESS TO CONTRACTOR'S SIGNATURE

By _____

Title _____

**Cass County Highway Department
Contract Bond**

Project No. CH1307

KNOW ALL MEN BY THESE PRESENTS, that we Asphalt Surface Technologies Corporation a/k/a Astech Corp., P.O. Box 1025, St. Cloud, MN 56302 as principal, and _____

NAME AND ADDRESS OF SURETY

_____ as surety, are held and firmly bound unto Cass County, North Dakota, as owner in the penal sum of One Hundred Seventy-Five Thousand, Nine Hundred Eight and 11/100 (\$175,908.11) for the use of the owner and also for the use of any person having any lawful claim against the principal or any subcontractor on account of labor or supplies or materials as set forth in the conditions hereof; for the payment of which well and truly to be made we jointly and severally bind ourselves, and each of our heirs, executors, administrators, and successors, firmly by these presents.

WHEREAS, said principal has entered into a written contract with the owner for: _____

CH1307 Crack, Clean and Seal on Various County Highways in Cass County, North Dakota, which contract and incorporated plans and specifications are by this reference made a part hereof, and are hereinafter referred to as the contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS THAT if the principal shall: (1) perform all the terms, covenants and conditions of said contract; (2) protect the owner against any loss or damage from any cause arising out of said contract; (3) pay or cause to be paid all bills and claims against the principal or any subcontractor on account of labor or services performed and all materials, equipment or supplies furnished, whether directly or indirectly arising out of the performance of said contract; (4) pay all insurance premiums and all items for which payment under the terms of the contract is to be made or guaranteed by the principal; (5) have made or will make, prior to the commencement of any work by the principal or any subcontractor under such contract, full and true report to the Worker's Compensation Bureau of the payroll expenditures for the employees to be engaged in such work, and that the principal has paid, or will pay, the premium thereon prior to the commencement of such work; (6) pay or cause to be paid all contributions due to the Unemployment Compensation Division; and (7) pay or cause to be paid any and all taxes that may be assessed or levied or to be a charge against such contractor or any subcontractor under such contract by the state or any of its subdivisions; then this obligation shall be null and void; otherwise it will remain in full force and effect.

And the said surety hereby stipulates and agrees that any change, extension, alteration, deduction or addition, with or without notice to the surety, in or to the terms of said contract or the plans or the specifications accompanying the same as provided for therein, shall not in anywise affect the obligation and liability of said surety on this bond.

SIGNED and SEALED this _____ day of _____ 2013.

(SEAL OF PRINCIPAL)

PRINCIPAL

By: _____

Title: _____

SURETY

COMPLETE MAILING ADDRESS

(SEAL OF SURETY)

By: _____

Title: _____

COMPLETE MAILING ADDRESS

IMPORTANT NOTICE

An individual doing business under a firm name must give both names, and the individual shall designate himself as sole owner.

If a partnership, so state, and at least one member of such partnership must sign.

If a corporation, the full corporate name must be used and the execution must be by an officer of the corporation.

Any other person executing for the principal or surety must attach a power of attorney.

**NOTICE TO SURETY
Section 26.1-03-01, N.D.C.C. Provides:**

"Limitation on risks acceptable by company. An insurance company transacting an insurance business in this state may not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its paid-up capital and surplus if a stock company, or ten percent of its surplus if a mutual company, unless the excess is reinsured."

If excess reinsurance agreements are required on this bond, an affidavit executed by an officer of the surety shall be attached, stating that such reinsurance agreements have been entered into and are in effect at the time the bond is executed, giving the name and address of all companies with whom such agreements have been entered, and that copies of such reinsurance agreements will be furnished to the North Dakota commissioner of insurance.

ACKNOWLEDGMENT OF PRINCIPAL

State of _____

ss.

County of _____

On this _____ day of _____ 2013, before me a notary public in and for the state of

_____, personally appeared _____, known to me to be _____ (title) of the principal described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said principal.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

My Commission expires _____

ACKNOWLEDGMENT OF SURETY

State of _____

ss.

County of _____

On this _____ day of _____ 2013, before me a notary public in and for the state of _____, personally appeared _____, known to me to be _____ (title) of the surety described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said surety.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

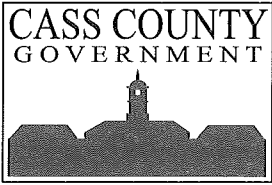
My commission expires _____

Approved as to form this _____ day of _____ 2013.

Cass County States Attorney

Approved by owner this _____ day of _____ 2013.

By _____
Chairman, Cass County Board of Commissioners



RECEIVED

FEB 28 2013

MEMORANDUM

CASS COUNTY COMMISSION

**Highway
Department**

Jason Benson, P.E.
County Engineer

Richard S. Sieg
Superintendent

Thomas B. Soucy, P.E.
Design and Construction
Engineer

TO: Cass County Commission

FROM: Tim Solberg, County Planner *TPS*

DATE: February 28, 2013

SUBJECT: Consent agenda topic for March 4th Commission Meeting:
Appoint Planning Commissioner to Road Advisory
Committee

At their January 24, 2013 Meeting the Cass County Planning Commission appointed member Mark Brodshaug to serve as its representative on the County Road Advisory Committee.

SUGGESTED MOTION:

APPOINT PLANNING COMMISSIONER MARK BRODSHAUG TO
ROAD ADVISORY COMMITTEE FOR 2-YEAR TERM OF 2013-2014

J:\Admin-Eng\Commission Corrsp\2013 Commission Correspondence\Consent Memo for Planning Commission
Appointment to Road Advisory.docx

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395

SUBJECT: COUNTY STANDING COMMITTEES

ADOPTED DATE: MARCH 4, 2013

PAGE 1 OF 1

Personnel Overview Committee

Term Expires (1st appt)

All 5 county commissioners

Keith Berndt

Paul Laney

Jason Benson

Chip Ammerman

Michael Montplaisir

Birch Burdick

Dave Rogness

Employees - (1 year terms)

Josh Diemert

Dec. 31, 2013

Tim Solberg

Dec. 31, 2013

Tiffany Footitt

Dec. 31, 2013

Road Advisory Committee

All 5 county commissioners

Jason Benson

1201 W Main Ave-West Fargo 58078

Rich Sieg

1201 W Main Ave-West Fargo 58078

Rotating Members -

(2 year terms)

Jurgen Suhr (WRD)

13303 20th St SE-Page 58064

Dec. 31, 2014 (01/05/98)

Scott Saewert (Twps)

15642 45th St SE-Durbin 58059

Dec. 31, 2014 (12/18/06)

Mark Brodshaug (Planning)

4140 4th Ave S #1324-Fargo 58103

Dec. 31, 2014 (03/04/13)

