

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 October 7, 2024:

- North Dakota Department of Transportation—Traffic Safety Contract for Vision Zero Coordinator Grant Subaward;
- North Dakota Department of Transportation—Cost Participation, construction, and maintenance agreements for mill and overlay on County Highway 26;
- Northern States Excavating, Inc.—contract documents for ditch cleaning on Cass Highway 11.



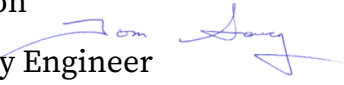
Highway Department

Telephone: 701-298-2370

Fax: 701-298-2395

MEMORANDUM

TO: Cass County Commission

FROM: Tom Soucy, Cass County Engineer 

DATE: September 25, 2024

SUBJECT: Consent Agenda Item for October 7, 2024, Commission Meeting: 2024-25
Vision Zero Coordinator Grant Subaward

Attached is the annual 2024-25 Vision Zero Coordinator Grant Subaward. The contractor portion on Page 5 is where the Chairperson signature is required. The required federal grant language and appendix are included, as they were last year.

SUGGESTED MOTION: Authorize the Chair to sign 2024-25 Vision Zero Coordinator Grant Subaward Subject to State's Attorney's Approval.

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CONTRACT APPROVAL

REQUIRED BY DEPARTMENT:

DEPARTMENT: Highway Department DATE OF REQUEST: October 1, 2024

COMPANY REQUESTING CONTRACT: North Dakota Department of Transportation

BRIEF PROJECT DESCRIPTION: Vision Zero Coordinator Grant Subaward- Traffic Safety Contract

 NEW CONTRACT OR x CONTRACT RENEWAL

REQUIRED BY STATE'S ATTORNEY OFFICE:

STATE'S ATTORNEY SIGNATURE: _____ DATE _____

STATE'S ATTORNEY COMMENTS:

**North Dakota Department of Transportation
TRAFFIC SAFETY CONTRACT**

Federal Award and Subrecipient Information

Subrecipient Name: Cass County
Subrecipient UEI No.: JRNDKLLS2949
Applicant Agency: Cass County

NDACo Program Manager: Ryan Gellner
NDACo PM Telephone: 701-793-8716
NDACo PM Email: rgellner@ndaco.org

ALN No.: 20.600

ALN Title: State and Community Highway Safety

Federal Agency Telephone: 720-963-3100
Federal Agency Email: NHTSA.region8@dot.gov

Awarding Federal Agency: National Highway Traffic Safety Administration
Federal Agency Contact Information: Gina Espinosa-Salcedo

AWARD NAME: Vision Zero Outreach Program
FAIN No.: 69A37523300004020ND0

Federal Award Date: November 30, 2022
Total Federal Award Amount: \$2,891,141.25

FAIN No.: 69A37524300004020ND0

Federal Award Date: November 27, 2023
Total Federal Award Amount: \$2,810,775.00

AWARD NAME: Vision Zero Program Supplies and Support
STATE FUNDED

Budget Start Date: October 1, 2024
Performance Start Date: October 1, 2024
Indirect Cost Rate: N/A

Budget End Date: September 30, 2025
Performance End Date: September 30, 2025
Research & Development Award: No

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDACo Program Manager.

This contract is between the North Dakota Association of Counties (NDACo), whose address is 1661 Capitol Way, Bismarck, North Dakota 58501, and Cass County, hereinafter referred to as the Contractor, whose address is 211 9th St S, Fargo, North Dakota 58103-1833.

In consideration of the mutual promises herein set forth, NDACo and the Contractor agree:

Section 1: The Contractor shall perform the project(s) set forth in Appendix A, a copy of which is attached hereto and made a part hereof.

The Contractor shall comply with the provisions of Appendix B, a copy of which is attached hereto and made a part hereof.

Section 2: The term of this contract shall begin October 1, 2024, and shall end September 30, 2025.

Section 3 - Reimbursement:

NDACo shall reimburse the Contractor for costs incurred under the terms of this contract, not to exceed \$122,920. Reimbursement of all costs under this contract is contingent on federal participation. Expenses incurred by the Contractor for travel, meals, and lodging, shall be reimbursed according to applicable state rates. Allowable costs are covered under 2 CFR Part 200. All requests for reimbursement must be submitted to NDACo within 45 days of the termination date of this contract.

Section 4: Equipment acquired under this agreement for use in highway safety program areas shall be used and kept in operation for highway safety purposes by the Contractor; or the Contractor, by formal agreement with appropriate officials of a political subdivision or State agency, shall cause such equipment to be used and kept in operation for highway safety purposes. (Reference: 23 CFR 1200.31 and 2 CFR Part 200)

Section 5: Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

Section 6: The Contractor agrees to cooperate with NDACo in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this agreement. The Contractor shall comply with requirements of 49 CFR Part 26.

Section 7: The Contractor shall ensure that no qualified individual with a disability, as defined in 29 USC 794 and 49 CFR Part 27 shall, solely by reason of this disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives benefits from the assistance under this agreement.

