

CONTRACT APPROVAL

SUGGESTED MOTION:

Move to approve the following contracts submitted by respective department head, subject to State's Attorney approval, and authorize the Chairman to sign.

Received as of March 16, 2022:

- Gravel supply bids—accept bids from Mark Sand & Gravel Co. and KRB Gravel LTD for the 2022 gravel supply, to be used in the best interest of the County
- Department of Justice and Department of Treasury—equitable sharing agreement and certification of participation in federal equitable sharing program to allow the County to receive any shared cash, property, or proceeds through joint operations with federal law enforcement agencies;
- Airborne Custom Spraying—mosquito aerial spraying agreement and permit documents;
- Flood lot lease renewal for 2022;
- City of Moorhead—mosquito control agreement for 2022



Highway Department

Jason Benson, P.E.
County Engineer

Thomas B. Soucy, P.E.
Deputy County Engineer

Blaine Laaveg
Superintendent

MEMORANDUM

TO: Cass County Commission

FROM: Jason Benson, County Engineer *MB*

DATE: March 1, 2022

SUBJECT: Consent agenda topic for March 21, 2022 Commission Meeting: 2022 Gravel Supply Bid Results

Bids were opened on February 24, 2022 for the 2022 Gravel Supply.

<u>Supplier</u>	<u>Price per CY</u>	<u>Location</u>	<u>Hauling Per Mile</u>
Mark Sand & Gravel	\$16.95	Stockpiled at Durbin	
Mark Sand & Gravel	\$8.65	Lisbon Pit	
KRB Gravel, LTD	\$16.90	Stockpiled at Gardner	
KRB Gravel, LTD	\$8.00	Hope Pit	\$0.25
KRB Gravel, LTD	\$15.50	Placed on County Road 12	
KRB Gravel, LTD	\$17.25	Placed on County Road 16	

Please accept bids from Mark Sand & Gravel Dakota Co. and KRB Gravel LTD for the 2022 gravel supply, to be used in the best interest of the County. Attached are the contracts from each supplier.

J:\Admin-Eng\Commission Corrsp\2022 Commission Correspondence\Gravel\Consent Memo for Purchase of 2022 Gravel Supply.docx

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

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

CASS COUNTY HIGHWAY DEPARTMENT

2022 GRAVEL BIDS

LETTING DATE: FEBRUARY 24, 2022

Company	Material	Location	Cost	Per Unit	Hauling Cost	Stockpiled	Stockpiled	C-12 from	C-16 from
					Per Mile	at Durbin	at Gardner	C-38 to C-1	C-38 to C-37
Mark Sand & Gravel	Class 13			CY		\$16.95	\$29.25	\$28.60	\$23.55
Mark Sand & Gravel	Class 13	Lisbon, ND (loaded)	\$8.65	CY					
KRB Gravel	Class 13			CY		\$20.90	\$16.90	\$15.50	\$17.25
KRB Gravel	Class 13	Hope Pit	\$8.00	CY	\$0.250				
KRB Gravel	12"-18" Riprap	Hope Pit	\$27.00	Ton	\$0.320				
Strata	Class 13			CY		\$27.65	\$24.85		
Strata	Class 13	West Fargo	\$22.40	CY	\$0.350				
Rustads	Class 13	Kindred Stockpile (loaded)	\$18.50	CY					
Rustads	Class 13	Milnor Pit (loaded)	\$9.00	CY					
Rustads	12" Minus	Kindred Stockpile	\$48.00	CY	\$0.400				
Rustads	12"-18" Riprap	Kindred Stockpile	\$50.00	CY	\$0.400				

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT**

This agreement made and entered into by Cass County, North Dakota, party of the first part, **KRB Gravel LTD, 823 Main Street West, Mayville, ND 58257** 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 road repair operations on and adjacent to County and Township Highways within Cass County. The contractor shall furnish Class 13 gravel only and as directed. In accordance and in conformity with the provisions of this contract and the Standard Specifications for Road and Bridge Construction 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, 2022 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:

- Class 13 gravel at \$16.90 per cubic yard, stockpiled at Gardner.
- Class 13 gravel at \$8.00 per cubic yard, Hauling Cost .25 per mile at Hope Pit.
- Class 13 gravel at \$15.50 per cubic yard, Placed on County Road 12.
- Class 13 gravel at \$17.25 per cubic yard, Placed on County Road 16.
- 12"-18" Riprap at \$27.00 per ton, Hauling Cost .32 per mile from Sibley Pit.

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 _____ 2022.

CASS COUNTY NORTH DAKOTA

Chairperson, Cass County Board of Commissioners

Date _____

KRB Gravel LTD
Contractor

By _____

Date _____

Title _____
Corporate Executive

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT**

This agreement made and entered into by Cass County, North Dakota, party of the first part, Mark Sand & Gravel Dakota Co, PO Box 458, Fergus Falls, MN 56538 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 road repair operations on and adjacent to County and Township Highways within Cass County. The contractor shall furnish Class 13 gravel only and as directed. In accordance and in conformity with the provisions of this contract and the Standard Specifications for Road and Bridge Construction 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, 2022 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:

- Class 13 gravel at \$16.95 per cubic yard, stockpiled at Durbin.
- Class 13 gravel at \$8.65 per cubic yard, Lisbon, ND.

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 _____ 2022.

CASS COUNTY NORTH DAKOTA

Chairperson, Cass County Board of Commissioners

Date _____

Mark Sand & Gravel Dakota Co.
Contractor

By _____ Date _____

By _____ Date _____
Corporate Executive



www.casscountynynd.gov

Office of the Sheriff

Jesse Jahner, Sheriff

March 08, 2022

James Kapitan, Portfolio Commissioner
Cass County Commission
Cass County Courthouse
Fargo, ND 58103

Re: Equitable Sharing Funds Certification

Consent Agenda: Action Requested

Chairman Rick Steen,

Each year, our office must submit an existing participant Equitable Sharing Agreement and Certification electronically signed by the Sheriff and the commission chair. This is a prerequisite to receiving any equitable shared cash, property or proceeds through our office and federal law enforcement agencies' joint operation.

Equitable sharing refers to a government program in which the proceeds of liquidated seized assets from asset forfeiture are shared between state and federal law enforcement authorities. A 1984 law set up the arrangement in which state and local police can share the seizure with federal agents.

Suggested Motion: Move to authorize Chief Deputy Dean Haaland, Cass County Sheriff's Office, to electronically submit the Equitable Sharing and Certification Agreement between the Cass County Sheriff's Office, the Department of Justice and the Department of the Treasury.

