



MEMORANDUM

**Highway
Department**

Jason Benson, P.E.
County Engineer

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

Blaine Laaveg
Superintendent

TO: Cass County Commission

FROM: Jason Benson, Cass County Engineer *Per: [Signature]*

DATE: February 16, 2023

SUBJECT: Consent Agenda Item for March 7th, 2023 Commission Meeting: CH2302 & CB2304: County Road 17 Roundabout at 64th Ave (CH2302) & County Road 17 Reinforced Concrete Box Culvert between section 5/6 Stanley Twp over the Sheyenne River (CB2304) – Wetland Mitigation.

Attached are the documents for the Wetland Mitigation Credit Purchase for the above project with Tetonka, LLP. This contract and invoice is for the purchase of Wetland Mitigation acreage required through the Army Corps of Engineers 404 permit process for this project. The acreage required for purchase is 1.12 Acres at \$48,000.00 per Acre for a total of \$53,760.00. The above project has been bid and awarded to Northern Improvement Company for the construction during the 2023 construction season.

SUGGESTED MOTION: Authorize Chairperson to sign the contract and approve invoice from Tetonka, LLC for \$53,760.00.

J:\Admin-Eng\Commission Corrsp\2023 Commission Correspondence\CH2302 C17 Roundabout at 64th Ave - Wetland Mitigation\Consent Agenda Memo Tetonka Wetland Mitigation 021623.docx

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

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



CONTRACT APPROVAL

REQUIRED BY DEPARTMENT:

DEPARTMENT: Highway DATE OF REQUEST: 02-28-2023

COMPANY REQUESTING CONTRACT: Tetonka, LLP

BRIEF PROJECT DESCRIPTION: Wetland mitigation credit purchase

NEW CONTRACT OR CONTRACT RENEWAL

REQUIRED BY STATE'S ATTORNEY OFFICE:

STATE'S ATTORNEY SIGNATURE: _____

STATE'S ATTORNEY COMMENTS:



PURCHASE ORDER

PAGE: 1
 P.O. NO.: 154244
 DATE: 02/21/23

N.D. Sales Tax Exempt No. E-3009

TETONKA, LLP
 401 EAST 8 STREET SUITE 2
 SIOUX FALLS, SD 58103

SHIP TO: CASS COUNTY GOVERNMENT
 COUNTY ENGINEER
 1201 WEST MAIN AVENUE
 WEST FARGO, ND 58078

VENDOR NO.									
12580									
DELIVER BY		SHIP VIA		F.O.B.		TERMS			
02/21/23						NET			
CONFIRM BY			CONFIRM TO			REQUISITIONED BY			
			HALLAND, SHARI K			JASON BENSON			
FREIGHT		CONTRACT NO.		ACCOUNT NO.		PROJECT		REQ. NO.	REQ. DATE
				211-4001-431.45-75		CH2302		TETONKA	02/21/23
LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION			UNIT COST	EXTENDED COST		
1	53760.00	EA	WETLAND MITIGATION ACREAGE			1.0000	53760.00		
						SUB-TOTAL	53760.00		
						53760.00			

AUTHORIZED BY _____ COUNTY OFFICIAL

Tetonka, LLP

401 E. 8th Street, Suite 211
Sioux Falls SD 57103

Jeff Oyen: 605-351-5643
Paul Heiberger: 605-201-5428
Office: 605-809-7181

Bill To: **Cass County Hwy Dept** Phone 701-298-2380

Address: **Attn: Kyle Litchy**

Invoice Date: 2-15-23

**1201 Main Ave. West
West Fargo ND 58078**

LitchyK@CassCountyND.gov

Invoice # NWO-2022-01658-BIS

Credits to be withdrawn from the
Mekinock Wetland Mitigation Bank Site

Date	Permit number	Description	Qty	Unit Price	Total
2-15-2023	NWO-2022-01658-BIS	Cass County Hwy 17 Road Improvements & Bridge Construction WETLAND ACRE-CREDITS	1.12	\$48,000	\$53,760

Invoice Subtotal \$53,760

Tax Rate

Sales Tax \$0.00

Shipping

Deposit Received

Total \$53,760

MAKE ALL CHECKS PAYABLE TO TETONKA, LLP

Thank you for your business!



2-15-23

Cass County Highway Department

ATTN: Kyle Litchy
1201 Main Ave. West
West Fargo ND 58078

Good Day, Mr. Litchy,

On behalf of Tetonka, LLP please find attached the "**Purchase Contract**" to purchase **1.12** wetland acre-credits for the wetland impact at the "County Road 17 Improvements & Bridge Replacement" project; under 404 permit number: **NWO-2022-01658-BIS**. Let us know if you have any questions on the contract. Below you will find details on the process to execute these documents:

1) Purchase Contract

Please review the contract included on this email. If it is acceptable, print, sign, scan and return the contract to us electronically. We will, in turn, countersign and email it back to you. **IMPORTANT: This contract is between the Purchaser/Permittee and Tetonka. DO NOT SEND THE PURCHASE CONTRACT TO THE CORPS OF ENGINEERS.**

2) Payment

Per your request, we have provided an invoice for this transaction. We will return to you, the signed "**Bill of Sale**" (**Exhibit A**) upon receipt of payment.

3) Corps Notification

When payment clears, Tetonka will notify the Corps of Engineers by submitting the signed "**Notification of Acceptance of Mitigation Requirement**" (**Exhibit B**). This will be emailed to the Corps and you will be included in that correspondence.

4) Transfer of Liability

Upon notification to and acceptance by the Corps of Engineers, liability of this – and only this – wetland impact immediately transfers from you, the Purchaser/Permittee, to Tetonka and the credits will be debited by the Corps from our wetland bank site, via their federal wetland registry.