Section 8: Grants or services that generate revenues as a result of funding through the National Highway Traffic Safety Administration (NHTSA) must be reported. Written notification of the source and amount of such income must be made to the NDACo at the earliest opportunity. A separate account must be maintained for the collection, expenditure, and disposition of program income. Program income generated shall be used to further the objectives of the grant or service or reduce current grant or service costs. Records shall be maintained in accordance with state and federal guidelines.

Section 9: The Contractor certifies that it will comply with the retention and access requirements for records established by 2 CFR Part 200. The required records and documentation relating to the grant and/or subcontract shall be retained for a minimum of three years after the starting date of the retention period as defined in 2 CFR Part 200. The NDACo or their authorized representative shall have the right of access to any books, documents, papers, or other records of grantees, contractors, or subcontractors which are pertinent to the grant and/or contract, in order to make audits, examinations, excerpts and transcripts. The right of access is not limited by the required retention period and shall last as long as the records are retained.

The Contractor will comply with all applicable state, local, and federal procurement procedures and will maintain a financial management system that complies with the minimum requirements of 2 CFR Part 200.

Section 10: The Contractor must have a seat belt use policy, a drug and alcohol driving policy, a distracted driving/texting policy, and a payroll and compensation policy in place before requesting reimbursement for any work completed under this agreement. The NDACo Program Manager will locate and review the policies during scheduled on-site monitoring visits, if applicable. Absence of any policy may result in the NDACo withholding payment until said policy is in place.

All contracted personnel are required to wear seat belts and obey traffic laws while on official business of this project.

Section 11 - Termination:

- a. This contract may be terminated by mutual consent of both parties, or by either party, upon 30 days' notice in writing or delivered by certified mail or in person.
- b. In addition, NDACo may terminate this contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by NDACo, under any of the following conditions:
 - i. NDACo funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
 - ii. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
 - iii. If any license or certificate required by law or regulation to be held by the Contractor to provide the services required by the contract is for any reason denied, revoked, or not renewed.

Any such termination of this contract under (i), (ii), or (iii) above shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- c. NDACo, by written notice to the Contractor, may terminate the whole or any part of this agreement:
 - i. If the Contractor fails to provide services called for by this contract within the time specified herein or any extension thereof; or
 - ii. If the Contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from NDACo, fails to correct such failures within ten days or such longer period as NDACo may authorize.

Section 12: Contractor may not assign or otherwise transfer or delegate any right or duty without NDACo's express written consent, provided, however, that Contractor may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Contract, whether by merger, reorganization, operation of law, or otherwise. Should Assignee be a business or entity with whom NDACo is prohibited from conducting business, NDACo shall have the right to terminate in accordance with the Termination for Cause section of this Contract.

Contractor may enter subcontracts provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. Contractor is solely responsible for the performance of any subcontractor with whom Contractor contracts. Contractor does not have authority to contract for or incur obligations on behalf of NDACo.

Section 13: The Contractor agrees that NDACo, NDDOT and NHTSA, or their designated representative(s), shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this agreement. The Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated. The Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interview of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the state to audit records and interview staff in any subcontract related to the performance of this agreement.

Audits must be in accordance with 2 CFR Part 200, Subpart F. The Contractor shall submit copies of audits

covering the term of this agreement to NDACo. This requirement is applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and nonprofit businesses.

Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDACo at its discretion. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

- All entities receiving federal funds through NDACo shall certify whether a Single Audit has been completed as part of the annual Federal award process.
- All entities must complete the Single Audit Certification Form
- All entities must provide a Schedule of Expenditures of Federal Awards (SEFA).

Section 14: Federal agencies and NDACo shall review and approve the negotiated indirect cost rate, unless there is a federal statute that states otherwise, or a federal agency head has made other approved provisions. Any rate approved by a federal agency, or a cognizant agency must be approved by NDDOT.

If the Contractor does not have a federally negotiated indirect cost rate, the NDDOT can either:

- negotiate an indirect rate with the Contractor
- allow the de minimis 10% flat rate (the de minimis rate, is not applicable in certain cases (200.414(f); Appendix VII.D.1.B).) This rate may be used indefinitely, until the Contractor seeks to formally negotiate a rate. If the de minimis rate is used, the NDDOT does not need to review and approve.

Section 15: The Federal awarding agency or pass-through entity and Contractor will comply with CFR §200.344 closeout requirements. The NDDOT is responsible for closing out the agreement when it determines that all application administrative actions and all required work have been completed and the agreement has reached its period of performance end date. The Contractor shall submit, no later than 90 calendar days after the period of performance end date of this agreement, all financial, performance and other reports as required by the terms and conditions of this agreement.

Section 16: Under the North Dakota public records law and subject to the Confidentiality clause of this Contract, certain records may be open to the public upon request.

Public records may include: (a) records NDACo receives from Contractor under this Contract, (b) records obtained by either Party under this Contract, and (c) records generated by either Party under this Contract.