HISTORICAL REFERENCE DATE: MAY 4, 1992



RECEIVED

MAR 4 2013

CASS COUNTY COMMISSION

MEMORANDUM

**Highway
Department**

Jason Benson, P.E.
County Engineer

Richard S. Sieg
Superintendent

Thomas B. Soucy, P.E.
Design and Construction
Engineer

TO: Cass County Commission

FROM: Jason Benson, Cass County Engineer *JB*

DATE: February 28, 2013

SUBJECT: Agenda Item for March 4, 2013 Commission Meeting: To Approve Agreement with North Dakota Department of Emergency Services for the Design, Hydraulics and Hydrology, and Permitting of the Lake Shure Bridge, Project TB1206 on 57th St NE on Sections 16/17 of Reed Township

In the spring of 2012 Cass County submitted an application under 2011 Flood Emergency for federal assistance from the Federal Emergency Management Agency (FEMA) through monies made available from the Hazard Mitigation Grant Program (HMGP) due to Presidential Disaster Declaration # FEMA-1981-DR. We were recently contacted by the North Dakota Department of Emergency Services (DES) and FEMA that this application has been approved for a phased approach. Phase 1 will include the project design, hydraulics and hydrology, and permitting. Phase 2 includes the construction of the bridge.

After Phase 1 is complete, FEMA will review project design, hydraulics and hydrology, and permitting paperwork prior to granting the approval of moving forward with Phase 2 construction. The estimated start of construction for this project is the summer of 2014.

SUGGESTED MOTION: Authorize the County Engineer to sign agreement with North Dakota Department of Emergency Services as Sub-grantee for Phase 1 of a grant through the Hazard Mitigation Grant Program of the Federal Emergency Management Agency for the Lake Shure Bridge, Project TB1206 on 57th St NE on Sections 16/17 of Reed Township.

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
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STATE OF NORTH DAKOTA
DEPARTMENT OF EMERGENCY SERVICES

JACK DALRYMPLE

Governor

Major General David Sprynczynatyk

Director – Department of Emergency Services

Greg M. Wilz

Director - Division of Homeland Security

CFDA Title and Number: Disaster Grants – Hazard Mitigation Grant Program, 97.039

Disaster Declaration Number: FEMA-1981-DR

Subgrantee: Cass County

Project Number: 24R

**Hazard Mitigation Grant Program Subgrant Agreement
for
FEMA-1981-DR**

This Agreement is between the State of North Dakota, Department of Emergency Services (Grantee) and, the undersigned state agency, political subdivision of the state, private nonprofit organization, or federally recognized Tribal Nation or authorized tribal organization (Subgrantee). This Agreement is based on the existence of the following facts and conditions:

- A. WHEREAS, on May 10, 2011, President Barack Obama issued a major disaster declaration (FEMA-1981-DR) for the State of North Dakota. The declaration authorized Individual and Public Assistance, as well as federal monies under the Hazard Mitigation Grant Program for counties designated eligible in the Federal Emergency Management Agency (FEMA)-State Agreement; and
- B. WHEREAS, the Grantee represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein and agrees to comply with all the requirements of this Agreement; and
- C. WHEREAS, pursuant to the North Dakota Disaster Act of 1985 as amended, the Grantee has authority to administer federal financial assistance from the FEMA consequent to a presidential declaration of disaster.
- D. WHEREAS, the Subgrantee has submitted an application, which is incorporated herein by reference, to the Grantee setting forth a list of activities (herein referred to individually as

“Project”). The Grantee and FEMA have approved the Project along with any exceptions that have been made prior to signing of this agreement.

- E. WHEREAS, Subgrantee has the legal authority to accept mitigation funds and shall provide all necessary financial and managerial resources to meet the terms and conditions of receiving federal and state mitigation funds.

NOW, THEREFORE, the Grantee and Subgrantee, based upon the existence of the foregoing conditions, do further agree to the following:

ARTICLE I. Definitions. As used in this Agreement, the following terms shall have the following meanings unless another meaning is specified elsewhere:

- A. "Eligible activities" are those activities authorized in the FEMA-State Agreement, and in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C §§ 5121-5207 (Stafford Act); in accordance with 44 CFR § 206.44; and applicable policies of the FEMA.
- B. "FEMA-State Agreement" is the agreement dated May 20, 2011, between the FEMA and the State of North Dakota, for a presidential major disaster declaration designated FEMA-1981-DR.

ARTICLE II. Applicable Law. The parties agree to all the conditions, obligations, and duties imposed by the FEMA-State Agreement and all applicable state and federal legal requirements including, without any limitation on the generality of the foregoing, the requirements of Title 44 of the Code of Federal Regulations (CFR) Part(s) 13, 80, and 206, and the policies of the FEMA. The Subgrantee further agrees to comply with the Statement of Assurances attached hereto as Attachment B.

ARTICLE III. Funding and Insurance. Grantee shall provide funds to the Subgrantee for eligible activities for the project approved by the Grantee and the FEMA, as specified in Attachment A – Approved Project Data. The federal allowable costs shall be determined as per 44 CFR Part(s) 13 and 206, which shall be up to seventy-five percent of all eligible costs.

- A. The approved project documentation shall be transmitted to Subgrantee, and shall state the cumulative funding allowed, the scope of the eligible project, and the costs eligible under this Agreement. Amendments may obligate or deobligate funding, thereby amending the total funding for the project. The approved project documentation shall document the total eligible costs and the total federal share of those costs, which shall be seventy-five percent of all eligible costs. Contingent upon an appropriation by the State Legislature, the Grantee may provide some portion of any nonfederal share for some sub grantees. As a condition of receipt of the federal funding, the Subgrantee agrees to provide any nonfederal share not paid by the Grantee.
- B. If the Subgrantee is required to repay the Grantee funds already disbursed by the Grantee, the Subgrantee will have 60 days to reimburse the full amount. If Subgrantee has not reimbursed the grantee the full amount within the 60 days, the Grantee will have all the rights and remedies available to them by law; including, but not limited to, the withhold of future fund disbursement to off-set amount due to Grantee.
- C. As a further condition to funding under this Agreement, the Subgrantee agrees to procure insurance sufficient for the type or types of hazards for which the disaster was declared to cover any and all projects to be funded under this Agreement where insurance is available and reasonable. Subgrantee shall provide Grantee with a certificate of such insurance as a condition to funding under this Agreement.

ARTICLE IV. Duplication of Benefits Prohibition. Subgrantee may not receive funding under this Agreement to pay for damage covered by insurance, nor may Subgrantee receive any other duplicate benefits under this Agreement.