Please don't hesitate to contact us with questions.

Thank you,
Lanita Herbener, for Tetonka, LLP

**WETLANDS MITIGATION CREDIT
PURCHASE AGREEMENT**

Mekinock Bank Site

This Wetlands Mitigation Credit Purchase Agreement (this “Agreement”) is entered into effective this ____ day of _____, 2023 (the “Effective Date”), between **Tetonka, LLP** (“Tetonka”), a South Dakota limited liability partnership, with its principal offices in Sioux Falls, South Dakota and Cass County Highway Department. (“Permittee”), a municipality, with its principal offices in Fargo, North Dakota.

RECITALS

A. Permittee proposes to impact wetlands on project known as, and located on real property legally described as set forth below, pursuant to the terms and conditions of Permittee’s mitigation plan (the “Mitigation Plan”):

Sections 5, 6, 7 & 8 of Township 138 North, Range 49 West in Cass County, North Dakota (the “Project Site”).
“County Road 17 Improvements & Bridge Replacement” (the “Project”)

B. Permittee is the applicant for a Department of the Army Section 404 permit, application number **NWO-2022-01658-BIS** to be issued pursuant to 33 C.F.R. Part 325, implemented under the Clean Water Act (the “Section 404 Permit”).

C. The U.S. Army Corps of Engineers, Omaha District (the “Corps”) has required or will require Permittee to complete compensatory off-site wetlands mitigation (the “Mitigation Requirement”) through the purchase of mitigation credits (the “Credits”) from Tetonka.

D. Tetonka is in the business of wetlands mitigation. Tetonka is the sponsor of the Mekinock Bank Site in North Dakota under the Mekinock Bank Site Plan (the “Bank Site Plan”). The Corps has authorized Tetonka to complete the Mitigation Requirement as contemplated herein by the Corps’s signature on the Bank Site Plan.

E. Permittee desires to transfer to Tetonka, and Tetonka desires to accept from Permittee, legal responsibility for the Mitigation Requirement pursuant to the terms and conditions of this Agreement, the Bank Site Plan and the Section 404 Permit.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties enter into the following:

AGREEMENT

1. Recitals Substantive. The above recitals are deemed substantive and incorporated herein by this reference.

2. Section 404 Permit Approval. Permittee agrees to diligently and in good faith endeavor to secure the Section 404 Permit. In any event, if Permittee has not obtained the Section 404 Permit within **12** months of the date of this Agreement, Tetonka may terminate this Agreement upon written notice to Permittee, at which time neither party will have any liability to the other.

3. Sale of Credits. Upon the Corps's issuance and Permittee's acceptance of the Section 404 Permit, to include the transfer to Tetonka of the legal responsibility for the Mitigation Requirement, and the approval of the sale of **1.12 wetland mitigation acre-credits**, Permittee agrees to purchase from Tetonka, and Tetonka agrees to sell to Permittee, **1.12 wetland mitigation acre-credits**. The total purchase price will be **\$53,760.⁰⁰** (the "Purchase Price").

4. Within a reasonable timeframe of Permittee's receipt of the Permit, Permittee will pay the Purchase Price. Upon receipt of the Purchase Price, and pursuant to Section 13, below, Tetonka will deliver to Permittee a Bill of Sale and will deliver to the Corps a Notice of Acceptance of Mitigation Requirement.

Permittee is solely responsible for payment of all taxes and charges, now or hereafter imposed (whether by federal, state, municipal or other public authority), by reason of this Agreement or its performance, including but not limited to, sales or use taxes, but excluding any income tax imposed upon the net profits of Tetonka. Tetonka may pay the taxes required, in which event Permittee will reimburse Tetonka for the amount of taxes paid within ten days of Tetonka's request for reimbursement.

5. Party Responsible for Mitigation Requirement; Indemnification. Legal responsibility for the Mitigation Requirement will be transferred from Permittee to Tetonka upon the last to occur of the execution and signing by both Permittee and the Corps of the Section 404 Permit meeting the requirements of this Agreement and the timely payment of the Purchase Price. At such time as Tetonka has assumed legal responsibility for the Mitigation Requirement, and at all times thereafter, the parties agree that the following indemnification provisions will be in full force and effect:

A. Tetonka will indemnify, defend and hold harmless Permittee and its officers, directors, agents, employees, successors and assigns, including subsequent owners and mortgagees of the Project Site (the "Permittee Indemnitees"), against any liability, damage, loss or expense, including reasonable attorneys' fees, incurred by or imposed upon any of the Permittee Indemnitees in connection with any claims, administrative actions, legal actions or demands arising out of any theory of liability (including without limitation actions in the form of regulatory enforcement, tort, warranty or strict liability, and regardless of whether such action has any factual basis) with respect to Tetonka's obligation to complete and maintain the Mitigation Requirement and with respect to Tetonka's breach or violation of any laws for the protection of the environment as they apply to the Bank Site Plan; provided, however, that such indemnification will not apply to any liability, damage, loss or expense to the extent directly

attributable to Permittee's breach of or default under the Section 404 Permit, exclusive of the Mitigation Requirement assumed by Tetonka hereunder, and for any other breach or violation of any laws for the protection of the environment as they apply to the Project Site.

B. Permittee will indemnify, defend and hold harmless Tetonka and its officers directors, agents, employees, successors and assigns including subsequent owners and mortgagees of the bank sites developed under the Bank Site Plan (the "Tetonka Indemnitees"), against any liability, damage, loss or expense, including reasonable attorneys' fees, incurred by or imposed upon any of the Tetonka Indemnitees in connection with any claims, suits, administrative actions, legal actions or demands arising out of any theory of liability (including without limitation actions in the form of regulatory enforcement, tort, warranty or strict liability, and regardless of whether such action has any factual basis) concerning the Mitigation Plan, the Section 404 Permit and concerning the breach or violation of any laws for the protection of the environment as they apply to the Project Site; provided, however, that such indemnification will not apply to any liability, damage, loss or expense to the extent directly attributable to Tetonka's breach of or default under the Mitigation Requirement and for any other breach or violation of any laws for the protection of the environment as they apply to any bank site.