Contractor agrees to contact NDACo immediately upon receiving a request for information under the public records law and to comply with NDACo's instructions on how to respond to such request.

Section 17: No official or employee of a state or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector, or other person performing services for a state or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a state or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a state or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest openly disclosed upon the public records of NDACo and of such other governmental instrumentality, and such officer, employee, or person has not participated in such acquisition for and in behalf of the state.

Section 18: All work products, and copyrights of the contract which result from this contract are the exclusive property of NDACo, with an unlimited license for use by the federal government and its assignees without charge.

Section 19: The Risk Management Appendix, attached, is hereby incorporated into and made a part of this agreement.

Section 20: All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at their respective places of business as previously set forth.

Section 21: The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

Section 22: The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.

Section 23: This agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The Contractor, by the signature below of its authorized representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Section 24: The Contractor is advised that his or her signature on this contract certifies that the company or any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

Contractor:

By: _____
Name and Title

Signature

Date: _____

ND Association of Counties:

By: Aaron G Birst, Executive Director

Signature

Date: _____

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Risk Management Appendix

Routine* Service Agreements with Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: State – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$437,500 per person and \$1,750,000 per occurrence**. The minimum limits of liability required of the State are **\$437,500 per person and \$1,750,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$500,000 per person and \$2,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. The Governments shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

AGREEMENT FOR PARTICIPATION IN THE NORTH DAKOTA HIGHWAY SAFETY PLAN

CONTRACT NO. 2024-09
PROJECT NO. PHSPCP2509-03-02

BACKGROUND

The North Dakota Department of Transportation's (NDDOT) Highway Safety Division administers the North Dakota Vision Zero initiative to reduce motor vehicle crash fatalities and serious injuries to zero. The Highway Safety Division receives and provides state and federal funding to local entities to assist the NDDOT to achieve the traffic safety goals identified in the Vision Zero Plan and the Triennial Highway Safety Plan (3HSP).

SCOPE OF WORK

Problem Identification

The Highway Safety Division uses various data sets to identify highway safety problems and program development and implementation. The analysis of these data sets has identified six Priority Safety Emphasis Areas (PEA) being addressed through the North Dakota Vision Zero initiative. These six PEAs are the motivation for the Vision Zero Outreach Program and the development of a grassroots approach to addressing these highway safety problems.

- Lane Departure
- Intersections
- Alcohol and/or Drug-Related
- Unbelted Vehicle Occupants
- Speeding/Aggressive Driving
- Young Drivers

Project Description

Funds will be provided to **Cass County** (hereinafter referred to as the Contractor) to assist NDACo in providing traffic safety outreach activities and in achieving the performance goals associated with the NDDOT's goal of moving toward zero deaths.

Project Goals

Community outreach will be targeted through individual, group, and community activity through counties, employers, etc., to advance Vision Zero activity at the local level. Funds allocated to CTSP outreach projects will address priority and other areas of emphasis in the SHSP/Vision Zero Plan.

This contract will assist in achieving the following 3HSP plan goals to decrease the number of:

- People killed in motor vehicle crashes.
- Alcohol- and drug-related motor vehicle fatalities.
- Speed-related fatalities.
- Distracted driving-related fatalities.
- Unbelted fatalities through increased seat belt use by all North Dakota citizens and those traveling through North Dakota.

Project Objectives and Activities

Vision Zero Regional Coordinator Position

Network/Partnership Engagement

- **Objective 1:** Establish and expand relationships with underserved/overrepresented communities/populations to support the Vision Zero Strategic Plan implementation. Underserved/overrepresented populations include those with low socio-economic status, racial and ethnic minorities, or both who are overrepresented in motor vehicle crashes and underserved in terms of education and information and other services that could assist in eliminating motor vehicle serious injuries and fatalities.
- **Project Development and Implementation:** Each coordinator will identify the underserved/overrepresented populations within their regions based on NDDOT data, establish a working relationship, and conduct two (2) meaningful public participation and engagement activities within their regions, with an emphasis on tribal populations where applicable.
- **Evaluation:** Each coordinator will report on events held and provide feedback received from each community event. (NDDOT will provide a template for the report.)

Objective 2: Implement the strategies within the North Dakota Vision Zero Plan within their region. Identify and implement other strategies that will move the community to zero. Promote and advance Local Road Safety Plans for road safety projects within communities.

- **Project Development and Implementation:** The Coordinator will research various data resources for their region to identify priority safety emphasis areas that are leading factors in traffic fatalities and serious injuries. The data will be used to determine projects, programs, and partners that can be developed to address those emphasis areas.
- **Evaluation:** Report on the type of projects implemented, the partners included, and the results of the project.

Objective 3: Expand community engagement and the partnership network by hosting or participating in regional/local partnership meetings. Encourage new partners to formalize their partnership through registration with the Vision Zero Partner Network.