- A. Without delay, Subgrantee shall advise Grantee of any insurance coverage for the damage identified on the applicable project application and of any entitlement to compensation or indemnification from such insurance. All such duplicate benefits are “ineligible costs” which the Subgrantee shall reimburse to the Grantee without delay. The Subgrantee shall also reimburse the Grantee if the Subgrantee receives any duplicate benefits from any other source for any damage identified on the applicable project application for which Subgrantee has received payment from Grantee.
- B. In the event that Grantee should determine that Subgrantee has received duplicate benefits, by its execution of this Agreement the Subgrantee gives Grantee the authority to set off the sum of any such duplicate benefits by withholding it from any other funds otherwise due and owing to Subgrantee, or to use such remedies available at law or equity to the repayment of said sums to Grantee.

ARTICLE V. Compliance with Environmental, Planning and Permitting Laws. Subgrantee shall be responsible for the implementation and completion of the approved projects described in Attachment A – Approved Project Data, in a manner acceptable to Grantee, and in accordance with applicable legal requirements. The contract documents for any project undertaken by Subgrantee, and any land use permitted by or engaged in by Subgrantee, shall be consistent with the local ordinances and State law. Subgrantee shall ensure that any development or development order complies with all applicable planning, permitting and building requirements. Subgrantee shall engage such competent, properly licensed engineering, building, and other technical and professional assistance at all project sites as may be needed to ensure that the project complies with the contract documents.

ARTICLE VI. Required Documentation, Reviews, and Inspections. Subgrantee shall create and maintain documentation of work performed and costs incurred sufficient to permit a formal audit comporting with ordinary, customary and prudent public accounting requirements. Upon the failure of Subgrantee to create and maintain such documentation, Grantee may terminate further funding under this Agreement, and Subgrantee shall reimburse to Grantee (within 60 days) all payments disbursed earlier to Subgrantee, together with any and all accrued interest.

To ensure all State and Federal Standards are met, Grantee will conduct a physical inspection of all non-plan projects before a project is started and again before the project is closed.

Throughout the life of an approved project, Grantee will undertake a number of project monitoring activities to ensure successful completion of projects. Grantee will monitor and evaluate project accomplishments and adherence to the project work schedule. Through the review of Subgrantee quarterly reports mitigation staff will attempt to identify any potential problems in grant performance. If problems or concerns exist Grantee will contact Subgrantee to further research potential issues. Technical administration or program assistance may be offered or coordinated if required. In addition, mitigation staff will contact Subgrantee on an as needed basis to provide project management support and to aid in the successful completion and closeout of projects. If a project has not been completed and closed within 120 days of the project’s period of performance Grantee will send a letter to the applicant that details project deadlines, includes instructions for project closeout, and gives instructions and deadlines for requesting a time extension if necessary.

For all projects, Subgrantee shall certify that: the project was completed in accordance with FEMA approvals; all required and allowable funds have been paid; all reported costs were incurred in the performance of eligible work; work was completed in compliance with the provisions of the FEMA-State Agreement; payments for the project were made in accordance with the existing requirements of Federal and State laws and regulations; no further requests for funding will be made; and there are no pending bills.

As required by 44 CFR Part 80.14 (d), for all acquisition and relocation projects, every 3 years the Subgrantee (in coordination with any current successor in interest) through the grantee, shall submit to the FEMA Regional Administrator a report certifying that the Subgrantee has inspected the property within the month preceding the report, and that the property continues to be maintained consistent with the provisions of 44 CFR Part 80, the property conveyance and the grant award.

ARTICLE VII. Cost Sharing. The federal share of the eligible costs specified in Attachment A – Approved Project Data, under this Agreement shall be up to seventy five (75) percent of such costs, and the nonfederal share shall be the remaining amount. Payment of a specified portion of the nonfederal share of such costs is contingent upon a potential future State appropriation defining the apportionment of the nonfederal share. Subgrantee commits to meet any local matching funds required for successful project completion. Further, at the time of project application, Subgrantee must provide Grantee with a Resolution of Commitment from its authorized governing body. Subgrantee also certifies that any matching funds borne by the Subgrantee will come from a nonfederal source as required by 44 CFR § 13.24.

ARTICLE VIII. Payment of Costs. Grantee shall disburse the eligible costs to Subgrantee in accordance with the following procedures:

- A. Following the receipt of a project reimbursement request (including supporting documentation in the way of invoices, contracts, force account labor and equipment schedules, and cancelled checks or vouchers), a payment will be issued for any funding that is eligible to be paid to the Subgrantee, as it becomes available. Payment authorizations shall be calculated in accordance with the federal/non-federal cost share, and on the terms and conditions set forth in the FEMA/State Agreement and this agreement. Authorization for payment will include documentation to substantiate the amount of the authorization.
- B. Grantee may advance funds under this Agreement to Subgrantee up to 90 percent of the 75 percent federal share for projects other than Acquisition/Relocation/Elevation projects. Upon completion of the project, submission of the summary of documentation (cancelled checks, warrants, certified transaction reports, etc.) and final approval by FEMA, the remaining 10 percent share of the federal share and the appropriate state share will be paid. For Acquisition/Relocation/Elevations projects, all conditions for advances listed above shall apply except that the grantee may advance 100 percent of the federal share rather than 90 percent. Subgrantee must meet the following conditions to be eligible for an advance of funds:
 1. Subgrantee shall certify to Grantee that Subgrantee has procedures in place to ensure that funds are disbursed to project vendors, contractors, and subcontractors without unnecessary delay;
 2. Subgrantee shall submit to Grantee the budget supporting the request;
 3. Subgrantee shall submit a statement justifying the advance and the proposed use of the funds and specifying the amount of funds requested; and
 4. Subgrantee shall pay over to Grantee any interest earned on advances for remittance to the FEMA as often as practicable, but not later than ten (10) business days after the close of each calendar quarter.
- C. Grantee may, in its discretion, withhold its portion of the nonfederal share of funding under this Agreement from Subgrantee if Grantee has reason to expect a subsequent unfavorable determination by the FEMA that a previous disbursement of funds under this Agreement was improper.

ARTICLE IX. Final Payment. Grantee shall disburse the final payment to Subgrantee upon the performance of the following conditions:

- A. Subgrantee shall have completed the project to the satisfaction of the Grantee;
- B. Subgrantee shall have submitted the documentation specified in Articles VI and VIII of this Agreement;
- C. Grantee shall have performed the final inspection;

- D. Subgrantee shall have requested final reimbursement.
- E. Subgrantee shall have requested project closeout by letter

ARTICLE X. Records Maintenance. The funding of eligible costs under this Agreement and the performance of all other conditions shall be subject to the following requirements, in addition to such other and further requirements as may be imposed by operation of law:

- A. The "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as codified in 44 Code of Federal Regulations Part 13, as amended.
- B. Office of Management and Budget Circular No. A-87, "Cost Principles for State and Local Governments," as amended.
- C. Office of Management and Budget Circular No. A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," as amended.
- D. Office of Management and Budget Circular No. A-122, "Cost Principles for Non-Profit Organizations," as amended.
- E. Subgrantee shall retain sufficient records to show its compliance with the terms of this Agreement, as well as the compliance of all subcontractors or consultants paid from funds under this Agreement for a period of three years from the date of formal notification from the Grantee that FEMA has officially closed the disaster program. The Subgrantee shall allow the Grantee or its designee, the Comptroller General of the United States, FEMA, and the North Dakota State Auditor's Office, access to records upon request. The three year period may be extended for the following exceptions:
 - 1. If any litigation, claim or audit is started before the three year period expires, and extend beyond the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
 - 2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time it is acquired shall be retained for five years after final disposition.
 - 3. Records relating to real property acquired shall be retained for five years after the closing on the transfer of title.
- F. The Subgrantee shall maintain all records for the Subgrantee and for all subcontractors or consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives under this Agreement and all other applicable laws and regulations.
- G. The Subgrantee, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Grantee, its employees, and agents. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Grantee.