Respectfully,

Dean J. Haaland
Chief Deputy
Cass County Sheriff's Office

Cass County Sheriff
Law Enforcement Center
1612 23rd Avenue North
P.O. Box 488
Fargo, North Dakota 58107-0488
Phone: 701-241-5800
Fax: 701-241-5806

Cass County Sheriff
Courthouse
211 9th Street South
P.O. Box 488
Fargo, North Dakota 58107-0488
Phone: 701-241-5800
Fax: 701-241-5805

Cass County Jail
450 34th Street South
Fargo, North Dakota 58103
Phone: 701-271-2900
Fax: 701-271-2967



Equitable Sharing Agreement and Certification



NCIC/ORI/Tracking Number: ND0090000
Agency Name: Cass County Sheriff's Office
Mailing Address: 211 9th Street South
 Fargo, ND 58103

Type: Sheriff's Office

Agency Finance Contact

Name: Heinle, Sarah
Phone: 701-241-5602 **Email:** heinles@casscountynd.gov

Jurisdiction Finance Contact

Name: Madriga, Brandy
Phone: 701-241-5627 **Email:** madriggab@casscountynd.gov

ESAC Preparer

Name: Haaland, Dean
Phone: 701-241-5874 **Email:** haalandd@casscountynd.gov

FY End Date: 12/31/2021

Agency FY 2022 Budget: \$25,414,041.00

Annual Certification Report

Summary of Equitable Sharing Activity		Justice Funds ¹	Treasury Funds ²
1	Beginning Equitable Sharing Fund Balance	\$603.79	\$0.00
2	Equitable Sharing Funds Received	\$0.00	\$0.00
3	Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force	\$0.00	\$0.00
4	Other Income	\$0.00	\$0.00
5	Interest Income	\$0.00	\$0.00
6	Total Equitable Sharing Funds Received (total of lines 2-5)	\$0.00	\$0.00
7	Equitable Sharing Funds Spent (total of lines a - n)	\$0.00	\$0.00
8	Ending Equitable Sharing Funds Balance <small>(difference between line 7 and the sum of lines 1 and 6)</small>	\$603.79	\$0.00

¹Department of Justice Asset Forfeiture Program Investigative Agency participants are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA

²Department of the Treasury Asset Forfeiture Program participants are: IRS-CI, ICE, CBP and USSS.

Summary of Shared Funds Spent		Justice Funds	Treasury Funds
a	Law Enforcement Operations and Investigations	\$0.00	\$0.00
b	Training and Education	\$0.00	\$0.00
c	Law Enforcement, Public Safety, and Detention Facilities	\$0.00	\$0.00
d	Law Enforcement Equipment	\$0.00	\$0.00
e	Joint Law Enforcement/Public Safety Equipment and Operations	\$0.00	\$0.00
f	Contracts for Services	\$0.00	\$0.00
g	Law Enforcement Travel and Per Diem	\$0.00	\$0.00
h	Law Enforcement Awards and Memorials	\$0.00	\$0.00
i	Drug, Gang, and Other Education or Awareness Programs	\$0.00	\$0.00
j	Matching Grants	\$0.00	\$0.00
k	Transfers to Other Participating Law Enforcement Agencies	\$0.00	\$0.00
l	Support of Community-Based Programs	\$0.00	\$0.00
m	Non-Categorized Expenditures	\$0.00	\$0.00
n	Salaries	\$0.00	\$0.00
	Total	\$0.00	\$0.00

Equitable Sharing Funds Received From Other Agencies

Transferring Agency Name	Justice Funds	Treasury Funds

Other Income

Other Income Type	Justice Funds	Treasury Funds

Matching Grants

Matching Grant Name	Justice Funds	Treasury Funds

Transfers to Other Participating Law Enforcement Agencies

Receiving Agency Name	Justice Funds	Treasury Funds

Support of Community-Based Programs

Recipient	Justice Funds	Treasury Funds

Non-Categorized Expenditures

Description	Justice Funds	Treasury Funds

Salaries

Salary Type	Justice Funds	Treasury Funds

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Money Laundering and Asset Recovery Section at 1400 New York Avenue, N.W., Washington, DC 20005.

Privacy Act Notice

The Department of Justice is collecting this information for the purpose of reviewing your equitable sharing expenditures. Providing this information is voluntary; however, the information is necessary for your agency to maintain Program compliance. Information collected is covered by Department of Justice System of Records Notice, 71 Fed. Reg. 29170 (May 19, 2006), JMD-022 Department of Justice Consolidated Asset Tracking System (CATS). This information may be disclosed to contractors when necessary to accomplish an agency function, to law enforcement when there is a violation or potential violation of law, or in accordance with other published routine uses. For a complete list of routine uses, see the System of Records Notice as amended by subsequent publications.

Single Audit Information**Independent Auditor****Name:****Company:****Phone:****Email:**

Were equitable sharing expenditures included on the Schedule of Expenditures of Federal Awards (SEFA) for the jurisdiction's Single Audit for the prior fiscal year? If the jurisdiction did not meet the threshold to have a Single Audit performed, select Threshold Not Met.

YES NO THRESHOLD NOT MET

Prior Year Single Audit Number Assigned by Federal Audit Clearinghouse:

Affidavit

Under penalty of perjury, the undersigned officials certify that they have read and understand their obligations under the *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide)* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. The undersigned officials certify that the information submitted on the Equitable Sharing Agreement and Certification form (ESAC) is an accurate accounting of funds received and spent by the Agency.

The undersigned certify that the Agency is in compliance with the applicable nondiscrimination requirements of the following laws and their Department of Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the Agency, and (3) the Agency's governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited funds, property, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By submitting this form, the Agency agrees that it will be bound by the *Guide* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. Submission of the ESAC is a prerequisite to receiving any funds or property through the Equitable Sharing Program.

1. Submission. The ESAC must be signed and electronically submitted within two months of the end of the Agency's fiscal year. Electronic submission constitutes submission to the Department of Justice and the Department of the Treasury.

2. Signatories. The ESAC must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body head is the head of the agency that appropriates funding to the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, administrator, commissioner, and governor. The governing body head cannot be an official or employee of the Agency and must be from a separate entity.

3. Uses. Shared assets must be used for law enforcement purposes in accordance with the *Guide* and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations.

4. Transfers. Before the Agency transfers funds to other state or local law enforcement agencies, it must obtain written approval from the Department of Justice or Department of the Treasury. Transfers of tangible property are not permitted. Agencies that transfer or receive equitable sharing funds must perform sub-recipient monitoring in accordance with the Code of Federal Regulations.

5. Internal Controls. The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury, funds from state and local forfeitures, joint law enforcement operations funds, and any other sources must not be commingled with federal equitable sharing funds.

The Agency certifies that equitable sharing funds are maintained by its jurisdiction and the funds are administrated in the same manner as the jurisdiction's appropriated or general funds. The Agency further certifies that the funds are subject to the standard accounting requirements and practices employed by the Agency's jurisdiction in accordance with the requirements set forth in the *Guide*, any subsequent updates, and the Code of Federal Regulations, including the requirement to maintain relevant documents and records for five years.

The misuse or misapplication of equitably shared funds or assets or supplantation of existing resources with shared funds or assets is prohibited. The Agency must follow its jurisdiction's procurement policies when expending equitably shared funds. Failure to comply with any provision of the *Guide*, any subsequent updates, and the Code of Federal Regulations may subject the Agency to sanctions.