- **Project Development and Implementation:** Each coordinator will identify potential partners within their region, develop a working relationship, and promote the Vision Zero Initiative and participation in the Vision Zero Partner Network. Establish and support formal ongoing communication with individuals and organizations within their region who have registered for the Vision Zero Partner Network.
- **Evaluation:** Maintain a list of individuals and organizations contacted and report on the success of engagement.

Objective 4: Build partner support for selected Vision Zero Strategic Plan (VZSP) legislative and policy priority safety initiatives.

- **Project Development and Implementation:** Participate in the Priority Emphasis Team meetings and actively support policy priority safety strategies through personal contacts, presentations, media events, social media, and other outreach. Coordinate with the VZ Program Manager on activities to conduct.
- **Evaluation:** Identify the number of PEA team meetings attended, the tasks conducted to support priority strategies, and the number of contacts made.

Outreach Initiatives

Objective 1: Conduct outreach events aligning with each region's Priority Emphasis Areas.

- *Project Development and Implementation:* Each Coordinator will assess their region and identify the prior emphasis areas that are primary factors in traffic crash fatalities and serious injuries and conduct the following activities as they apply:
 - Employ a minimum of ten (10) times per year resources such as a rollover simulator, seat belt convincer, fatal vision goggles, Simulated Impaired Driving Experience (SIDNE), and Buckle Up Phone Down materials at local events to bolster community engagement and awareness of Vision Zero safety priorities.
 - Conduct at least one (1) Vision Zero School event or continue collaboration with an existing Vision Zero School(s) annually and work with the school to meet the program's requirements. Collaboration could include a Vision Zero Day, Buckle Up Phone Down engagement, and other events relevant to the school.
 - Conduct a minimum of five (5) innovative prevention programs such as Impact Teen Drivers, Buckle Up with Bucky, or other youth-based, or Vision Zero PowerPoint presentations annually in the region.
 - Facilitate a minimum of one (1) training program annually focusing on motor vehicle crash prevention strategies, including Vision Zero PowerPoint presentations.
 - Work with state and regional partners to hold two (2) local media events annually,
 - Develop and staff public Vision Zero displays for regional events and/or meetings.
 - Promote the Vision Zero Awards programs to coalition and partner network members and annually submits a minimum of one nomination from the region.
 - Attend a minimum of four (4) county or city commission meetings annually within the region.
 - Assist the state in soliciting sponsorship funds to acquire incentive items and other resources in support of state and regional Vision Zero activities, as needed or requested.
 - Introduce and help build Buckle Up Phone Down campaign within the region.
- *Evaluation:* The Coordinator shall provide a monthly written report to the VZ Program Manager detailing the outreach activities conducted and ensure that minimum requirements are being met.

Data Acquisition and Utilization

Objective 1: Use crash and ancillary data sources to understand severe crash trends, disparities, locations, and causal factors within the region to identify priority counties and engage communities in Vision Zero.

- *Project Development and Implementation:*
 - Conduct crash data and other relevant data analysis to identify who is crashing, where they are crashing, and use this information to develop and implement a regional action plan to supplement the SHSP.
 - Update crash data analysis on an on-going basis to monitor change and progress in achieving regional action plan goals.
 - Incorporate local crash data into presentations, media events, and partner meetings and/or discussions.
- *Evaluation:* Identify the data sources used when conducting an analysis and show the linkage between data analysis and strategies, projects, or programs being implemented.

Professionalism and Development

Objective 1: Create Vision Zero brand awareness and the Vision Zero Coordinator position.

- *Project Development and Implementation:*
 - Provide professional and timely response to stakeholder requests for information via email,

- telephone, videoconference, and/or face-to-face interaction.
- Deliver high-quality presentations, community forums, media events, and other traffic safety activities.
- Express ideas and information in written and oral form that is complete, clear, concise, organized, and audience appropriate.
- Continually evaluate ways to improve program and work practices, including minimizing the complexity of processes whenever possible.
- Proactively share his/her knowledge, skills, and expertise with other Vision Zero Outreach Coordinators and partners.
- *Evaluation: VZ Program Manager will assess these items and identify success or improvement in the annual performance review.*

Objective 2: Continued training and education

- *Project Development and Implementation:*
 - Attend the annual North Dakota Vision Zero Partner Summit to bolster his/her knowledge of current traffic safety best practices and the status of Vision Zero Plan implementation.
 - Expand knowledge and understanding of traffic safety by annually participating in a minimum of one (1) training program provided by a national traffic safety organization and/or through attendance at a national conference or workshop.
 - Regularly monitor the Governors Highway Safety Association and other professional traffic safety organization websites for new traffic safety reports and leverage at least one report annually to implement new strategies and initiatives in the region.
 - Keep the supervisor informed about sensitive or controversial issues and/or problems and offer well-developed recommendations and/or solutions.
- *Evaluation: Report the number of trainings attended in the monthly activity report.*

**REPORTING REQUIREMENTS, AUDIT REPORTING, OTHER REQUIREMENTS,
GRANTOR RESPONSIBILITIES, AND REIMBURSEMENT**

Reporting Requirements

Vouchers and written progress reports must be provided monthly to the NDACo Program Manager and received within 30 days of the last month in which expenditures occurred. ***However, at the close of the state fiscal year, June 30, reports and vouchers must be submitted no later than July 11 for any services that took place on or before June 30. Vouchers received after July 11 may not be reimbursed.***

The progress reports should summarize the activities of the billing period and must be received before reimbursement can be made. An itemized list of expenditures, summarized to reflect line-item costs listed on the reimbursement, will be attached.