ARTICLE XI. Reimbursement of Funds. If upon final inspection, final audit, or other review by Grantee, the FEMA or other authority determines that the disbursements to Subgrantee under this Agreement exceed the eligible costs, Subgrantee shall reimburse to Grantee the sum by which the total disbursements exceed the eligible costs within sixty (60) days from the date Subgrantee is notified of such determination. If Subgrantee has not reimbursed the grantee the full amount within the 60 days, the Grantee will have all the rights and remedies available to them by law; including, but not limited to, the withhold of future fund disbursement to off-set amount due to Grantee.

ARTICLE XII. Repayment by Subgrantee. All refunds or repayments due to the Grantee under this Agreement are to be made payable to the order of "North Dakota Department of Emergency Services" and mailed directly to the following address: **PO Box 5511, Bismarck, ND, 58506.**

ARTICLE XIII. Audit.

- A. The Subgrantee agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.
- B. These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Grantee. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.
- C. The Subgrantee shall also provide the Grantee or its designee with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.
- D. If a Subgrantee is a state or local government or a non-profits organization as defined in OMB Circular A-133, as revised, and if the Subgrantee expends \$500,000 or more, then the Subgrantee shall have a single or program specific audit conducted which meets the requirements of the Single Audit Act of 1984, 31 U.S.C. ss. 7501-7507, OMB Circular A-133 Part .200 for the purposes of auditing and monitoring the funds awarded under this Agreement. In connection with the aforementioned audit requirement, the Subgrantee shall fulfill for auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
- E. If the Subgrantee spends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provision of OMB Circular A-133, as revised, is not required. In the event the Subgrantee expends less than \$500,000 in federal awards in its fiscal year and chooses to have an audit conducted in accordance with OMB Circular A-133 Part .200, as revise, the cost of the audit must be paid from nonfederal funds.
- F. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Subgrantee shall be held liable for reimbursement to the Grantee of all funds not spent in accordance with these applicable regulations and Agreement provisions within sixty (60) days after the Grantee has notified the Subgrantee of such non-compliance.
- G. If required, the audit is due nine (9) months after the end of the fiscal year of Subgrantee.
- H. If audit is conducted as required by subsection D. above, the Subgrantee shall submit the data collection form and one copy of the reporting package to the Federal Audit Clearinghouse at the following address: **Federal Audit Clearinghouse, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132**. If the audit documents any finding or questioned costs, Subgrantee shall submit a copy of the reporting package to the State at the following address:

ND Department of Emergency Services
 PO Box 5511
 Bismarck ND 58506

ARTICLE XIV. Noncompliance. If the Subgrantee violates this Agreement or any legislation, regulation, statute, rule or other legal requirement applicable to the performance of this Agreement, the Grantee may withhold any disbursement otherwise due Subgrantee for the project with respect to which the violation has occurred until the violation is cured or has otherwise come to final resolution. If the violation is not cured, Grantee may terminate this Agreement and invoke its remedies under the Agreement as per the Articles of this Agreement.

ARTICLE XV. Nondiscrimination by Contractors. Pursuant to 44 CFR Parts 7 and 16, and 44 CFR Part 206.36, the Subgrantee shall undertake an active program of nondiscrimination in its administration of disaster assistance under this Agreement. Subgrantee shall also be subject to the requirements in the General Services Administrative Consolidated List of Debarred, Suspended and Ineligible Contractors, in accordance with 44 CFR Part 17.

ARTICLE XVI. Modification. A modification extending the time for completion of a project and any other modification shall be in writing. Modifications to any project to be funded under this Agreement may be requested by Subgrantee through Grantee, but the approval of any such modifications shall reside in the sole discretion of the FEMA. Any approved modification to a project shall be noted in an amendment to the project and in any amendment to this Agreement. If otherwise allowed under this Agreement, any extension shall be in writing and shall be subject to the same terms and conditions as those set out in the initial Agreement.

ARTICLE XVII. Period of Performance (POP). The POP is the period of time during which the Grantee is expected to complete all grant activities and to incur and expend approved funds. The POP begins on the date that the grant is awarded and ends no later than 36 months from the award of the final subgrant under the grant. The POP termination date is established by the subgrant with the latest completion date.

FEMA will not establish activity completion timeframes for individual subgrants. Grantees are responsible for ensuring that all approved activities are completed by the end of the grant POP.

ARTICLE XVIII. Contracts with Others. If the Subgrantee contracts with any other contractor or vendor for performance of all or any portion of the work required under this Agreement, the Subgrantee shall incorporate into its contract with such contractor or vendor an indemnification clause holding Grantee and Subgrantee harmless from liability to third parties for claims asserted under such contract. The Subgrantee shall also document in the quarterly report the subcontractor's progress in performing its work under this Agreement.

ARTICLE XIX. Termination. Either of the parties may terminate this Agreement by notice in writing. Such termination shall take effect thirty (30) days after the date of such notice. Such termination shall not affect the rights, interests, duties or responsibilities of either of the parties or any allowable costs that have accrued as of the date of the notice of termination.

ARTICLE XX. Liability. Grantee assumes no liability to third parties in connection with this agreement. The Subgrantee shall be solely responsible to any and all contractors, vendors, and other parties with whom it contracts in performing this Agreement. Unless the Subgrantee is a political subdivision under NDCC 32-12.2-13, the Subgrantee shall defend, indemnify and hold harmless Grantee from claims asserted by third parties in connection with the performance of this Agreement. Contractors hired by a Subgrantee, including political subdivisions, shall be required to agree in writing to defend, indemnify and hold the State of North Dakota harmless for any claims arising out of the contractor's or any subcontractor's performance under the agreement. For the purposes of this Agreement, the Grantee and Subgrantee agree that neither one is an employee or agent of the other, but that each one stands as an independent entity in relation to one another. Nothing in this Agreement shall be construed as a waiver by the Grantee or Subgrantee of any legal immunity, nor shall anything in this Agreement be construed as consent by either of the parties to be sued by third parties in connection with any matter arising from the performance of this Agreement. Subgrantee represents to the best of its knowledge any hazardous substances at its projected site or sites are present in quantities within statutory and regulatory limitations, and do not require remedial action under any federal, state or local legal requirements concerning such substances, Subgrantee further represents that the presence of any such substance or any condition at the site caused by the presence of any such substance shall be addressed in accordance with all applicable legal requirements.