6. Single Audit Report and Other Reviews. Audits shall be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards. The Agency must report its equitable sharing expenditures on the jurisdiction's Schedule of Expenditures of Federal Awards (SEFA) under Assistance Listing Number 16.922 for Department of Justice and 21.016 for Department of the Treasury. The

Department of Justice and the Department of the Treasury reserve the right to conduct audits or reviews.

7. Freedom of Information Act (FOIA). Information provided in this Document is subject to the FOIA requirements of the Department of Justice and the Department of the Treasury. Agencies must follow local release of information policies.

8. Waste, Fraud, or Abuse. An Agency or governing body is required to immediately notify the Department of Justice's Money Laundering and Asset Recovery Section and the Department of the Treasury's Executive Office for Asset Forfeiture of any allegations or theft, fraud, waste, or abuse involving federal equitable sharing funds.

Civil Rights Cases

<p>During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; <u>or</u> (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
--

Agency Head

Name: Jahner, Jesse F
Title: Sheriff
Email: jahnerj@casscountynd.gov

Signature: Submitted Electronically

Date: 03/08/2022

To the best of my knowledge and belief, the information provided on this ESAC is true and accurate and has been reviewed and authorized by the Law Enforcement Agency Head whose name appears above. Entry of the Agency Head name above indicates his/her agreement to abide by the Guide, any subsequent updates, and the Code of Federal Regulations, including ensuring permissibility of expenditures and following all required procurement policies and procedures.

Governing Body Head

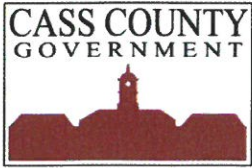
Name: Steen, Rick
Title: Cass County Commission Chair
Email: petersonc@casscountynd.gov

Signature: Submitted Electronically

Date: 03/08/2022

To the best of my knowledge and belief, the Agency's current fiscal year budget reported on this ESAC is true and accurate and the Governing Body Head whose name appears above certifies that the agency's budget has not been supplanted as a result of receiving equitable sharing funds. Entry of the Governing Body Head name above indicates his/her agreement to abide by the policies and procedures set forth in the Guide, any subsequent updates, and the Code of Federal Regulations.

I certify that I have obtained approval from and I am authorized to submit this form on behalf of the Agency Head and the Governing Body Head.





MEMORANDUM

**Vector Control
Board**

Tony Gehrig
Dr. Joe Rinehart PhD
Dr. Matthew Eaton DDS

Ben Prather
Director

TO: Cass County Commission

FROM: Ben Prather, Vector Control Director 
Jason Benson, County Engineer 

DATE: March 8, 2022

SUBJECT: Airborne Vector Control
PO for Retainer Fee for Aerial Spraying Services
Permit for FAA and ND Dept. of Health

Enclosed are the ND Department of Health and the FAA permits required to comply with regulation of mosquito control product applications via low flying aircraft

Additionally, enclosed is the PO for Airborne Vector Control for services in 2022. The retainer fee is credited towards the purchase of applications. This annual charge is part of the most recent contract approved by the Cass County Commission.

Airborne Vector Spraying, 1507 Highway 21, Halstad, MN 56548 \$52,500

SUGGESTED MOTION:

**AUTHORIZE CHAIRMAN TO SIGN PERMIT DOCUMENTS AND
PURCHASE ORDER UPON RECIEPT**

J:\Admin-Eng\Commission Corrsp\2021 Commission Correspondence\VECTOR PO and
FAA Airborne Custom VECTOR.doc

1201 Main Ave West
West Fargo, North
Dakota 58078-1301
701-298-2382



Mosquito Control
Forestry Spraying
Cankerworm Control

February 9, 2022

Cass County Vector Control
Ben Prather
1201 Main Ave W
West Fargo, ND 58078-1301
US

RE: Mosquito Control for 2022

Dear Ben:

In preparation for the 2022 summer season, enclosed is the necessary paperwork to comply with the FAA and North Dakota Department of Environmental Quality for aerial mosquito control. In order for us to be ready when you need us, the following paperwork must be completed and returned by April 20, 2022.

1. Authorization Application approved and **signed by an authorized representative of Cass County Vector Control.**
2. Add / update new contacts and phone numbers to your existing contact list.
3. Add / update changes to your proposed spray area and any vertical obstructions over 100 feet high.
4. North Dakota State Health Application for Aerial Application of Pesticide over a city.

As always, we appreciate your attentiveness to these documents and trust that you will review and return promptly. We look forward to working together again this year.

Sincerely,

Rob Aslesen

Enclosures



AUTHORIZATION APPLICATION

I understand that Airborne Vector Control is required to obtain the approval for aerial spraying over Cass County, ND by an authorized representative.

By the powers granted to me, I hereby give my approval for the low flying aircraft waivers required by the Federal Aviation Administration to Airborne Vector Control (This application must be signed by an authorized representative of Cass County Vector Control for Cass County.)

Authorized Signature

Printed Name, Title or Position

Date

Please complete application as soon as possible and return to Airborne Vector Control for processing and filing.

Expiration Date: *October 31, 2022*



Contact Sheet for **Cass County Vector Control,
West Fargo, ND**

Please review and update the information below.

Billing Address:	<u>1201 Main Ave W</u>	Authorized Representative:	<u>Chad Peterson</u>
	<u>West Fargo, ND 58078-1301</u>	Email Address:	<u>petersonc@casscountynd.gov</u>
		Telephone: (W)	<u>701-298-2370</u>
County:	<u>Cass</u>	(H)	_____
Acres:	<u>3,394</u>	(C)	_____
Contact Person 1:	<u>Ben Prather (Primary)</u>	Contact Person 2:	<u>Jason Benson</u>
Contact Position:	_____	Contact Position:	_____
Email Address:	<u>PratherB@casscountynd.gov</u>	Email Address:	<u>bensonj@casscountynd.gov</u>
Telephone: (W)	<u>701-298-2399</u>	Telephone: (W)	<u>701-298-2320</u>
(H)	<u>701-298-2382</u>	(H)	_____
(C)	<u>701-388-8567</u>	(C)	_____

Please list contact info and indicate location(s) on the map:

Telephone	Email Address	Name	Telephone
Police / Sheriff: _____ / _____	_____	Bee Hives/ Sensitive Areas: _____ / _____	_____ / _____
Fire: _____ / _____	_____	Lat / Long	Location
Ambulance: _____ / _____	_____	Towers: _____ / _____	_____ / _____
_____ / _____	_____	_____ / _____	_____ / _____

Please list the radio and television stations you prefer be used for your city's public service announcements.
Cass County Vector Control is responsible for their own public service announcements. For our records, please forward copies of these announcements to Airborne Vector Control for each completed application. Our contact information is included below.