A final voucher and written evaluation for each project will be submitted to the Highway Safety Division no later than November 6, 2025. This report should include any relevant data and final narrative review of the projects and may also include recommendations for future enhancements. ***Vouchers received after November 6, 2025, will not be reimbursed.*** NDACo will provide a voucher format.

Audit Reporting

A non-federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR 200, Subpart F. A financial audit is sufficient if the non-federal entity expends less than \$750,000.

Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDACo at its discretion. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

- All entities receiving federal funds through NDDOT/NDACo shall certify whether a Single Audit has been completed as part of the annual Federal award process.
- All entities must complete the Single Audit Certification form.
- All entities must provide a schedule of expenditures.

Other Requirements

The Contractor will:

- Incur all expenses in advance of requesting reimbursement through NDACo. Federal funds for this contract from the NHTSA are available on a reimbursement basis only.
- The Contractor will provide administrative staff and accounting support for monthly report preparation, billing, contract payments, etc.
- Assist the NDACo to select Vision Zero Coordinators that meet the qualifications specified in the approved job description and job posting.
- Maintain financial records and retain supporting documentation at the local level according to audit guidelines.
- Provide record-keeping as required by state and federal guidelines.
- Track and report monthly in-kind match for Vision Zero Coordinator program activity.
- Participate in additional program activities that may be required based on direction from the Highway Safety Division, NDDOT.

GRANTOR RESPONSIBILITIES

This scope of work will be monitored by the NDACo Program Manager. Oversight will include, but will not be limited to, desktop and on-site monitoring of program finances and operations. This will include written notification of issues and/or concerns if identified and appropriate corrective action(s).

REIMBURSEMENT

This contract will reimburse allowable expenses up to the project's total budget for costs incurred through completion of the scope of work and/or in the direction of the Program Manager. The salary and benefits of the Vision Zero Coordinator will be reimbursed based on pay stubs. All other items will be reimbursed at actual cost.

The NDACo reserves the right to deny payment for unallowable expenses identified in the applicable cost principles.

The Contractor must stay within the budget amounts provided below. However, if moving funds within the budget is necessary, the Contractor may submit a written request to the Program Manager. The request must justify how the revised budget is needed to complete the scope of work ***before any work is done exceeding the allocated amounts***. The Program Manager will review the request promptly and will approve or deny the request.

**VISION ZERO OUTREACH COORDINATOR
BUDGET**

PROJECT NO. PHSPCP2509-03-02 / ALN No. 20.600

DIRECT COSTS

Salary	\$ 76,129
Benefits	\$ 25,791
Travel & Training	\$ 14,000
Supplies	\$ 4,000
Misc.	\$ 2,000
Cell Phone	\$ 1,000

PROJECT TOTAL \$122,920

Participation

Federal	100%	\$122,920
State	-	

Appendix A to Part 1300-Certifications and Assurances for Highway Safety Grants

[Each fiscal year, the Governor's Representative for Highway Safety must sign these Certifications and Assurances affirming that the State complies with all requirements, including applicable Federal statutes and regulations, that are in effect during the grant period. Requirements that also apply to subrecipients are noted under the applicable caption.]

State: North Dakota

Fiscal Year: 2025

By submitting an application for Federal grant funds under 23 U.S.C. Chapter 4 or Section 1906, Public Law 109-59, as amended by Section 25024, Public Law 117-58, the State Highway Safety Office acknowledges and agrees to the following conditions and requirements. In my capacity as the Governor's Representative for Highway Safety, I hereby provide the following Certifications and Assurances:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4-Highway Safety Act of 1966, as amended;
- Sec. 1906, Public Law 109-59, as amended by Sec. 25024, Public Law 117-58;
- 23 CFR part 1300-Uniform Procedures for State Highway Safety Grant Programs;
- 2 CFR part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- 2 CFR part 1201-Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs) .