ARTICLE XXI. Reports. Subgrantee shall provide Quarterly Reports to Grantee, on the Quarterly Report Form conforming to the sample attached as Attachment C. The first Quarterly Report shall be due at such time as Subgrantee is notified. All subsequent Quarterly Reports shall be due no later than fifteen (15) days after each calendar quarter through final inspection. Quarterly Reports shall indicate the anticipated completion date for each project, together with any other circumstances that may affect

the completion date, the scope of work, the project costs, or any other factors that may affect compliance with this Agreement. Interim inspections may be scheduled by Subgrantee before the final inspection, and may be required by Grantee based on information supplied in the Quarterly Reports. Grantee may require additional reports as needed, and Subgrantee shall provide any additional reports requested by Grantee as soon as practicable.

ARTICLE XXII. Monitoring. The Subgrantee shall monitor its performance under this Agreement, as well as that of its subcontractors, Subgrantees and consultants who are paid from funds provided under this Agreement, to ensure that performance under this Agreement are achieved and satisfactorily performed and in compliance with applicable state and federal laws and rules.

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised, monitoring procedures may include, but not be limited to, on-site visits by Grantee staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the Subgrantee agrees to comply and cooperate with all monitoring procedures/processes deemed appropriate by the Grantee. In the event that the Grantee determines that a limited scope audit of the Subgrantee is appropriate, the Subgrantee agrees to comply with any additional instructions provided by the Grantee to the Subgrantee regarding such audit. The Subgrantee further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Comptroller or Auditor General. In addition, the Grantee will monitor the performance and financial management by the Subgrantee throughout the contract term to ensure timely completion of all tasks.

ARTICLE XXIII. Mandated Conditions. Subgrantee agrees to the following conditions:

- A. The performance and obligation of Grantee to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
- B. Bills for fees or other compensation for services or expenses must be submitted in detail sufficient for a proper pre-audit and post-audit.
- C. Grantee may unilaterally terminate this Agreement for refusal by the Subgrantee or its contractors or subcontractors to allow public access to all documents, papers, letters or other material, that are made or received by Subgrantee or its contractors and subcontractors in connection with this Agreement.
- D. Subgrantee agrees that no funds or other resources received from the Grantee disbursed to it under this Agreement will be used directly or indirectly to influence legislation or any other official action by the North Dakota Legislature or any state agency.
- E. Subgrantee certifies that it possesses the legal authority to receive the funds under this Agreement and that it's governing body (if applicable) has authorized the execution and acceptance of this Agreement. The Subgrantee also certifies that the undersigned person has the authority to legally execute and bind Subgrantee to the terms of this Agreement.
- F. Subgrantee agrees that responsibility for compliance with this Agreement rests with Subgrantee, and further agrees that noncompliance with this Agreement shall be cause for the rescission, suspension or termination of funding under this Agreement, and may affect eligibility for funding under future Subgrantee Agreements.
- G. The Grantee will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Subgrantee of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Department.
- H. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not

submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

- I. The Subgrantee agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.
- J. With respect to any Subgrantee which is not a local government or state agency, and which receives funds under this Agreement from the federal government, by signing this Agreement, the Subgrantee certifies, to the best of its knowledge and belief, that it and its principals:
 - 1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
 - 2. have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for:
 - a) the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction.
 - b) violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - c) have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Subgrantee is unable to certify to any of the statements in this certification, such Subgrantee shall attach an explanation to this Agreement. In addition, the Subgrantee shall submit to the Grantee (by email or facsimile) the completed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" for each prospective subcontractor which Subgrantee intends to fund under this Agreement. See Attachment C. Such form must be received by the Grantee prior to the Subgrantee entering into a contract with any prospective subcontractor.

- K. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Subgrantee in this Agreement, in any subsequent submission or response to Grantee request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Subgrantee, cause the termination of this Agreement and the release of the Grantee from all its obligations to the Subgrantee.
- L. This Agreement shall be construed under the laws of the State of North Dakota, and venue for any actions arising out of this Agreement shall lie in Burleigh County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.
- M. The Subgrantee certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:
 - 1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

amendment or modification of any federal contract, grant, loan or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub grantees shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- O. All unmanufactured and manufactured articles, materials and supplies which are acquired for public use under this Agreement have been produced in the United States as required 41 U.S.C. 10a, unless it would not be in the public interest or unreasonable in cost.

ARTICLE XXIV. Term. This Agreement shall take effect upon its execution by both parties, and shall terminate upon approval of closeout by the FEMA, unless terminated earlier as specified elsewhere in this Agreement. Subgrantee shall commence project(s) specified by this Agreement without delay.

ARTICLE XXV. Events of Default, Remedies, and Termination.

- A. Upon the occurrence of any one or more of the following events, all obligations of Grantee to disburse further funds under this Agreement shall terminate at the option of Grantee. Notwithstanding the preceding sentence, Grantee may at its option continue to make payments or portions of payments after the occurrence of any one or more such events without waiving the right to exercise such remedies and without incurring liability for further payment. Grantee may at its option terminate this Agreement and any and all funding under this Agreement upon the occurrence of any one or more of the following:
1. Any representation by Subgrantee in this Agreement is inaccurate or incomplete in any material respect, or Subgrantee has breached any condition of this Agreement with Grantee and has not cured in timely fashion, or is unable or unwilling to meet its obligations under this Agreement.
 2. Subgrantee suffers any material adverse change in its financial condition while this Agreement is in effect, as compared to its financial condition as represented in any reports or other documents submitted to Grantee, if Subgrantee has not cured the condition within thirty (30) days after notice in writing from Grantee.
 3. Any reports required by this Agreement have not been submitted to Grantee or have been submitted with inaccurate, incomplete, or inadequate information.
 4. The monies necessary to fund this Agreement are unavailable due to any failure to appropriate or other action or inaction by the State Legislature, Congress or Office of Management and Budget.
- B. Upon the occurrence of any one or more of the foregoing events, Grantee may at its option give notice in writing to Subgrantee to cure its failure of performance if such failure may be cured. Upon the failure of Subgrantee to cure, Grantee may exercise any one or more of the following remedies:

1. Terminate this Agreement upon not less than fifteen (15) days notice of such termination by certified letter to the Subgrantee, such notice to take effect when delivered to Subgrantee;
 2. Commence a legal action for the judicial enforcement of this Agreement;
 3. Withhold the disbursement of any payment or any portion of a payment otherwise due and payable under this agreement or any other agreement with Subgrantee; and
 4. Take any other remedial actions that may otherwise be available under law.
- C. Grantee may terminate this Agreement for any misrepresentation of material fact, for failure or nonperformance of any Agreement condition or obligation, or for noncompliance with any applicable legal requirement.
- D. Any deobligation of funds or other determination by the FEMA shall be addressed in accordance with the regulations of that Agency.
- E. Upon the rescission, suspension or termination of this Agreement, the Subgrantee shall refund to Grantee all funds disbursed to Subgrantee under this Agreement.
- F. The venue of any action or proceeding by either Grantee or Subgrantee for enforcement of this Agreement or for adjudication rights, interest, or duties of the parties to it shall lie in South Central District Court, Burleigh County, North Dakota.
- G. Notwithstanding anything to the contrary elsewhere in this Agreement, the rescission, suspension or termination of this Agreement by Grantee shall not relieve Subgrantee of liability to Grantee for the restitution of funds advanced to Subgrantee under this Agreement, and Grantee may set off any such funds by withholding future disbursements otherwise due Subgrantee under this Agreement or any other Agreement until such time as the exact amount of restitution due Grantee from Subgrantee is determined. In the event the FEMA should deobligate funds formerly allowed under this Agreement or under any other Agreement funded by the Agency and administered by Grantee, then Subgrantee shall immediately repay such funds to Grantee. If the Subgrantee fails to repay any such funds, then Grantee may recover the same from funding otherwise due Subgrantee.

ARTICLE XXVI. Attachments.

- A. All attachments to this Agreement are incorporated into this Agreement by reference as if set out fully in the text of the Agreement itself.
- B. In the event of any inconsistencies between the language of this Agreement and the Attachments to it if any, the language of the Attachments shall be controlling, but only to the extent of such inconsistencies.

Note: All other grant administrative and electronic forms will be provided by Grantee as necessary or posted on the North Dakota Department of Emergency Services website: <http://www.nd.gov/des/>.

ARTICLE XXVII. Notice and Contact. All notices under this Agreement shall be in writing and shall be delivered by email, by facsimile, by hand, or by letter to the following respective addresses:

Grantee:

Lonnie G. Hoffer, Disaster Recovery Chief
 Department of Emergency Services
 PO Box 5511
 Bismarck ND 58506
 Email: lhoffer@nd.gov

Subgrantee:

Mr. Jason Benson, County Engineer
 Cass County Government
 1201 Main Street
 West Fargo, ND 58078
bensonj@casscountynynd.gov

ARTICLE XXVI. Designation of Agent. Subgrantee hereby designates the following agents to execute any Request for Advance or Reimbursement, certification, or other necessary documentation:

Primary Agent _____ Alternate Agent _____

Name and Title

Name and Title

Phone Number

Phone Number

E-mail

E-mail

STATE OF NORTH DAKOTA
DEPARTMENT OF EMERGENCY SERVICES

SIGNATURE PAGE

HAZARD MITIGATION GRANT PROGRAM SUBGRANT AGREEMENT
FOR
(FEMA-1981-DR)

IN WITNESS HEREOF, the Grantee and Subgrantee have executed this Agreement:

FOR THE SUBGRANTEE:

Name and Title

Signature Date

Federal Employer Identification Number (FEIN): _____

DUNS Number: _____

STATE OF NORTH DAKOTA
DEPARTMENT OF EMERGENCY SERVICES

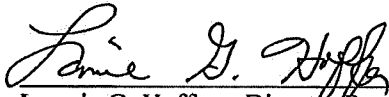
SIGNATURE PAGE

HAZARD MITIGATION GRANT PROGRAM SUBGRANT AGREEMENT
FOR
(FEMA-1981-DR)

IN WITNESS HEREOF, the Grantee and Subgrantee have executed this Agreement:

FOR THE GRANTEE:

DEPARTMENT OF EMERGENCY SERVICES



Lonnie G. Hoffer – Disaster Recovery Chief

2-22-13

Date

ATTACHMENT A

Approved Project Data

CFDA Title and Number: Disaster Grants – Hazard Mitigation Grant Program, 97.039

Disaster Declaration Number: FEMA-1981-DR

Subgrantee: Cass County

Project Number: Lake Shure Phase I 24-R

Project Cost: 100% - \$63,781

Federal Funding: 75% - \$47,836

State Funding: 10% - \$6,378

Local Funding: 15% - \$9,567

Work Schedule: 21 February 2013 – 31 December 2013

Scope of Work:

Phase I will be completed with the assistance of a chosen contractor to complete a full hydraulic and hydrological analysis that will seek to design a bridge with both adequate capacity to handle a 1% chance flood event to provide access to the residents of the Lake Shure neighborhood while also creating no rise to the surrounding floodway. The phase will conclude with full bridge design by the consultant as well as full environmental permitting which includes Corps permitting and wetland delineation, and a "No-Rise Certificate" from the floodplain administrator for the location of the project (City of Fargo). As part of the permitting and design procedure the consultant will seek further comment from affected agencies of the project where required. Phase I will be completed when a full construction set of bridge plans with hydrologic considerations are completed by the chosen contractor and approval is met by the Applicants State and Federal partners.

Work Schedule:

Permitting & Wetland Delineation	4 Months
Hydraulics & Hydrology Study	1 Month
Design, Engineering, & Surveying	3 Months

Cost Estimate:

Permitting & Wetland Delineation	\$3,000
Hydraulics & Hydrology Study	\$2,500
Design, Engineering, & Surveying	\$23,000
Soil Boring	\$10,000
Preliminary Engineering Costs	\$25,281
Total:	\$63,781

Other Conditions:

Upon submission of the Phase I deliverables, FEMA will determine whether the proposed project is technically feasible, cost effective, and compliant with Environmental and Historic Preservation requirements. FEMA will render a Phase II determination upon completion of this review.

Any costs incurred prior to the date of this approval will be disallowed. If the sub-grantee is unable to complete Phase I activities within the approved activity completion timeframe, the sub-grantee through the Grantee must submit a formal written request for a time extension with justification to the Mitigation Director. The request must be received by FEMA no later than 60 days prior to the expiration of the activity completion timeframe. Failure to submit timely and complete extension requests may result in a de-obligation of any funds not disbursed by the Grantee within the approved activity completion timeframe.