C. The Tetonka Indemnitees agree to provide to Permittee in the event subsection A above applies, and the Permittee Indemnitees agree to provide to Tetonka in the event subsection B above applies (for purposes of this subsection C, each of Permittee and Tetonka will be referred to as "Indemnitor", as is applicable under the circumstances) with prompt written notice of any claim, administrative action, legal action or demand for which indemnification is sought under this Agreement. Indemnitor agrees, at its own expense, to provide attorneys reasonably acceptable to the Indemnitees to defend against any such claim, administrative action, legal action or demand. With respect to any claim, administrative action, legal action or demand that Indemnitor acknowledges to be covered by the indemnification contained in A above, Indemnitees must cooperate fully with Indemnitor in such defense and must permit Indemnitor to conduct and control such defense and the disposition of such claim, administrative action, legal action or demand, including all decisions relative to the defense, appeal and settlement thereof; provided, however, that any Indemnitee will have the right to retain its own attorneys, at the expense of Indemnitor, if representation of such Indemnitee by the attorneys retained by Indemnitor would be inappropriate because of actual or potential differences in the interests of any of the Indemnitees and Indemnitor represented by such attorneys. Indemnitor agrees to keep Indemnitees informed of the progress in the defense and disposition of such claim, administrative action, legal action or demand, and to consult with Indemnitees with regard to any proposed settlement.

6. Transfer of Credits Prohibited. “Transfer” means a sale, assignment, transfer, gift, exchange or other disposition, including by operation of law, of all or any part of a Credit to any person or entity. Permittee will not Transfer the Credits. Any Transfer or attempted Transfer of the Credits is void, and Tetonka will not assume legal responsibility for the Mitigation Requirement upon any Transfer or attempted Transfer of the Credits. This paragraph will survive the Closing of the transaction contemplated herein.

7. Permittee’s Representations, Warranties and Covenants. Permittee represents, warrants and covenants that:

A. Permittee is a duly organized municipality in good standing under the laws of North Dakota and has obtained all company authority and action necessary to accomplish the transaction contemplated by this Agreement.

B. This Agreement has been duly executed and delivered by Permittee and constitutes the legal, valid and binding obligation of Permittee, enforceable against it in accordance with its terms.

C. Permittee will at all times comply with the terms of this Agreement, the Mitigation Plan and the Section 404 Permit.

8. Tetonka’s Representations, Warranties and Covenants. Tetonka represents, warrants and covenants that:

A. Tetonka is a duly organized South Dakota limited liability partnership in good standing under the laws of South Dakota, validly authorized to do business in North Dakota, and has obtained all company authority and actions necessary to accomplish the transaction contemplated by this Agreement.

B. This Agreement has been duly executed and delivered by Tetonka and constitutes the legal, valid and binding obligation of Tetonka, enforceable against it in accordance with its terms.

C. Tetonka will at all times comply with the terms of this Agreement and the Bank Site Plan.

9. Survival of Representations, Warranties and Covenants. The representations, warranties and covenants set forth in this Agreement are continuing and will be made again by the parties as of the Closing and will survive the Closing of the transaction contemplated herein.

10. Permittee’s Condition Precedent. Permittee’s obligation to close the transaction contemplated by this Agreement is subject to fulfillment of or waiver by Permittee of the following condition:

A. The Corps must have issued the Section 404 Permit in accordance with the terms and conditions of this Agreement, including within the time as set forth in Section 2 above, and the Mitigation Plan, including but not limited to, the Corps's authorization for Permittee to purchase the number of Credits as set forth in Section 3 above.

If Permittee terminates this Agreement pursuant to this Section, neither party will have any liability to the other, except Tetonka retains the Down Payment, if any.

11. Tetonka's Condition Precedent. Tetonka's obligation to close the transaction contemplated by this Agreement is subject to fulfillment of or waiver by Tetonka of the following condition:

A. The Corps must have issued the Section 404 Permit in accordance with the terms and conditions of this Agreement, including within the time as set forth in Section 2 above, and the Mitigation Plan, including but not limited to, the Corps's authorization for Permittee to purchase the number of Credits as set forth in Section 3 above.

If Tetonka terminates this Agreement pursuant to this Section, neither party shall have any liability to the other and Tetonka will return the Down Payment, if any, to Permittee.

12. Deliveries by Permittee. Permittee must timely deliver to Tetonka the payment specified above, and in addition thereto, the following documents, reports, notices and information at such times as are set forth below:

A. Prior to or contemporaneous with Permittee's execution of this Agreement, Permittee's Mitigation Plan.

B. Within a reasonable period from Permittee's receipt, in a form acceptable to Permittee, the unsigned Section 404 Permit proposed by the Corps.

C. Within a reasonable period from Permittee's receipt, the Section 404 Permit signed by the Corps.

D. Within a reasonable period from Permittee's receipt, all amendments to Permittee's Mitigation Plan and/or the Section 404 Permit approved by the Corps. If the Mitigation Plan is amended and the credit number changes, the Agreement will be modified to reflect the then current number of credits to be purchased. An upward adjustment in the number of credits to be purchased may require an additional Down Payment, but the Down Payment, if any, will remain as originally stated in the event of a downward adjustment in the number of credits to be purchased.

E. Within a reasonable period from Permittee's receipt, all notices of default, waivers of default and reinstatements following default issued by the Corps with respect to Permittee's Mitigation Plan and/or the Section 404 Permit.