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT {FFATA}

The State will comply with FFATA guidance, *OMB Guidance on FFATA Subaward and Executive Compensation Reporting* , August 27, 201 0, (https://www.fsr.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSR.gov for each sub-grant awarded:

- Name of the entity receiving the award;
- Amount of the award;

- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
 - Unique entity identifier (generated by **SAM.gov**);
- The names and total compensation of the five most highly compensated officers of the entity if:
 - (i) the entity in the preceding fiscal year received-
 - (I) 80 percent or more of its annual gross revenues in Federal awards;
 - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
 - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION

(applies to subrecipients as well as States)

The State highway safety agency [and its subrecipients] will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- *Title VI of the Civil Rights Act of 1964* (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (entitled *Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964*);
- 28 CFR 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- *The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- *Federal-Aid Highway Act of 1973*, (*23 U.S.C. 324 et seq.*), and *Title IX of the Education Amendments of 1972*, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- *Section 504 of the Rehabilitation Act of 1973*, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- *The Age Discrimination Act of 1975*, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- *The Civil Rights Restoration Act of 1987*, (Pub. L. 100-209), (broadens scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities " to include all of the programs or activities of the

Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);

- *Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189)* (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- *Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (preventing discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- *Executive Order 13166, Improving Access to Services/or Persons with Limited English Proficiency* (requiring that recipients of Federal financial assistance provide meaningful access for applicants and beneficiaries who have limited English proficiency (LEP));
- *Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government* (advancing equity across the Federal Government); and
- *Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation* (clarifying that sex discrimination includes discrimination on the grounds of gender identity or sexual orientation).

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

GENERAL ASSURANCES

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including NHTSA. "

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI of the Civil Rights Act of 1964 and other non-discrimination requirements (the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

SPECIFIC ASSURANCES

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Highway Safety Grant Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in § 21.23(b) and (e) of 49 CFR part 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Highway Safety Grant Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
" The [name of Recipient] , in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC 2000d to 2000d-4) and the Regulations , hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises ,vi!! be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. "
3. The Recipient will insert the clauses of appendix A and E of this Assurance (also referred to as DOT Order 1050.2A) in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of appendix B of DOT Order 1050.2A, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in appendix C and appendix D of this DOT Order 1050.2A, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or

structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the State highway safety agency also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing NHTSA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by NHTSA. You must keep records, reports, and submit the material for review upon request to NHTSA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The State highway safety agency gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Highway Safety Grant Program. This ASSURANCE is binding on the State highway safety agency, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Highway Safety Grant Program. The person(s) signing below is/are authorized to sign this ASSURANCE on behalf of the Recipient.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing a drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The grantee's policy of maintaining a drug-free workplace;

3. Any available drug counseling, rehabilitation, and employee assistance programs;
 4. The penalties that may be imposed upon employees for drug violations occurring in the workplace;
 5. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- c. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-
1. Abide by the terms of the statement;
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- d. Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;
- e. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted-
1. Taking appropriate personnel action against such an employee, up to and including termination;
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)

(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING

(applies to subrecipients as well as States)

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- I. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure .

RESTRICTION ON STATE LOBBYING

(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (*e.g.*, "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

INSTRUCTIONS FOR PRIMARY TIER PARTICIPANT CERTIFICATION (STATES)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an

erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded**, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate the transaction for cause or default.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY TIER COVERED TRANSACTIONS

1. The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

INSTRUCTIONS FOR LOWER TIER PARTICIPANT CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded**, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered in to, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

CERTIFICATION ON CONFLICT OF INTEREST

(applies to subrecipients as well as States)

GENERAL REQUIREMENTS

No employee, officer, or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or personal interest in or a tangible personal benefit from an entity considered for a subaward. Based on this policy:

1. The recipient shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents.
 - a. The code or standards shall provide that the recipient's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subawardees, including contractors or parties to subcontracts.
 - b. The code or standards shall establish penalties, sanctions, or other disciplinary actions for violations, as permitted by State or local law or regulations.
2. The recipient shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

DISCLOSURE REQUIREMENTS

No State or its subrecipient, including its officers, employees, or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in

organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities. Based on this policy:

1. The recipient shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to NHTSA. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.
2. NHTSA will review the disclosure and may require additional relevant information from the recipient. If a conflict of interest is found to exist, NHTSA may (a) terminate the award, or (b) determine that it is otherwise in the best interest of NHTSA to continue the award and include appropriate provisions to mitigate or avoid such conflict.
3. Conflicts of interest that require disclosure include all past, present, or currently planned organizational, financial, contractual, or other interest(s) with an organization regulated by NHTSA or with an organization whose interests may be substantially affected by NHTSA activities, and which are related to this award. The interest(s) that require disclosure include those of any recipient, affiliate, proposed consultant, proposed subcontractor, and key personnel of any of the above. Past interest shall be limited to within one year of the date of award. Key personnel shall include any person owning more than a 20 percent interest in a recipient, and the officers, employees or agents of a recipient who are responsible for making a decision or taking an action under an award where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE
(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at www.traffic saftey.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the annual grant application in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.
2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))
3. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or on behalf of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and on behalf of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)
4. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))
5. As part of a comprehensive program, the State will support a data-based traffic safety enforcement program that fosters effective community collaboration to increase public safety, and data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities. (23 U.S.C. 402(b)(1)(E))
6. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:

- Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to-
 - o Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
 - o Increase use of seat belts by occupants of motor vehicles;
 - Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;
 - An annual statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
 - Development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
 - Coordination of triennial Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a); and
 - Participation in the Fatality Analysis Reporting System (FARS), except for American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands
7. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))
8. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system, except in a work zone or school zone. (23 U.S.C. 402(c)(4))

I understand that my statements in support of the State's application for Federal grant funds are statements upon which the Federal Government will rely in determining qualification for grant funds, and that knowing misstatements may be subject to civil or criminal penalties under 18 U.S.C. 1001. I sign these Certifications and Assurances based on personal knowledge, and after appropriate inquiry.