Airborne Vector Control 2022 Spray Season Cass County Vector Control, West Fargo, ND

Proposed Spray Area
Summer 2022

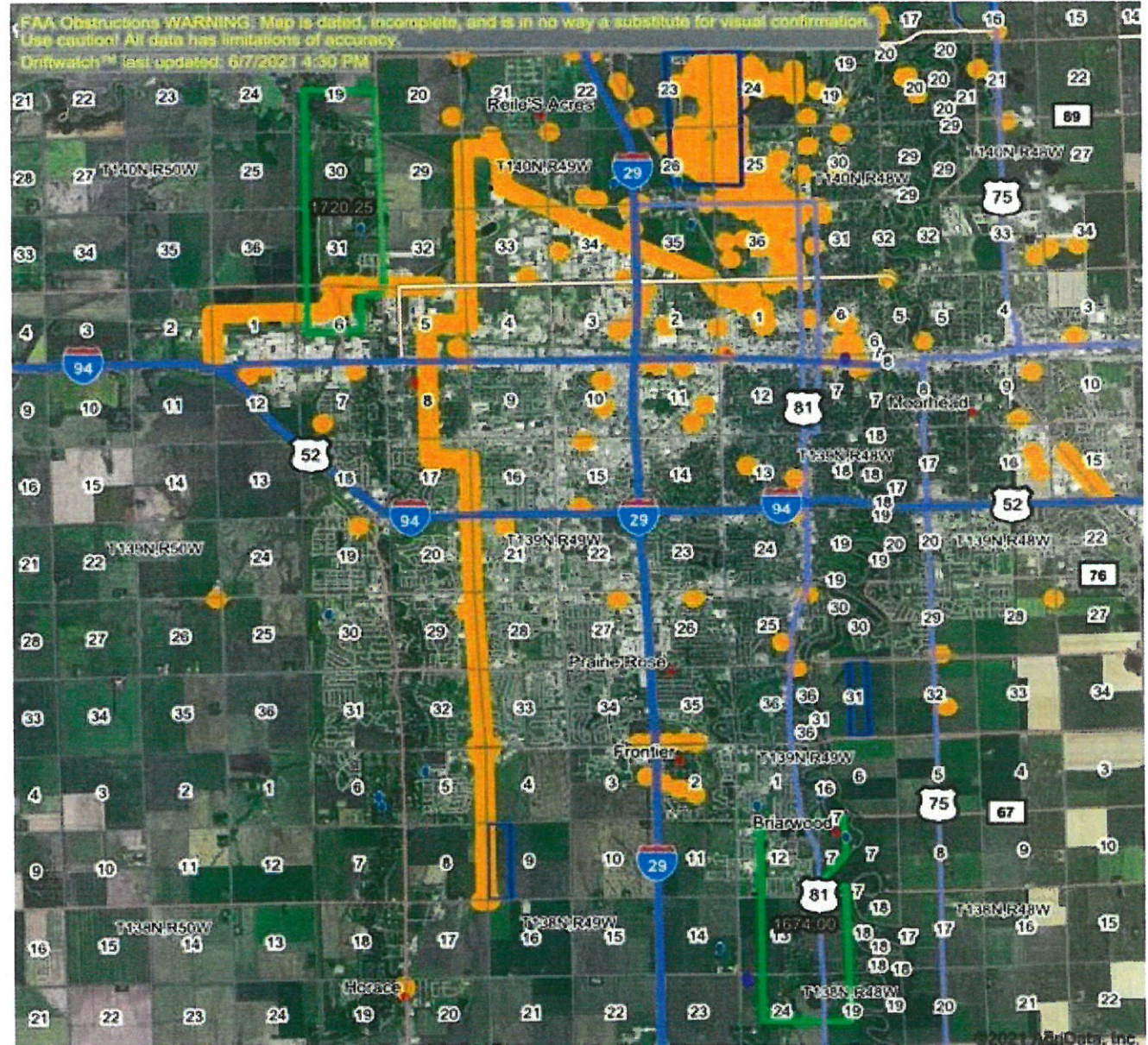
Please use a green highlighter to draw any modifications to the proposed spray area.

Mark any additional vertical obstructions with an asterisk (*) and highlight in orange. Enter the height of the obstruction next to the asterisk.

Mark any sensitive areas and/or bee hives with an asterisk (*) and highlight in red.

Color Key

- Green** - Spray Area
- Orange** - High Obstruction
- Blue** - Emergency Landing
- Red** - Sensitive Areas/Bee Hives





APPLICATION FOR AERIAL APPLICATION FOR PESTICIDE OVER A CITY
 NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY
 DIVISION OF AIR QUALITY
 SFN 14493 (3-2019)

PERMISSION IS REQUESTED TO CONTRACT FOR AERIAL APPLICATION OF PESTICIDE:

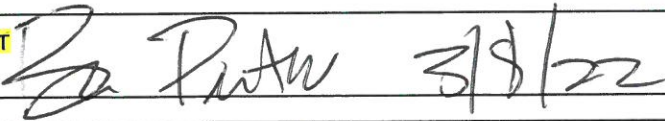
NAME OF CITY Cass County Vector Control	TO SPRAY FOR CONTROL OF Mosquitoes, Cankerworms and/or Tent Caterpillar	REQUEST DATE
NAME OF CITY CONTACT Ben Prather	TITLE Vector Control Director	TELEPHONE # 701-298-2399
MAILING ADDRESS 1201 Main Ave W	CITY West Fargo	STATE/ZIP CODE ND, 58078-1301
E-MAIL ADDRESS PratherB@casscountynynd.gov		

AERIAL APPLICATOR SERVICE INFORMATION:

NAME OF APPLICATOR SERVICE Airborne Vector Control LLC	NAME OF PILOT Rob Aslesen, Ben Aslesen and/or Jon Aslesen	TELEPHONE # (218) 456-2465
MAILING ADDRESS 2288 150 th Street	CITY Halstad	STATE/ZIP CODE MN, 56548

PESTICIDE INFORMATION:

CHEMICAL NAME Mosquitoes: Either or - Trumpet EC #5481-481 ¹ / Dibrom #5481480 ² / Perm-X 31-66 #89459-45 ³ / Fyfanon #279-3539 ⁴ Cankerworms/Tent Caterpillar: Foray 48B #73049-427 ⁵	% CONCENTRATION 78 ¹ / 87.4 ² / 31 ³ / 96.5 ⁴ / 12.65 ⁵	RATE OF APPLICATION 1 oz ¹ / .75 oz ² / .31 oz ³ / 3 oz ⁴ / 31 oz ⁵
METHOD [ULV, SPRAYER, OTHER (SPECIFY)] Aerial - ULV	DATE OF APPLICATION Between 5/1/2022 & 10/31/2022	
METHOD PUBLIC NOTICE (check all that apply) <input type="checkbox"/> Radio <input type="checkbox"/> Newspaper <input type="checkbox"/> Television <input checked="" type="checkbox"/> Website <input type="checkbox"/> Posted Notification <input type="checkbox"/> Telephone <input checked="" type="checkbox"/> Other (Specify) <u>Social media and direct email notification subscriptions</u>	DATE OF PUBLIC NOTICE > 6 hours prior to application.	