13. Deliveries by Tetonka. Tetonka must timely deliver to the parties designated below the following documents:

A. To Permittee, a Bill of Sale, in the form set forth on **Exhibit A**, attached hereto and incorporated herein by reference; and

B. To Permittee and the Corps, a notice of acceptance of responsibility for the Mitigation Requirement, in the form set forth on **Exhibit B**, attached hereto and incorporated herein by reference.

14. Notice to Corps. If for any reason this Agreement is terminated or otherwise fails to close, as provided herein, or upon a Transfer or attempted Transfer, Permittee authorizes Tetonka to notify the Corps of the termination and that Tetonka will not be responsible for the Mitigation Requirement.

15. Default; Remedies. It is understood and agreed that if one or more of a party's warranties and representations is untrue or becomes untrue prior to or as of the Closing, or if a party defaults in the performance or compliance with any term or condition hereof, the other party may resort to any and all legal remedies or combination of legal remedies allowed by law. The party in default agrees to pay all attorneys' fees and other costs and expenses incurred by the other party in enforcing any of the defaulting party's obligations under this Agreement. Permittee must be given written notice of any default in payment, and termination of this Agreement and the pursuit of other remedies will not result if within ten days of the giving of such notice, Permittee has corrected the default in payment. Upon any other default or breach other than failure to timely make payment of the Purchase Price, the party in default must be given written notice of default, and termination of this Agreement and the pursuit of other remedies will not result if the party in default has taken action reasonably likely to affect such correction within a reasonable time, but in any event, no longer than thirty days, all to the other party's satisfaction, in its sole and absolute discretion.

16. Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties agrees to use all reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement.

17. Notices. Any notice or other communication required or permitted to be given to the parties hereto will be deemed to have been given if hand delivered, or mailed by certified or registered mail, return receipt requested, first class postage prepaid, addressed as follows:

If to Permittee:

Cass County Highway Department
1201 Main Avenue West
West Fargo, ND 58078

If to Tetonka:

Tetonka, LLP
401 East 8th Street, Suite 211
Sioux Falls, South Dakota 57103

18. Confidentiality. Permittee agrees that, to the extent permitted by applicable law, the terms of this Agreement are confidential, and that Permittee may not disclose the terms of this Agreement to any party without the written consent of Tetonka. Notwithstanding the foregoing, Permittee may disclose the existence or terms of this Agreement to its attorneys, accountants, and employees. Permittee agrees to inform any such party of the confidential nature of this Agreement. Further, Permittee may disclose the existence and terms of this Agreement to the Corps.

19. Assignment. This Agreement may not be assigned by Permittee unless the Project Site is also assigned. In such a case, any assignment will require the prior written consent of Tetonka, which consent must not be unreasonably withheld. Tetonka may assign its rights and obligations under this Agreement to any nonprofit, governmental entity or wetlands bank operator engaged in wetlands mitigation without notice to or the consent of Permittee; any other assignment by Tetonka requires the prior written consent of Permittee, which consent must not be unreasonably withheld.

20. Successors and Assigns. All covenants and agreements set forth in this Agreement and made by or on behalf of any of the parties hereto will bind and inure to the benefit of the successors and assigns of such party, whether or not so expressed.

21. Severability. In the event that any one or more of the provisions contained herein is held invalid, illegal or unenforceable in any respect for any reason in any jurisdiction, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof will not be in any way impaired or affected, it being intended that each parties' rights and privileges may be enforceable to the fullest extent permitted by applicable law, and any such invalidity, illegality and unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction.

22. Governing Law; Consent to Jurisdiction. This Agreement, including the validity hereof and the rights and obligations of the parties hereunder, must be construed in accordance with and governed by the laws of the State of South Dakota (without giving effect to the conflicts of laws provisions thereof). The parties consent to the jurisdiction of the courts of the State of South Dakota and agree that any action arising out of or to enforce this Agreement must be brought and maintained exclusively in the state or federal courts located in Minnehaha County, South Dakota.

23. Waiver. Any failure of a party to demand strict adherence by the other party to one or more of this Agreement's terms, on one or more occasions, must not be construed as a waiver nor deprive that party of the right to insist upon strict compliance with this Agreement. No waiver of any provision of this Agreement will be valid unless said waiver is provided in writing to the other party.

24. Entire Agreement. This Agreement sets forth the entire agreement between the parties and supersedes any and all prior and/or contemporaneous agreements, understandings, promises, representations, warranties, negotiations and discussions, whether oral or written.

25. Amendment. This Agreement may not be amended except in writing signed by the parties hereto. Any written amendment, modification or waiver executed in accordance herewith will be binding upon each party.

26. Counterparts. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered will be an original, but all of which together will constitute one and the same Agreement. Signatures to this Agreement may be by facsimile, electronically or by any other similar means. Any such signature will be considered an original for all purpose of this Agreement.

27. Time is of the Essence. Time is of the essence with respect to this Agreement and the consummation of the transaction contemplated hereby.

[Signature Page Follows]

Executed as of the date above first written.

TETONKA, LLP

a South Dakota limited liability partnership

**CASS COUNTY HIGHWAY
DEPARTMENT**

a North Dakota municipality

(title: _____)

(title: _____)

EXHIBIT A
BILL OF SALE

Bill of Sale

In consideration of \$53,760.⁰⁰ receipt of which is hereby acknowledged, Tetonka, LLP does hereby bargain, sell, and transfer to Cass County Highway Department (“Buyer”), **1.12 wetland mitigation acre-credits** from Tetonka, LLP’s Mekinock Bank Site in Grand Forks County, North Dakota, pursuant to the terms and conditions of a Wetlands Mitigation Credit Purchase Agreement. These credits are being sold and transferred in order to satisfy Buyer’s mitigation requirement incurred under Section 404 Permit number **NWO-2022-01658-BIS**, for project known as, and located on real property legally described as set forth below:

Sections 5, 6, 7 & 8 of Township 138 North, Range 49 West in
Cass County, North Dakota (the “Project Site”).
“County Road 17 Improvements & Bridge Replacement” (the “Project”)

Tetonka, LLP warrants that it has marketable title to the credits. The credits are being sold without any warranty whatsoever except marketable title.