[Click here to validate form fields and permit signature](#)

	8/1/24
Signature Governor's Representative for Highway Safety	Date
Ronald J. Henke	
Printed name of Governor's Representative for Highway Safety	



Highway Department

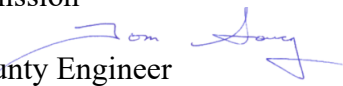
Telephone: 701-298-2370

Fax: 701-298-2395

SMB-HWY@casscountynd.gov

MEMORANDUM

TO: Cass County Commission

FROM: Thomas Soucy, County Engineer 

DATE: September 19, 2024

SUBJECT: Consent Agenda Item for October 7th, 2024 Commission Meeting: SC-0910(063) – Mill & Overlay on County Road 26 between County Road 5 North and State Highway 18 & SC-0950(061) – Bituminous Pavement on County Road 16 from State Highway 18 to Davenport, ND.

Attached are the Cost Participation, Construction, and Maintenance Agreements with the North Dakota Department of Transportation for the Mill & Overlay and Bituminous Pavement on the above mentioned projects. These projects will be bid on November 8, 2024 through the NDDOT bid letting. This project was included in our 2025 budget and will be slated for 2025 construction.

SUGGESTED MOTION: AUTHORIZE CHAIRPERSON TO SIGN THE AGREEMENT WITH NORTH DAKOTA DEPARTMENT OF TRANSPORTATION FOR THE MILL & OVERLAY AND BITUMINOUS PAVEMENT ON THE LOCATIONS STATED ABOVE SUBJECT TO STATE'S ATTORNEYS APPROVAL.

J:\Admin-Eng\Commission Corrsp\2024 Commission Correspondence\SC-0950(061) & SC-0910(063) NDDOT Agreement\Agenda Memo SC-0950(061) & SC-0910(063) NDDOT Agreement.docx



CONTRACT APPROVAL

REQUIRED BY DEPARTMENT:

DEPARTMENT: Highway Department DATE OF REQUEST: 10-01-2024

COMPANY REQUESTING CONTRACT: North Dakota Department of Transportation

BRIEF PROJECT DESCRIPTION: Cost participation, construction, maintenance agreements for mill and overlay on County Road 26

NEW CONTRACT OR CONTRACT RENEWAL

REQUIRED BY STATE'S ATTORNEY OFFICE:

STATE'S ATTORNEY SIGNATURE: _____ DATE _____

STATE'S ATTORNEY COMMENTS:

MEMO TO: Chad Orn
Deputy Director for Planning

FROM: Susie, Sara B.
Local Government Division

DATE: 9/11/2024

SUBJECT: Cost Participation, Construction, and Maintenance Agreement for Project No. SC-0910(063) PCN 24301 – HWY 18, W 9 MI, Cass County.

The purpose of this contract is to perform Mill & Overlay on project in Cass County.

Contract #38241343
Contract Total Maximum Cost is \$3,496,584
Contract authorized amount \$3,496,584 of which 80.93% are Federal Funds with Local Match being 19.07% at \$666,799.

38/sbs

Contract routing:
Sara Susie-Contract Owner
Kent Leben – Contract Review
Derek Pfeifer
Shannon Sauer
County Chairperson
State's Attorney
County Auditor
Clint Morgenstern
Chad Orn

**North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
LPA FEDERAL AID PROJECT**

Federal Award Information – to be provided by NDDOT

Assistance Listing No: 20.205

Assistance Listing Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Admin

NDDOT Program Mgr: Leben, Kent H.

Telephone: (701) 328-3482

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.

FHWA Authorization date: 9/6/24

Project No. SC-0910(063) PCN: 24301

LPA: CASS COUNTY

Location: ND 18, WEST 9 MILES

Type of Improvement: MILL & OVERLAY

Length: 9.020 MI

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the Local Public Agency (LPA) of Cass County, North Dakota, hereinafter referred to as the LPA, who agree that:

It is in the best interest of both parties to have the LPA construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the LPA with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The LPA agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The total cost of the project is \$3,496,584, with the LPA's estimated share being \$666,799.

Additional Funding Clause
NOT APPLICABLE

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.



Federal funds may not be obligated by the LPA, prior to FHWA approval of the program documents for the project.

PART I

LPA Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The LPA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the LPA of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

Include the following paragraph verbatim in any subcontracts they sign relative to this project:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the solicitation, award, and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways and the current edition of the NDDOT's *Local Government Manual*.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. To comply with the procedures outlined in the current edition of NDDOT's *Local Government Manual*.
6. To comply with the current edition of NDDOT's *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
7. The LPA will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of streets, inconvenience to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance,
8. To comply with the requirements of Appendices A and E of the Title VI Assurances, attached and incorporated by reference herein.