ATTACHMENT B

Statement of Assurances

To the extent the following provisions apply to this Agreement, the Subgrantee agrees to comply with the following:

1. Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327 et seq., requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week.
2. Federal Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.
3. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto, which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Subgrantee receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended to the Subgrantee, this assurance shall obligate the Subgrantee, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.
4. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended (42 U.S.C.: 6101-6107) which prohibits discrimination on the basis of age or with respect to otherwise qualified handicapped individuals as provided in Section 504 of the Rehabilitation Act of 1973.
5. Executive Order 11246 as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts; affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff/termination, rates of pay or other forms of compensation; and election for training and apprenticeship.
6. It will comply with the Anti-Kickback Act of 1986, 41 U.S.C. Section 51 which outlaws and prescribes penalties for "kickbacks" of wages in federally financed or assisted construction activities.
7. It will comply with the provisions of 18 USC 594, 598, 600-605 (further known as the Hatch Act) which limits the political activities of employees.
8. It will comply with the flood insurance purchase and other requirements of the Flood Disaster Protection Act of 1973 as amended, 42 USC 4002-4107, including requirements regarding the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance.

9. It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Agreement to comply with the "Uniform Federal Accessibility Standards," (AS) which is Appendix A to 41 CFR Section 101-19.6 for general type buildings and Appendix A to 24 CFR Part 40 for residential structures. The Subgrantee will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
10. It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (U.S.C. 470), Executive Order 11593, 24 CFR Part 800, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et seq.) by:
 - a) Consulting with the State Historic Preservation Office to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Section 800.8) by the proposed activity.
 - b) Complying with all requirements established by the state to avoid or mitigate adverse effects upon such properties.
 - c) When any of Subgrantee's projects funded under this Agreement may affect a historic property, as defined in 36 CFR 800. (2)(e), the FEMA may require Subgrantee to review the eligible scope of work in consultation with the State Historic Preservation Office (SHPO) and suggest methods of repair or construction that will conform with the recommended approaches set out in the "Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings 1992 (Standards), the Secretary of the Interior's Guidelines for Archeological Documentation (Guidelines) (48 Federal Register 44734-37)," or any other applicable Secretary of Interior standards. If FEMA determines that the eligible scope of work will not conform with the Standards, Subgrantee agrees to participate in consultations to develop, and, after execution by all parties, to abide by, a written agreement that establishes mitigation and recondition measures, including but not limited to, impacts to archeological sites, and the salvage, storage, and reuse of any significant architectural features that may otherwise be demolished.
 - d) Subgrantee agrees to notify FEMA and the Grantee if any project funded under this Agreement will involve ground disturbing activities, including, but not limited to: subsurface disturbance; removal of trees; excavation for footings and foundations; and installation of utilities (such as water, sewer, storm drains, electrical, gas, leach lines and septic tanks) except where these activities are restricted solely to areas previously disturbed by the installation, replacement or maintenance of such utilities. FEMA will request the SHPO's opinion on the potential that archeological properties may be present and be affected by such activities. The SHPO will advise Subgrantee on any feasible steps to be accomplished to avoid any National Register eligible archeological property or will make recommendations for the development of a treatment plan for the recovery of archeological data from the property. If Subgrantee is unable to avoid the archeological property, develop, in consultation with the SHPO, a treatment plan consistent with the Guidelines and take into account the Advisory Council on Historic Preservation (Council) publication "Treatment of Archeological Properties." Subgrantee shall forward information regarding the treatment plan to FEMA, the SHPO and the Council for review. If the SHPO and the Council do not object within 15 calendar days of receipt of the treatment plan, FEMA may direct Subgrantee to implement the treatment plan. If either the

Council or the SHPO object, Subgrantee shall not proceed with the project until the objection is resolved.

- e) Subgrantee shall notify the Grantee and FEMA as soon as practicable: (i) of any changes in the approved scope of work for a National Register eligible or listed property; (ii) of all changes to a project that may result in a supplemental DSR or modify an HMGP project for a National Register eligible or listed property; (iii) if it appears that a project funded under this Agreement will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect a known historic property in an unanticipated manner. Subgrantee acknowledges that FEMA may require Subgrantee to stop construction in the vicinity of the discovery of a previously unidentified property that may be eligible for inclusion in the National Register or upon learning that construction may affect a known historic property in an unanticipated manner. Subgrantee further acknowledges that FEMA may require Subgrantee to take all reasonable measures to avoid or minimize harm to such property until FEMA concludes consultation with the SHPO. Subgrantee also acknowledges that FEMA will require, and Subgrantee shall comply with, modifications to the project scope of work necessary to implement recommendations to address the project and the property.
 - f) Subgrantee acknowledges that, unless FEMA specifically stipulates otherwise, it shall not receive funding for projects when, with intent to avoid the requirements of the NHPA, Subgrantee intentionally and significantly adversely affects a historic property, or having the legal power to prevent it, allowed such significant adverse effect to occur.
11. It will comply with Title IX of the Education Amendments of 1972, as amended (20 U.S.C.: 1681-1683 and 1685 - 1686) which prohibits discrimination on the basis of sex.
 12. It will comply with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (42 U.S.C. 4521-45-94) relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
 13. It will comply with 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
 14. It will comply with Lead-Based Paint Poison Prevention Act (42 U.S.C.: 4821 et seq.) which prohibits the use of lead based paint in construction of rehabilitation or residential structures.
 15. It will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 U.S.C. 6201-6422), and the provisions of the state Energy Conservation Plan adopted pursuant thereto.
 16. It will comply with the Laboratory Animal Welfare Act of 1966, 7 U.S.C. 2131-2159, pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by an award of assistance under this agreement.
 17. It will comply with Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 2000c and 42 3601-3619, as amended, relating to non-discrimination in the sale, rental, or financing of housing, and Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or nation origin.
 18. It will comply with the Clean Air Act of 1955, as amended, 42 U.S.C. 7401-7642.
 19. It will comply with the Clean Water Act of 1977, as amended, 42 U.S.C. 7419-7626.
 20. It will comply with the Endangered Species Act of 1973, 16 U.S.C. 1531-1544.
 21. It will comply with the Intergovernmental Personnel Act of 1970, 42 U.S.C. 4728-4763.