Dated this _____ day of _____, 20____

Tetonka, LLP

By _____, its Partner

EXHIBIT B

NOTIFICATION OF ACCEPTANCE OF MITIGATION REQUIREMENT

Notification of Acceptance of Mitigation Requirement

To the U.S. Army Corps of Engineers, Omaha District (the "Corps"):

Cass County Roads Department ("Permittee") has been issued a Section 404 Permit number **NWO-2022-01658-BIS** (the "Permit"). The Permit authorizes Permittee to purchase mitigation credits (the "Credits") from Tetonka, LLP to mitigate Permittee's impacts to wetlands (the "Mitigation Requirement"), located on real property legally described as set forth below:

Sections 5, 6, 7 & 8 of Township 138 North, Range 49 West in
Cass County, North Dakota (the "Project Site").

"County Road 17 Improvements & Bridge Replacement" (the "Project")

Pursuant to the terms and conditions of a Wetlands Mitigation Credit Purchase Agreement, Tetonka, LLP agreed to accept responsibility for the Mitigation Requirement upon payment from Permittee for Credits.

Tetonka, LLP, by acceptance of the Mitigation Payment, acknowledges that Tetonka, LLP is responsible for the off-site compensatory mitigation requirements of the Permit and agrees to complete the off-site compensatory mitigation as specified in the Permit. **1.12 wetland mitigation acre-credits** have been debited from Tetonka, LLP's Mekinock Bank Site to satisfy the Mitigation Requirement.

Dated this _____ day of _____, 20____

Tetonka, LLP

By _____, its Partner



MEMO

TO: Cass County Commission
FROM: Bob Henderson, IT Director
DATE: Feb 22 2023
SUBJECT: Cyber Security Liability Insurance

Dear Commissioners,

Enclosed is a proposal for the renewal of our Cyber Security Liability Insurance.

Current Cyber Security policies through the North Dakota Insurance Reserve Fund (NDRIF) are not adequate to protect against many of the cyber attacks affecting state and local governments in the recent past. NDRIF is limited to \$250,000 coverage for data breaches, such as the loss or exposure of customers personal data.

The current market for Cyber Security insurance is extremely competitive, as cyber carriers have tightened their risk appetites due to the increasing number of cyber incidents over the past twelve months. This is heavily reflected in the attached proposal, with numerous underwriters declining to quote due to us being a government entity, and therefore a higher risk target.

Working with our Insurance Provider, the Information Technology team has put in countless new tools and policy changes to better strengthen our cyber controls at Cass County. By doing this, we have been able to secure the quotes presented in the proposal in front of you.

SUGGESTED MOTION:

Approve Cyber security liability policy with coverage amounts of \$ _____

Bob Henderson
Information Technology Director



Vector Control

Telephone: 701-298-2382

Fax: 701-298-2395

vector@casscountynd.gov

Thursday, March 2, 2023

To:

Cass County Commission
211 9th Street S.
Fargo, ND 58103

From:

Ben Prather, Vector Control Director
Jason Benson, County Engineer

Subject:

Purchase Order for Verizon Connect

Attached is an order for service from Verizon wireless to install vehicle and asset tracking.

Vector Control utilizes over 40 vehicles and dozens of sprayers and other pieces of equipment which presently do not have location tracking capability. We feel it is time to integrate this technology to secure our equipment and better monitor activity.

Please note: the attached service order has two elements- monthly service chargess of 946\$ and the base installation cost of \$5,328. The PO is for the latter.

This purchase was not explicitly budgeted for 2023 however the opportunity arose in conjunction with changes at the Highway Department in their selection of this provider for their tracking solution. The install cost represents 0.34% increased expenditures.

The six-month cost of monthly service totals \$5,676 for all units and will be monthly. Monthly service charges are not included in this PO and will be billed monthly.

SUGGESTED MOTION:

Authorize Chairman to approve the PO in the amount of \$5,328.00.



PURCHASE ORDER

PAGE: 1
 P.O. NO.: 154122
 DATE: 02/10/23

N.D. Sales Tax Exempt No. E-3009

VERIZON CONNECT FLEET USA LLC
 P.O. BOX 15043
 ALBANY, NY 12212-5043

SHIP TO: CASS COUNTY GOVERNMENT
 VECTOR CONTROL
 1201 W MAIN
 WEST FARGO, ND 58078

VENDOR NO.		12570			
DELIVER BY	SHIP VIA	F.O.B.	TERMS		
02/10/23			NET		
CONFIRM BY		CONFIRM TO			
		HALLAND, SHARI K			
		JASON BENSON			
FREIGHT	CONTRACT NO.	ACCOUNT NO.	PROJECT		
		232-4004-442.74-04	VERIZON		
			REQ. NO.		
			02/10/23		
REQ. DATE					
LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION	UNIT COST	EXTENDED COST
1	1.00	EA	INSTALL VEHICLE AND ASSET TRACKING	5328.0000	5328.00
SUB-TOTAL					5328.00
5328.00					

AUTHORIZED BY _____ COUNTY OFFICIAL

2002 Summit Blvd., Suite 1800
 Atlanta, GA 30319
 Fax: (781) 577-4793

SERVICES ORDER FORM



Customer Service: 1-844-617-1100
Customer Service:
reveal.support@verizonconnect.com
www.verizonconnect.com