SIGNATURE OF CITY CONTACT 
--

SUBMIT YOUR APPLICATION TO: North Dakota Department of Environmental Quality Division of Air Quality 918 E Divide Avenue, 2nd Floor Bismarck, ND 58501-1947 (701)328-5188 (701)328-5185 – Fax	TO BE COMPLETED BY THE NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY APPROVAL BY Signature: _____ Date: _____
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Approval from the Department of Environmental Quality is required for aerial spraying of pesticides over a city [NDAC 33.1-15-10-01]. This application form must be completed before approval will be granted. Aircraft spraying and loading equipment must be dedicated for the use of only those chemical pesticides approved for residential ULV spraying and no other chemical pesticides will be used in the spraying or loading equipment. If a public health emergency exists, these requirements may be waived.

The aerial applicator must also be registered by the State of North Dakota Aeronautics Commission (701-328-9650) and must have Federal Aviation Administration (FAA) approval to conduct a spraying operation over a city congested area. To receive this approval the aerial application can contact the FAA Flight Standards District Office, 1801 - 23rd Ave. North, Room 211, Fargo, ND, 58502, 701-232-8949.

The North Dakota Department of Environmental Quality will not be held liable for any accidents, misapplications, errors in mixing, etc. These are the sole responsibility of the pesticide applicator.

If the application of pesticide is not completed within five days of the date proposed, please contact this office. An extension may be granted.

CASS COUNTY - AIRBORNE VECTOR CONTROL, LLC.
MOSQUITO SPRAYING AGREEMENT
2022

This Mosquito Spraying Agreement ("Agreement") is made between Airborne Vector Control, LLC., a Minnesota Limited Liability Company, of Halstad, MN ("Contractor"), and the County of Cass, North Dakota, a municipal corporation ("County"), for itself and on behalf of Cass County Vector Control ("CCVC") who agree as follows:

RECITAL

The Contractor and the County hereby agree that Contractor will be retained by County for the purpose of aerial spraying of pesticides over Cass County, North Dakota. In order to be retained by County, County requires the following from Contractor and its Pilot in Command:

- Minimum of 2,000 hours flight experience;
- Minimum of 50 hours night flight time with a twin-engine aircraft;
- Minimum of 200 hours flight time with a twin-engine aircraft;
- Minimum of 50 hours flight time for the make, model, and series that will be used to complete the spray mission for the County;
- Minimum of 100 hours flight time applying pesticides to a city;
- Minimum of 20 hours flight time applying pesticides to a city at night;
- Minimum of 100 takeoffs/landings at altitude typical of project area with loads similar to an average load;
- Minimum of 2 years' experience in aerial mosquito control;
- Twin engine aircraft with a spray system meeting all specifications in FAR137 and authorized by the FAA and which is based within one hundred (100) miles of the County;
- Spray system nozzles shall be equal to the rotary atomizer-Micronair, 30 micron droplet spectrum;
- Swath Guidance GPS equipment with downloading capabilities. Upon request from the County, Contractor must provide printed reports within 24 hours of application.
- Reloading equipment capable of thirty (30) minute turns; and,

- Licensed and permitted to conduct business as an aerial applicator in North Dakota by April 1, 2022.

Contractor declares it has sufficient personnel and equipment to satisfy the requirements of the above paragraph to effectively spray all areas of the County with chemical pesticides approved for residential spraying. Contractor has provided to the County a written emergency response action plan identifying action steps in the event of an accident or a chemical release/dump, which plan is in form and substance satisfactory to the County.

SECTION I.

County hereby engages Contractor as an independent contractor, and not as an employee, to conduct aerial spraying of pesticides of approximately 35,000 acres over the County when directed to do so by CCVC, and Contractor hereby accepts and agrees to such engagement. County acknowledges and agrees that CCVC will be responsible for the direction of Contractor's work under the terms of this Agreement.

SECTION II.

The term of this Agreement shall commence May 1, 2022 subject to Section III of Agreement and shall terminate November 1, 2022(the "Term"), subject, however, to prior termination as hereinafter provided.

SECTION III.

County shall pay Contractor, and Contractor shall accept from County, in full payment of Contractor's services hereunder, compensation at a rate as follows:

- \$52,500.00 Retainer Fee paid on or before March 23 of 2022.
- The quoted rate per acre (see Appendix A) is based on the use of the chemical Permethrin 30 + 30 applied at .007 lbs. per acre and mixed with mineral oil for a finished rate of 1 oz. per acre.

- If the County determines that a different application rate of Permethrin or a chemical other than Permethrin should be used, then the rate per acre shall be renegotiated and both the County and Contractor agree to negotiate in good faith.
- County shall pay Contractor a \$500.00 Ferry Fee for each application and assessed to every release of the aircraft by the County.

The Retainer Fee will be subtracted from the billing cycles until 100% of the Retainer Fee has been assessed against Contractor by the County, therefore reducing the cost of the initial billings by \$52,500.00. If at the end of each spray season there remains any unused Retainer Fee, then the unused Retainer Fee shall be retained by and become the sole property of Contractor. Any unused Retainer Fee will not apply to future spray seasons.

SECTION IV.

Contractor shall provide all chemicals and shall be responsible for any and all licenses, permits, fees, and all other items required of aerial applicators of pesticides. The chemical usage rates will be determined by CCVC and shall be subject to Section III of this Agreement.

SECTION V.

All chemicals used by Contractor must be a chemical which has been previously approved by the Environmental Protection Agency, the North Dakota State Department of Health and the Cass County Public Health Department prior to application. Further, all chemicals must be applied according to the manufacturers' label, terms and specifications.

SECTION VI.

Contractor shall comply with all applicable statutes, ordinances, rules, regulations, and orders of all public agencies and authorities relating to the aerial application of pesticides over residential areas.

SECTION VII.

No waiver or modification of this Agreement or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith and

no evidence of any proceeding, arbitration, or litigation between the parties hereto arising out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing, duly executed as aforesaid and the parties further agree that the provisions of this section may not be waived as herein set forth.

SECTION VIII.

Contractor will secure public liability insurance in the minimum amounts as follows:

- Non-Chemical:
 - \$5,000,000 Public Liability (bodily injury and property damage) combined single limit.
- Chemical:
 - \$500,000 each person bodily;
 - \$500,000 each occurrence bodily; and,
 - \$500,000 each occurrence property.
- Chemical coverage includes "all labeled products for mosquito control"
- Chemical coverage includes "cities and towns and residential areas"
- Coverage includes the County as a fully insured additional insured

Contractor shall pay the premium on such insurance policy, and the County shall be designated as a "named insured" on such policy. Contractor shall maintain such policy in force for all months in which it performs services for the County under the provisions of this Agreement.

SECTION IX.