22. It will assist the awarding agency in assuring compliance with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 270.
23. It will comply with environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347.
24. It will assist the awarding agency in assuring compliance with the Preservation of Archeological and Historical Preservation Act of 1966, 16 U.S.C. 469a, et seq.
25. It will comply with the Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794, regarding non-discrimination.
26. It will comply with the environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, 42 U.S.C. 300f-300j, regarding the protection of underground water sources.
27. It will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, 42 U.S.C. 4621-4638, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally assisted programs.
28. It will comply with the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271-1287, related to protecting components or potential components of the national wild and scenic rivers system.
29. It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); EO 11990 (Wetlands); and EO 12898 (Environmental Justice).
30. It will comply with the Coastal Barrier Resources Act of 1977, 16 U.S.C. 3510.
31. It will assure project consistency with the approved state program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451-1464.
32. It will comply with the Fish and Wildlife Coordination Act of 1958; 16 U.S.C. 661-666.
33. With respect to demolition activities, it will:
 - a) Create and make available documentation sufficient to demonstrate that the Subgrantee and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement.
 - b) Return the property to its natural state as though no improvements had ever been contained thereon.
 - c) Furnish documentation of all qualified personnel, licenses and all equipment necessary to inspect buildings located in Subgrantee's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the State health authority and the county health authority.
 - d) Provide documentation of the inspection results for each structure to indicate: safety hazards present; health hazards present; and/or hazardous materials present.
 - e) Provide supervision over contractors or employees employed by Subgrantee to remove asbestos and lead from demolished or otherwise applicable structures.
 - f) Leave the demolished site clean, level and free of debris.
 - g) Notify the Grantee promptly of any unusual existing condition which hampers the contractors work.
 - h) Obtain all required permits.
 - i) Provide addresses and marked maps for each site where water wells and septic tanks are to be closed along with the number of wells and septic tanks located on each site. Provide documentation of closures.
 - j) Comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

- k) Comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S. 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR Part 15 and 61). This clause shall be added to any subcontracts.
- l) Provide documentation of public notices for demolition activities.

ATTACHMENT C
Quarterly Report Forms

404 MITIGATION PROJECT WORK SCHEDULE AND PERFORMANCE REPORT A/R/E PROJECTS														
DATE:														
(continued on Page)		Yellow fields are to be filled in												
DISASTER #		COMPLETION DATE EXTENDED TO:						APPLICANT:						
STATE PROJECT #		REVISED PERFORMANCE PERIOD APPROVED BY STATE						APPLICANT AGENT:						
FEMA PROJECT #		REVISED PERFORMANCE PERIOD APPROVED BY FEMA						PHONE NUMBER:						
PERFORMANCE PERIOD								APPLICANT AGENT SIGNATURE:						
FROM								By signing, I certify that this project will not be changed						
TO		Percent of Total Project Completed						without prior written approval from FEMA and the State.						
GRANT AWARDED (WITHOUT ADMIN)								QUARTERLY REPORTS		DATE				
TOTAL GRANT SPENT FOR PREVIOUS QUARTERS (EXCLUDING ADMIN)								FIRST QUARTER						
PROJECT COST SPENT (THIS QUARTER ONLY, EXCLUDING ADMIN)								SECOND QUARTER						
ESTIMATED GRANT AMOUNT REMAINING TO BE SPENT								THIRD QUARTER						
FOURTH QUARTER														
STATUS CODES (SC):		COST CODES (CC):		STATE CONTACT										
On Schedule	1	Cost Unchanged	1	PHONE NO:										
Suspended	2	Costs Over Estimate	2	STATE REVIEW DATE										
Delayed	3	Cost Under Estimate	3	INITIALS										
Cancelled	4			FEMA REVIEW DATE										
Completed	5			INITIALS										
PROJECT ACTIVITY								INITIAL	FINAL					
(Attach narrative of delays/cost changes								DATE	DATE	QTR 1	QTR 2	QTR 3	QTR 4	FINAL
LIST PROJECTED COMPLETION DATES								MO/YEAR	MO/YEAR	SC CC	SC CC	SC CC	SC CC	SC CC
The fields below may be changed depending on the type of project							Enter Qtr Status Codes (SC) and Cost Codes (CC)							
APPRAISALS														
CONDITIONS OF THE CATEX OR EA/FONSI DOCUMENT														
FLOODPLAIN PERMIT														
DISCONNECT UTILITIES; ABANDONMENT OF WELLS														
OTHER PERMITS														
OTHER CONDITIONS, NAME HERE														
NHPA, SHPO REQUIREMENTS														
PA, SMMA OR MOA REQUIREMENTS														
PERMITS FOR ASBESTOS OR LEAD-BASED PAINT														
CLOSEOUT OF ENVIRONMENTAL REQUIREMENTS														
BUYOUT OF HOMES--OFFERS, DEED RESTRICTIONS, ETC.														
RELOCATION OF HOMES, IF APPLICABLE														
DEMOLITION/SITE RECLAMATION														
COMPLETION OF PROJECT								COMMENTS:						
PROJECTED COMPLETION DATE														
REVISED PROJECTED COMPLETION DATE														
ACTUAL COMPLETION DATE														
V2-11-1-2006														

Quarterly Report Narrative

Essential Information for Programmatic Quarterly Reports

1. **Describe the work elements that were completed this quarter referencing back to the approved work schedule and/or milestones.**

Example: Under work schedule item one, Appraisals:

Appraisals on five of the seven proposed home acquisitions have been completed. The appraiser currently has appraisals scheduled for the additional properties and should be complete by the end of the month. Appraisals have been completed on 315 Elm Street, 317 Elm Street, 204 Pine Street, 206 Pine Street and 210 Pine Street. We are currently two weeks behind our proposed work schedule due to a limited number of state certified appraisers, but believe we can still successfully complete the project within the approved performance period.

2. **Following work performed during this quarter, what percentage of the project has been completed?**

Example: We have completed Milestones: 1. Retrofit Design; 2. Advertising and Bids; and, 3. Awarding of Contract. Milestone 4. Construction Mobilization has commenced. This puts us at 25percent of completion of the overall project. We have expended 50 percent of the budget; however, this is in line with the cost associated with the design and original budget request.

3. **Is the project on schedule or delayed? If completed, provide date of completion. Indicate if the project has not yet started.**

Example: Due to continuing winter weather conditions, frozen ground is delaying demolition of the following structures and we will be unable to meet the 90-day schedule for demolition:

315 Elm Street
561 Notdunyet Ave.

Example: Weather conditions have been favorable and we were able to complete the earthwork and paving sooner than anticipated. This will allow us to complete the project two weeks ahead of schedule.

4. **Identify potential delays with timeframes, if anticipated.**

Example: Local Truckers Union 360 has gone on strike which will cause a delay in the delivery of the concrete culvert for the installation scheduled for the Fourth Street crossing. Unfortunately, at this time there is no estimate for how long this strike will continue. We will continue with other elements of the project.

5. **Provide a brief description of next quarters projected work elements.**

Example: Construction is on schedule and should be completed this next quarter. Final inspection is projected for March.

ATTACHMENT D
Certification Regarding
Debarment, Suspension, Ineligibility
and
Voluntary Exclusion

Subcontractor Covered Transactions:

1. The prospective subcontractor of the Subgrantee certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the Subgrantee's subcontractor is unable to certify to the above statement, the prospective subcontractor shall attach an explanation to this form.

SUBCONTRACTOR:

Name of Company

Street Address

City, State, Zip

Federal Employer Identification Number (FEIN)

By: _____
Signature Date

Subgrantee's Name

Grantee Agreement Number