GENERAL INFORMATION				
Order Date: January 27, 2023	Customer Reference Number:		VCF Salesperson Name: Steven Forbes	Region: VZT
Company Name: Cass County Vector Control		Officer or Owner: Carter Woodley		Telephone: 7012982383
Address (Mailing or Invoicing Address): 1201 Main Ave W		Officer/Owner Email Address: woodleyc@casscountynd.gov		Cell Phone: 7019369848
City: West Fargo	State: ND	Zip Code: 58078	Installation Contact if other than Officer/Owner:	Telephone:
<i>Please advise your VCF scheduler if there are multiple shipping or installation addresses</i>			Accounts Payable Contact, if other than Officer/Owner:	Telephone:
			Email:	

SUBSCRIPTION SERVICES:			
QUANTITY	DESCRIPTION	MONTHLY PER UNIT FEE	MONTHLY TOTALS
35	Vehicle Tracking Subscription	15.95 USD	558.25 USD
39	Powered Asset Tracking Subscription	9.95 USD	388.05 USD
26	PTO/Digital Input Subscription	0.00 USD	0.00 USD
35	Engine Connect Data Subscription	0.00 USD	0.00 USD

TOTAL Monthly AMOUNT	946.30 USD
Agreement Length: 12 Months from the Subscription Start Date. The billing and Service Term shall commence upon the earlier of (i) installation of any Equipment into a Vehicle, or (ii) ninety (90) days from the shipment of the Equipment.	Excludes Applicable Taxes and Fees

ONE-TIME FEES (per Occurrence):			
QUANTITY	DESCRIPTION	AMOUNT	EXTENDED PRICE
35	Install: VTU+Features or AT Trip	72.00 USD	2520.00 USD
39	Install: VTU+Features or AT Trip	72.00 USD	2808.00 USD
Total One-Time Fees			5328.00 USD
COVERT INSTALLATION: Unknown			EXCLUDES APPLICABLE TAXES AND FEES

ORDER TERMS:
Customer agrees that the purchase and/or licensing of the products and/or services set forth in this order is subject to the terms and conditions in the contract between Verizon Connect Fleet USA LLC (VCF) and GSA Schedule 47QTCA22D00DD that are in effect as of the date the order was received by VCF. The GSA Schedule terms and conditions are available at https://www.gsaadvantage.gov/ref_text/47QTCA22D00DD/0XOWKN.3TF9GF_47QTCA22D00DD_47QTCA22D00DD-10-12-2022-876627.PDF . If, in accordance with the terms of the GSA Contract, Customer and VCF have executed an additional separate written agreement ("Customer Addendum") with respect to the products and/or services set forth in this order, the terms and conditions set forth in the Customer Addendum shall also apply with respect to the products and/or services set forth in this order, if there are any discrepancies in the Addendum language and the GSA Schedule, the GSA Schedule Terms and Conditions shall supersede. All orders are subject to product availability. If an item is not in stock at the time you place your order, we will notify you immediately.
INSTALLATION NOTES (not valid for changes to billing, payment or other contract terms):

Customer Name: Cass County Vector Control	
By (signature)	Date:



www.casscountynd.gov

Office of the Sheriff

Jesse Jahner, Sheriff

February 23, 2023

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

Re: Request to Purchase an Ultra-Light Turbo Kit for Investigations

Consent Agenda: Action Requested

Chairman Chad Peterson,

The Cass County Sheriff's Office is to purchase an Ultra-Light Turbo Kit for the investigations division. This will be used for identifying certain bodily fluids and also unknown liquid substances. The Ultraviolet system was approved in the 2023 budget. The total purchase price is \$ 5,521.60.

Suggested Motion: Move to authorize the Cass County Sheriff's Office to purchase a Ultra-Light Turbo Kit which was authorized in the 2023 budget for \$ 5,621.60

Should you have any questions, please contact our office.

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



RESCUE ESSENTIALS AND NLES ARE DIVISIONS OF TRI-TECH FORENSICS, INC

3811 International Blvd., Unit 100 • Leland, NC 28451
 910/457.6600 • FAX 910/457.0094 • 800/438.7884

QUOTE
QUOTE # 46455

PROFORMA QUOTATION

BILL TO:

CASS COUNTY SHERIFF OFFICE
1612 23RD AVE N FARGO, ND 58102 P: 7012415844

SHIP TO:

CASS COUNTY SHERIFF OFFICE
1612 23RD AVE N FARGO, ND 58102 P: 7012415844

Customer ID	Ship Via	Sales Rep	Terms	Date
CASSNDSO	BEST WAY - QUO	AHARPER	NET 30	2/15/2023

Quantity	UOM	Item #	Description	Unit Price	Extended Price
1	EACH	UL-00106	ULTRALITE ALS ULTRA TURBO KIT	\$5,600.00	\$5,600.00

SALES TAX AND SHIPPING CHARGES WILL BE ADDED WHEN APPROPRIATE

Subtotal	\$5,600.00
Misc	\$0.00
Tax	\$0.00
Freight	\$21.60
Trade Discount	\$0.00
Total	\$5,621.60

PRICES QUOTED ARE FIRM FOR 30 DAYS FROM THE ABOVE DATE

This is not an invoice; do not use to make payment. Sales Tax may be applied when applicable. Please provide your sales rep with your tax exempt certificate to have your account updated accordingly.



www.casscountynd.gov

Office of the Sheriff

Jesse Jahner, Sheriff

February 27, 2023

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

Re: Request to Purchase Less lethal equipment from Kiesler Police Supply

Consent Agenda: Action Requested

Chairman Chad Peterson,

The Cass County Sheriff's Office is to purchase less lethal equipment, invoice is attached. This will be used for assisting with the Sheriff's Office in protecting individuals and also the officer. The less lethal equipment was approved in the 2023 budget and is under the approved budget request. The total purchase price is \$ 28,900.55.