Contractor agrees to indemnify the County from any and all liability, loss or damage the County may suffer as a result of claims, demands, costs, or judgments arising from or arising against it from Contractor's negligence in services performed by the Contractor relative to this Agreement.

SECTION X.

Contractor agrees that, upon receiving written authorization from CCVC, aerial application of pesticides over the County shall be completed within a reasonable time from notification by CCVC, not to exceed seventy-two (72) hours, unless such performance is prevented by an act of God (such as high winds, rain or cold temperature) or unforeseen circumstances beyond the control of the Contractor pertaining to the aerial application of the County or aerial application of other clients of Contractor. However, the County reserves the right to cancel or withdraw said notice in writing delivered by CCVC to Contractor prior to the scheduled application. No aerial spraying shall occur without prior written notification to Contractor by and with the approval of CCVC.

SECTION XI.

Contractor agrees that performance under this Agreement shall be completed in a satisfactory and workman-like manner, subject to prior review and approval by the County, and/or state, and/or federal agencies.

SECTION XII.

Contractor shall remain in contact with CCVC for purposes of exchanging information and receiving directives related to the performance of this Agreement. Such contacts should be made and initiated by the Contractor with the designated representatives of CCVC at the time and place agreed upon by the parties hereto.

SECTION XIII.

With respect to termination of this Agreement:

- In the event of any violation by Contractor of any of the terms of this Agreement, and after failure by Contractor to remedy such violation within fifteen (15) days after written notice of such violation by County, County thereon may terminate this Agreement with written notice to Contractor and with pay for services rendered only to the time of such termination.

- In the event Contractor is not paid by the County in full within thirty (30) days after the delivery of an invoice by Contractor to the County, then Contractor may terminate this Agreement without notice and shall not be further obligated to the County for further aerial spraying.
- If the County and Contractor cannot agree on a renegotiated rate based on the change of the chemical used for spraying, as discussed under Section III of this Agreement, then Contractor may terminate this agreement with thirty (30) days written notice and shall not be further obligated to the County for further aerial spraying.
- In the event that the County terminates this Agreement prior to the end of the Term and there is no unremedied violation by Contractor, then County shall be obligated to pay the remaining unpaid Retainer Fees through the end of the existing Term of this Agreement payable as a lump sum within thirty (30) days of termination. In the event that the Contractor terminates this Agreement prior to the end of the Term, then County shall not be obligated to pay remaining unpaid Retainer Fees.

SECTION XIV.

Prior to the spraying season, CCVC and County will provide an updated map detailing the spray boundaries with the corresponding updates regarding acreage changes.

CCVC and County shall also assist in the application process for approval with the North Dakota Department of Health. County shall supply an FAA authorization application signed by the chairperson of the Cass County Commission. County shall be responsible for providing this information before April 15th of each year of the contract period. There shall be a \$100 processing fee after that date.

CCVC shall be responsible for making public announcements via radio, television and newspaper at least 48 hours in advance of each spray application. Contractor and CCVC shall edit the announcements in cooperation.

CCVC makes the "go, no go decision" for the release of aircraft. The ultimate decision to spray shall be that of Contractor and shall depend upon the weather conditions at the time of arrival. Should the weather conditions become unfavorable for spraying while the aircraft is en route or while spraying, then Contractor shall coordinate with CCVC the decision to postpone the application. The

Ferry Fee shall be applied to County for the release of the aircraft. CCVC shall then be responsible for rescheduling the application and to make further public announcements. Contractor is not responsible for changes in weather or unforeseen mechanical difficulties that may hinder the application.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement at County of Cass, North Dakota,
on the ____ day of _____, 2022.

AIRBORNE VECTOR CONTROL, LLC.

By _____
Robert Aslesen, Manager

COUNTY OF CASS, NORTH DAKOTA

By _____
Chairman, Cass County Commission

ATTESTING:

By _____
Cass County Auditor

APPENDIX A

PRICING STRUCTURE

(1) Price per Acre

Combined Acres Per Application	Unit Price *
Fee based on spraying over 15,000 acres	\$2.05 per acre
Fee based on 5,001 – 15,000 acres	\$2.40 per acre
Fee based on 0 – 5,000 acres	\$2.80 per acre
Retainer Fee ⁺	<i>See Schedule Below</i>

* Unit Price includes Permethrin mosquitocide at .007 pounds ai per acre.

(2) Ferry Fee per Application

Ferry Fee of \$500 per jurisdiction per application.

(3) Retainer Fee per Jurisdiction per Season

Jurisdiction	Retainer Fee ⁺
Cass County, ND	\$52,500

⁺ The retainer fee will be applied as a credit to the beginning of the billing cycle each spray season until 100% of the retainer has been assessed, therefore reducing the cost of the initial billings by the amount of the retainer fee per season. If at the end of the season there remains any unused retainer fee, then the unused retainer fee shall be retained by and become the sole property of Airborne Vector Control.

LEASE OF PROPERTY

THIS LEASE is made by and between Cass County, North Dakota (hereinafter "County") and Alex Bolgrean, 4713 150th Avenue SE, Leonard ND 58052-9756 (hereinafter "Lessee").

THE PARTIES HEREBY COVENANT AND AGREE AS FOLLOWS:

1. Property: The County hereby offers to lease, and the Lessee agrees to lease, the property situated in the Township of Walburg, County of Cass, State of North Dakota, described as: Lot 2 Block 1, Von Hagen Subdivision (hereinafter "property").
2. Term: The term of this lease shall commence on January 1, 2022, and expire at midnight on December 31, 2022.
3. Rent: Rent shall be \$10 dollars per year, payable in advance of the commencement day, to the County by and through the Cass County Auditor at the address given in the section herein entitled Notices.
4. Use: The property shall only be used for purposes consistent with those contained in Exhibit 1 (attached). Furthermore, the property shall not be used for, among other purposes, parking vehicles; building any kind of structure without prior written approval of the County; storage of any kind of equipment or personal property; placement of any signs; raising or keeping of animals; or disposal of any kind of materials, whether hazardous or not. The determination of compliance with these limitations on use of the property shall be at the County's sole discretion.
5. Delivery of Possession: Lessee acknowledges that Lessee has inspected the property and accepts it as suitable for the purpose and use described in this Lease and that the property then complies with the use limitations.
6. Insurance: At all times during the term of this Lease, Lessee shall maintain at Lessee's sole expense, public liability and property damage liability insurance in an amount not less than \$500,000. Lessee shall deliver to County a copy of the certificate of insurance prior to the commencement, and renewal if applicable, of this Lease. County makes no representation that the limits of liability specified herein are adequate to protect Lessee.
7. Indemnification: County shall not be liable for any damage to Lessee, or any other person, or to any property, occurring on the premises or any part thereof, unless such damage is the proximate result of the negligence or an unlawful act of the County. Lessee agrees to hold the County harmless from any claims for damages occurring on the property, no matter how caused, except for injury damages for which County is legally responsible.
8. Ordinances and Statutes: Lessee shall comply with all statutes, ordinances and requirements of municipal, state and federal authorities.