Suggested Motion: Move to authorize the Cass County Sheriff's Office to purchase Less lethal equipment through Kiesler Police Supply which was authorized in the 2023 budget in the amount of \$ 28,900.55

Should you have any questions, please contact our office.

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



Sales Quote

KIESLER POLICE SUPPLY
 2802 SABLE MILL RD
 JEFFERSONVILLE, IN 47130

Bill-to Customer
 CASS COUNTY SHERIFF'S OFFICE, ND
 1612 23RD AVENUE N
 EMAIL INVOICES: JonesL@casscountynd.gov
 FARGO, ND 58102

Ship-to Address
 CASS COUNTY SHERIFF'S OFFICE LEC
 JESSE CASTLE / PH: 701-412-1314
 1612 23RD AVE NORTH
 FARGO, ND 58102

Your Reference
 Bill-to Customer No. L03404
 Tax Registration No.

 No. Q139425
 Document Date February 21, 2023
 Due Date March 23, 2023
 Payment Terms
 Payment Method
 Tax Identification Type Legal Entity
 Shipment Method
 Castle, Jesse <CastleJ@casscountynd.gov>

Salesperson TERESA
 Email
 Home Page
 Phone No.

No.	Description	Quantity	Unit of Measure	Unit Price Excl. Tax	Line Amount Excl. Tax
CTSL140-3	CTS PENN ARMS L140-3 SINGLE 40MM LAUNCHER WITH COLLAPSING STOCK, COMBO RAIL (GL-1-40) MTTOE	4	EACH	1,231.20	4,924.8
CTST502	PENN ARMS SOFT CASE, NYLON CORDURA FOR GL-1 COMPACT, L-1 & GL-1 MODELS CEOME	5	EACH	144.88	724.4
DEFE5239A	DEFENSE TECH/FIRST DEFENSE 360 MK-3, .4%, 1.47OZ, OC/TUBED/STREAM CCOE	150	EACH	13.81	2,071.5
AVON70501-187	AVON C50 TWIN PORT APR, LARGE ACHRE - DOR33/20232-22632	10	EACH	374.54	3,745.4
AVON70501-188	AVON C50 TWIN PORT APR MEDIUM ACHRE - DOR33/20232-22632	10	EACH	374.54	3,745.4
AVON70501-189	AVON C50 TWIN PORT APR, SMALL ACHRE - DOR33/20232-22632	10	EACH	374.54	3,745.4
AVON72606-3	AVON CTCF50 RIOT FILTER 4 PACK CKMHK	38	EACH	188.51	7,163.38
PEPP104-81-0375	PEPPERBALL LIVE-X PAVA OC POWDER PROJECTILES 375 COUNT	1	EACH	1,181.80	1,181.8
PEPP100-84-0375	PEPPERBALL INERT POWDER PROJECTILES. 375-COUNT	3	EACH	305.85	917.55
PART NUMBER	DAMADRS3 DAMASCUS RECTANGLE RIOT SHIELD	1	EACH	100.30	100.3



No.	Description	Quantity	Unit of Measure	Unit Price Excl. Tax	Line Amount Excl. Tax
	36"H X 20"W X .15"THICK, COLOR: CLEAR OKEE				
PART NUMBER	DAMADRSL DAMASCUS CUSTOM RIOT SHIELD LETTERING " SHERIFF " MEE	1	EACH	10.62	10.62
SHIPPING	Shipping	1	EACH	420.00	420
KIESLER LIFTGATE	IF A LIFTGATE IS REQUIRED AN ADDITIONAL FEE OF \$150 WILL APPLY. PLEASE ADVISE PRIOR TO ORDERING.	1	EACH	150.00	150
FORMAT TERESA	QUOTED BY TERESA MCKINNIE KIESLER POLICE SUPPLY 2802 SABLE MILL ROAD JEFFERSONVILLE, IN 47130 THIS QUOTE IS VALID FOR 30 DAYS TMCKINNIE@KIESLER.COM	1	EACH	0.00	0
KIESLER SIGNATURE	SIGN/DATE TO APPROVE PURCHASE	1	EACH	0.00	0
	X _____ SIGNATURE REQUIRED				
	X _____ DATE				
	X <u>701-241-5800</u> PHONE# FOR FED X QUESTIONS				
Amount Subject to Sales Tax				0.00	
Amount Exempt from Sales Tax				28,900.55	
				Subtotal	28,900.55
				Total Tax	0.00
				Total \$ Incl. Tax	28,900.55
				Tax Amount	0.00

KIESLER POLICE SUPPLY FFL# 4-35-019-11-4M-08220

RETURNED GOODS POLICY

No returned goods will be accepted without prior consent. Any packages returned without properly displaying a return authorization number will be refused. Returns subject to up to 25% restocking fee

DEFECTIVE MERCHANDISE POLICY

We are not a warranty repair station for any manufacturer. Returns of defective merchandise must be made directly to the manufacturer for repair or replacement.

DAMAGED GOODS POLICY

Claims of shortages or damaged shipments must be made immediately upon receipt of shipment.



Administration

Telephone: 701-241-5770

Fax: 701-241-5776

wilsonro@casscountynd.gov

MEMO

TO: County Commission
FROM: Robert W. Wilson
Date: February 27, 2023
Subject: Annex Remodel- Building Projects

The 2023 Building Fund budget includes \$400,000 for a remodel of the Annex building. Buildings and Grounds has been working with Cass Human Service Zone staff and TL Stroh Architects to plan this project. Specific work has been prioritized by Human Service Zone leadership based on what will be most significant to improving work settings for employees. The first phase of the project includes updating the lighting and painting on the second, third, and fourth floors of the Annex.

Buildings and Grounds received a quote from Bergstrom Electric to complete the lighting upgrades for all three floors in the amount of \$95,075.

Separately Buildings and Grounds also received a quote from Morris Painting and Decorating to paint all three floors in the amount of \$112,720.

SUGGESTED MOTION: Authorize Chair to sign the purchase order for lighting upgrades in the Annex from Bergstrom Electric in the amount of \$95,075.

-and-

SUGGESTED MOTION: Authorize Chair to sign the purchase order for painting in the Annex from Morris Painting and Decorating in the amount of \$112,720.



Bergstrom Electric
Where Quality & Customers Matter

Cass County Courthouse
Re: Annex - Office Lighting updates floors 2-3-4
Attn: Gene G

2/25/2023

Scope of work:

Remove all ceiling lights and update Exits signs – as noted on the attached 3- pages of Estimate Sheets – by the Floor for locations of lights per room.

Location:	Items:	2x2	2x4	4ft Led lamps	Exit signs	Wall wired dimmers/ subject to rooms*
2 nd Floor		7	111	8	11	33
3 rd Floor		3	89	1	9	37
4 th Floor		1	143	8	6	34
Totals:		11	343	17	26	104* subject to change

Stairwells – 3- New Vertical Decorative wall light (1 in each landing).

The LED flat panel - Edge lite lights are 4K and has the 3- level Lumen output adjustment.

Est budget Based to the total list above – Materials- labor and New lights : \$77,915*

*Note : Please review the 3 pages for the offices and the noted with a “D” which is for Dimmer.

Add \$165/ per for wiring and the Dimmer install x 104 dimmers marked “D: (subject to confirmation)

104 dimmer locations x \$165/each = \$17,160

Budget Est price + the 104 Dimmers total \$95,075

Material note: We have local stock on lights to get started Monday Feb 27 – with your confirmation and dimmer locations of the offices you want done. (Quote good for 10 days)

Please advise on any additions or change to this Projects scope of work.

Perry Kleven
Bergstrom Electric

Grand Forks
3100 No. Washington St.
Grand Forks, ND 58203
p: 701.775.8897
f: 701.772.4951

Fargo
4120 14th Ave. No.
Fargo, ND 58102
p: 701.281.8992
f: 701.281.8993

Bismarck
3554 Global Drive
Bismarck ND 58501
p: 701.221.0783
f: 701.221.0784

Devils Lake
1100 2nd Ave. NE
Devils Lake, ND 58301
p: 701.662.5823
f: 701.662.8996

Roseau
708B 3rd Street NE
Roseau, MN 56751
p: 218.452.2190
f: 218.681.6288

Thief River Falls
1401 3rd Street West
Thief River Falls, MN 56701
p: 218.681.7422
f: 218.681.6288





PURCHASE ORDER

PAGE: 1
 P.O. NO.: 154286
 DATE: 2/27/23

N.D. Sales Tax Exempt No. E-3009

BERGSTROM ELECTRIC, INC.
 PO BOX 13152
 GRAND FORKS, ND 58208-3152

SHIP TO: CASS COUNTY GOVERNMENT
 COUNTY AUDITOR
 211 9TH ST S
 FARGO, ND 58103

VENDOR NO.		4174							
DELIVER BY		SHIP VIA		F.O.B.		TERMS			
02/27/23						NET			
CONFIRM BY			CONFIRM TO			REQUISITIONED BY			
			GERALD JENSON			GERALD JENSON			
FREIGHT		CONTRACT NO.		ACCOUNT NO.		PROJECT		REQ. NO.	REQ. DATE
				101-1505-411.47-01				BERG	02/27/23
LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION			UNIT COST	EXTENDED COST		
1	95075.00	EA	OFFICE LIGHTING UPDATE FLOORS 2,3,4			1.0000	95075.00		
						SUB-TOTAL		95075.00	
								95075.00	

AUTHORIZED BY _____ COUNTY OFFICIAL

Morris Painting & Decorating

2503 1st Avenue North
 Fargo ND 58102

Estimate

DATE	ESTIMATE #
1/10/2023	92856

NAME / ADDRESS
TL Stroh Architects, Ltd. 8 Seventh Street North Fargo, ND 58102

PROJECT
CC Juvenile Center

DESCRIPTION	QTY	COST	TOTAL
Quote for painting walls, door frames, soffits and metal stair parts as per Donna's instructions dated 11-3-22 *** Willing to work with owner on price - depending on colors, phase of work and furniture removal ***		112,720.00	112,720.00
		TOTAL	\$112,720.00

Phone #	Fax #	E-mail
(701) 232-8225	(701) 232-8350	morrispaintingdecorating@gmail.com



PURCHASE ORDER

PAGE: 1
154287
PO. NO.:
DATE: 2/27/23

N.D. Sales Tax Exempt No. E-3009

MORRIS PAINTING & DECORATING I
2503 1ST AVE N
FARGO, ND 58102

SHIP TO: CASS COUNTY GOVERNMENT
COUNTY AUDITOR
211 9TH ST S
FARGO, ND 58103

VENDOR NO.		9341		DELIVER BY		SHIP VIA		F.O.B.		TERMS	
				02/27/23						NET	
CONFIRM BY				CONFIRM TO				REQUISITIONED BY			
				GERALD JENSON				GERALD JENSON			
FREIGHT		CONTRACT NO.		ACCOUNT NO.		PROJECT		REQ. NO.		REQ. DATE	
				101-1505-411.47-01				MORR		02/27/23	
LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION				UNIT COST	EXTENDED COST			
1	112720.00	EA	PAINTING FOR ANNEX REMODEL				1.0000	112720.00			
							SUB-TOTAL	112720.00			
										112720.00	

AUTHORIZED BY _____ COUNTY OFFICIAL