9. Assignment and Subletting: Lessee shall not assign this Lease or sublet any portion of the property without prior written consent of the County.
10. Entry/Inspection of Property: Lessee shall permit County or County's agents to enter and inspect the property at any reasonable time for the purpose of verifying compliance with the terms of this Lease.
11. Maintenance: Lessee shall, at his/her own expense, and at all times, remove snow from any sidewalks, keep the property clear of rubbish or weeds, regularly mow the grass, irrigate or water the property in a manner sufficient to maintain the property but not in a manner inconsistent with governing statutes, ordinances or rules.
12. Default - Event: Lessee will be in default of this Lease for failure to timely pay any rent, or failure to abide by any material terms or conditions of this Lease including, but not limited to, the limitations on use of the property, and such default continues for ten (10) days after written notice from County.
13. Default – County's Remedies: If any one or more of the default events set forth herein occurs, then the County may, in its sole discretion, do one or more of the following:
 1. Give Lessee written notice of its intention to terminate this Lease on the date of such notice, or on any later date that the County may specify in such notice. On the date so specified in such notice, Lessee's right to use of the property will cease and the Lease will be terminated.
 2. Remove personal property and/or other materials that reflect an inappropriate use of the property, and charge Lessee a reasonable sum for removal, storage or/and disposal of such items.
 3. Collect all reasonable attorney fees, costs and disbursements that may arise as a result of any suit filed as a result of Lessee's default.
 4. Exercise such rights or remedies that may be provided by law.
14. Notices: Any notice which either party may or is required to give, may be given by mailing the same, postage prepaid, to the Lessee or County at the respective addresses given below, or at such other places as may be designated by the parties in writing from time-to-time, or may be delivered in person.

County: 211 9th Street South, P.O. Box 2806, Fargo ND 58108-2806

Lessee: 4713 150th Avenue SE, Leonard ND 58052-9756

15. Binding Effect: All the provisions hereof shall extend to and be binding upon, and in favor of or against (as the case may be), the heirs, executors, administrators, guardians, assigns and successors in interest of the parties hereto.
16. Severability: If any provision of this Lease should be found invalid or unenforceable, then the rest and remainder of the provisions shall remain valid and enforceable.
17. Entire Agreement: This Lease represents the entire agreement between the parties and there are no collateral or oral agreements or understandings and any executory agreement hereafter made shall be made ineffective to change, modify or discharge this lease, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.
18. Construction: All provisions hereof and words and phrases used herein shall be governed and construed under the laws of the State of North Dakota.
19. Time is of the Essence: Time is of the essence for each term and provision of this lease.
20. Effective Date: The effective date of this lease is January 1, 2022, regardless of the day that the parties may have signed this agreement.

IN WITNESS WHEREOF, the parties hereto affix their signatures:



Lessee

Cass County

By: Chair
Cass County Commission

EXHIBIT 1

Additional Lease Terms and Conditions

WHEREAS, Cass County North Dakota became the rightful owner of certain real property, more fully described in the attached Lease, through the use of certain disaster relief funds under Section 404 of the Stafford Act; and

WHEREAS, the terms of the Stafford Act, and related regulations and agreements (e.g., FEMA-State Agreement) require that Cass County agree to conditions which are intended to restrict the use of the land to open space in perpetuity in order to protect and preserve natural flood plain values;

NOW, THEREFORE, the attached Lease is made subject to the following additional terms and conditions:

1. Terms. Pursuant to the terms of the Stafford Act, regulations promulgated thereunder (44-C.F.R. 206-434), as they read now and may be amended in the future, and the FEMA-State Agreement, the following conditions and restrictions shall apply to the leased property:
 - (a) Compatible Uses. The land shall be used for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include parks for outdoor recreational activities, nature reserves, unimproved previous parking lots and other uses described in 44 C.F.R. Section 206-434, as it reads now and may be amended in the future.
 - (b) Structures. No new structures shall be erected on the property other than:
 - (1) a public facility that is open on all sides and functionally related to the open space use;
 - (2) a restroom; or
 - (3) a structure that is compatible with the uses described in Paragraph 1(a), above, and approved by Cass County in writing prior to the commencement of the construction of the structure.
2. Inspection. FEMA, its representatives, and assigns, including Cass County, shall have the right to enter upon the property, at reasonable times and with reasonable notice, for the purpose of inspecting the property to ensure compliance with the above terms.
3. Enforcement. Any violation of these terms may, at Cass County's sole discretion, be deemed a default with all the rights and remedies available under the attached Lease.



MEMORANDUM

**Vector Control
Board**

Tony Gehrig
Dr. Joe Rinehart PhD
Dr. Matthew Eaton DDS

Ben Prather
Director

TO: Cass County Commission

FROM: Ben Prather, Vector Control Director
Jason Benson, County Engineer *JB*

DATE: March 15th, 2022

SUBJECT: Consent Agenda Item for March 21, 2022 Commission Meeting: Mosquito Control Agreement with the City of Moorhead

Attached is the 2022 mosquito control contract with the City of Moorhead. This is a one-year contract that has several changes from past contracts. The most significant changes include:

1. The administrative fee was increased from \$20,000 to \$36,000.
2. Cass County Vector Control will no longer handle Moorhead resident calls or requests from local, regional, or national news regarding the City of Moorhead.
3. Truck spraying will be limited to supporting aerial sprays, not in lieu of aerial sprays.

This contract is primarily for monitoring mosquito traps and providing larval control for the comfort and health for Moorhead residents. Moorhead has a separate contract for aerial spraying and Cass County Vector Control is not the decision maker regarding any aerial spray activities in Moorhead. This contract does allow for truck mounted spraying in Moorhead by Cass County Vector Control staff, however, this is expected only on rare occasions.

SUGGESTED MOTION:

Authorize Chair to sign the contract with the City of Moorhead for mosquito control activities.

J:\Admin-Eng\Commission Corrsp\2022 Commission Correspondence\Moorhead CCVC Contract\VECTOR Consent Memo Moorhead Contract.docx

1201 Main Ave West
West Fargo, North
Dakota 58078-1301
701-298-2382

City of Moorhead

2022 MOSQUITO CONTROL AGREEMENT

BETWEEN THE CITY OF MOORHEAD AND CASS COUNTY GOVERNMENT

This agreement for mosquito control services is made between the City of Moorhead whose office is at PO Box 779, 500 Center Ave Moorhead, MN 56561 hereinafter CITY, and the Cass County Commission, whose office is at 211 Ninth Street, Fargo, North Dakota 58108. Mailing address is Box 2806 Fargo, ND 58108 hereinafter CASS COUNTY (CITY and CASS COUNTY collectively and/or referred to as "Party" and/or "Parties")

WHEREAS, pursuant to Chapter 54-40.3, N.D.C.C. and Minnesota Statutes Section 471.59, the above-named governmental units have the legal authority to enter into an agreement, through action of their respective governing bodies, to jointly or cooperatively exercise any power common to the contracting powers or any similar powers, including those which are the same except for territorial limits within which they may be exercised.

THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

- 1) The purpose of this agreement is to collaborate under a single unit for the control of mosquitoes and related pests in the joint jurisdictions for 2022. CASS COUNTY agrees to provide mosquito control activities throughout the CITY commensurate with available funding and resources.
- 2) All activities herein are to be funded by the CITY. These activities include but are not limited to: collection of adult mosquito traps, specimen identification, data reporting, pesticide applications on public and private lands, inspection of public and private property.
- 3) CITY agrees to provide full funding for all labor, supplies, and additional cost of any and all activities within and adjacent to CITY as designated by CITY.
- 4) Estimated annual cost for items in paragraph 2 is:
 - a) \$90,000 for the 2022 mosquito control season
 - b) Estimated start and end dates for the above activities is May 15th to Sept. 15th.
- 5) CASS COUNTY will provide 4 statements each year for time and materials referred to in paragraphs 2 and 3 covering the following date ranges: April through June 15, June 16 to July 15, July 16 to Aug 15, Aug 16 to Season End.
- 6) The Cass County Director of Vector Control and other full time CASS COUNTY staff will provide technical direction, coordination of activities, and other miscellaneous activities not listed in subsections below. The Vector Director will also work in cooperation with CITY Mayor, CITY Administrator, or CITY Public Works Director to provide other technical and administrative assistance as necessary
 - a) CITY will handle all Moorhead resident calls. CITY and COUNTY will work cooperatively to develop a process for the CITY to report resident comments and concern to the COUNTY.
 - b) CITY will handle all calls and requests from local, regional, or national news. CITY may request assistance from the COUNTY regarding accurate, technically correct responses to the

media.

7) CASS COUNTY will provide the following goods and services through the duration of the agreement: Administration, mapping, training, operational supplies (such as PPE), field supervision, data management, and product procurement. The CITY agrees to provide funding to support the activities referred to in this paragraph. The estimated total cost for these activities is \$36,000 annually. This will appear as a \$9,000 "Administration Charge" on each statement.

8) If at any time total charges to CITY exceeds:
\$126,000 for the 2022 season

the CITY can request a stoppage in service in the respective year. To request a stoppage in service, CITY must provide CASS COUNTY written notice 14 days in advance of requested termination to Cass County Vector Control at the following address:

CASS COUNTY VECTOR CONTROL
1201 Main Ave West
West Fargo, ND 58078

9) CITY acknowledges and maintains "Decision Maker" and "Operator" rolls as specified by all applicable Local, State and Federal laws regarding pesticide applications.

10) CITY agrees to provide authority under Moorhead Council Policy in acceptance of this contract for CASS COUNTY employees, appointees, or other designated party to enter upon any land, public or private, within the CITY and extraterritorial space at any reasonable time to inspect for or to control public health vectors and their breeding places.

11) CITY agrees to fund any additional costs for aerial spraying when CITY requests the contracted services of an aerial applicator. CASS COUNTY will coordinate the aerial spray operation upon the CITY's approval or after expressed written permission is given by the CITY authorizing the Vector Control Director as its agent to make the determination to engage the service.

- a) CITY agrees that adulticide program is based first on aerial spraying with truck spraying augmenting aerial sprays.
- b) Truck spraying will be limited to supporting aerial sprays, not in lieu of aerial sprays. No truck spray will occur within 10 days of an aerial spray in Fargo or West Fargo unless the CITY also conducted an aerial spray.
- c) CITY agrees Aerial sprays will be recommended by the Vector Control Director and approved by the Mayor or City Administrator.
- d) CITY agrees it will modify any existing aerial spray matrix or criteria that restricts aerial spraying. The new modified matrix or criteria will be open to allow the Vector Control Director to use best practice criteria used consistently in the Metro. The CITY will authorize the use of an EPA and MN Ag approved public health pesticide at nominal rates and at timing to provide most efficacious spray.
- e) CITY retains the right to provide adult spraying applications independently of COUNTY by use of CITY equipment and personnel or third-party vendor.

12) CITY agrees to provide assistance in matters of permitting, licensing, and any other state of Minnesota statutory legal obligations in result of this agreement.

13) CASS COUNTY agrees to assume all liability and agrees to indemnify and defend the CITY from

all direct and indirect, present and future claims or causes of action, which in any way result from the activities of CASS COUNTY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CASS COUNTY, its employees or contractors and any party from which CASS COUNTY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CASS COUNTY in furtherance of this agreement.

- 14) CITY agrees to assume all liability and agrees to indemnify and defend the CASS COUNTY from all direct and indirect, present and future claims or causes of action, which in any way result from the activities of the CITY in completion of the tasks stated herein or may result from the decisions, recommendations, actions, omissions of actions or other errors on the part of CITY, its employees or contractors and any party from which CITY may obtain information or services for the completion of the same. This assumption of liability and agreement to hold harmless is intended to cover any present or future activities undertaken by CITY in furtherance of this agreement. Nothing herein shall be deemed a waiver by CITY of the limitations on liability set forth in Minnesota Statutes Section 466.04, as amended from time to time, and the CITY's obligation to indemnify, hold harmless and defend CASS COUNTY shall be limited by the limitations on liability set forth in Minnesota statutes Section 466.04.
- 15) The statutory limits of liability for the Parties may not be added together to determine the maximum amount of liability for each Party.
- 16) Each Party shall be responsible for injuries or death of its own personnel. Each Party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each Party waives the right to sue any other Party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing services pursuant to this Agreement. Each Party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.
- 17) Each Party shall be responsible for damages to or loss of its own equipment. Each Party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.
- 18) Either Party may terminate this Agreement upon thirty (30) days written notice to the other Party.
- 19) No amendment, modification, or waiver of any condition, provision or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Agreement.
- 20) Pursuant to Minn. Stat. § 6.551 and 16C.05, subd. 5. CASS COUNTY agrees that CITY, the State Auditor, or any of their duly authorized representatives, may examine any books, records, documents

and the accounting practices and procedures of CASS COUNTY related to this Agreement. If either CITY or CASS COUNTY requests that the State Auditor conduct such an examination, then the requesting party is liable for the costs of the examination.

- 21) This Agreement may be executed in counterparts with both CITY and CASS COUNTY having a fully-executed counterpart.
- 22) Whenever the singular number is used herein, the same shall include the plural where appropriate, and the words of any gender shall include any other genders where appropriate.
- 23) This Agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.
- 24) Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
- 25) This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective personal representatives, successors and assigns.

Dated this _____ day of _____, 2022.

Chairman, Cass County Board of Commissioners

Authorized Official, City of Moorhead

Point of Contact for Mosquito Control (please print name) _____

Phone number(s) _____

Contact for Mosquito Control (please print name) _____

Phone number(s) _____