PART II

Contracting and Construction:

1. On behalf of the LPA, NDDOT will:
 - a. Prepare the bid package, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
 - b. Evaluate the bids as to the sufficiency of Disadvantaged Business Enterprise (DBE) participation and the bidder's good faith efforts in satisfying the requirements of the current edition of the DBE special provision, and 49 CFR Part 26. NDDOT shall have exclusive authority in evaluating the adequacy of DBE participation.
 - c. Tabulate the bids and send to the LPA.
 - d. Concur in the award of the contract, after the LPA has executed the contract, for the sole purpose of enabling the LPA to procure federal aid for the construction of the project.
2. The LPA will:
 - a. Review bids to determine the lowest responsible bidder.
 - b. Execute the contract.
 - c. Distribute copies of the executed contract and contract bond to NDDOT.
3. During the construction of the project, the LPA will:
 - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual* and the *Standard Specifications for Road and Bridge Construction*.
 - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.
 - c. Make all records available to NDDOT and FHWA for inspection upon request. The LPA will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the LPA.
 - d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the LPA agrees to:

1. If the traffic corridor intersects a state highway, the LPA must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.



2. Prohibit the installation of traffic signals and pedestrian beacons on or in connection with the project, including those installed at the sole cost and expense of the LPA or by others, without NDDOT approval.
3. Maintain all traffic control devices on the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
4. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.
5. Provide maintenance to the completed project at its own cost and expense.
6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the LPA. Payment will be made upon receipt of the engineer's estimate. The LPA will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

If the LPA fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the LPA, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the LPA out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the LPA who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the LPA shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the LPA, and such officer, employee, or person has not participated in such acquisition for and in behalf of the LPA.
4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
5. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.
6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.



Local Government Engineer
ND Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0700

Cass County Chairperson
C/O County Auditor
PO Box 2806
Fargo, ND 58108

7. The LPA is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.
8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The LPA, by the signature below of its authorized representative, hereby acknowledges that the LPA has read this agreement, understands it, and agrees to be bound by its terms and conditions.



Executed by the LPA of _____, North Dakota, the date last below signed.

APPROVED:

Kimberlee Hegvik
LPA/STATES ATTORNEY (TYPE OR PRINT)

Kimberlee Hegvik
SIGNATURE

09/16/24
DATE

LPA of _____
*

Chad Peterson
NAME (TYPE OR PRINT)

Chad Peterson
SIGNATURE

Chair
TITLE

09/16/24
DATE

ATTEST:

Brandy Madrigga
AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

Derek Pfeifer
LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

kl *Derek Pfeifer*
SIGNATURE

09/12/24
DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE *SS*

DATE

*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)
L.D. Approved 4-12-93; 10-22



CERTIFICATION OF LOCAL MATCH

It is hereby certified that the LPA of _____ will provide non-federal funds, whose source is identified below, as match for the amount the LPA is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

Non-Federal Match Funds provided by LPA. Please designate the source(s) of funds in the LPA budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

Source:

Executed at _____, North Dakota, the last date below signed.

ATTEST:

Brandy Madrigga

AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED:

LPA of _____

Chad Peterson

NAME (TYPE OR PRINT)

Chad Peterson

SIGNATURE

* Chair

TITLE

09/16/24

DATE

*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)
L.D. Approved 4-12-93; 1-23



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Risk Management Appendix

Routine* Service Agreements with Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$437,500 per person and \$1,750,000 per occurrence**. The minimum limits of liability required of the State are **\$437,500 per person and \$1,750,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$500,000 per person and \$2,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. The Governments shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 6-24




Certificate Of Completion

Envelope Id: 47CBD4C45C6F40D7BD32F43895B0E6A8	Status: Sent
Subject: Contract #38241343: Please DocuSign: Cost Participation, Construction & Maintenance Agreement	
Contract Number: 38241343	
PCN: 24301	
Source Envelope:	
Document Pages: 11	Signatures: 4
Certificate Pages: 3	Initials: 2
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	Sara Susie
Time Zone: (UTC-06:00) Central Time (US & Canada)	608 E Boulevard Ave
	Bismarck, ND 58505
	ssusie@nd.gov
	IP Address: 165.234.92.122

Record Tracking

Status: Original	Holder: Sara Susie	Location: DocuSign
9/11/2024 9:55:06 AM	ssusie@nd.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Carahsoft OBO North Dakota Department of Transportation CLOUD	Location: DocuSign

Signer Events

Signer Events	Signature	Timestamp
Kent Leben		Sent: 9/11/2024 9:57:24 AM
khleben@nd.gov		Viewed: 9/11/2024 4:15:03 PM
Title Here		Signed: 9/11/2024 4:15:52 PM
Carahsoft OBO North Dakota Department of Transportation CLOUD	Signature Adoption: Pre-selected Style	
Security Level: Email, Account Authentication (None), Authentication	Using IP Address: 165.234.253.12	


Authentication Details

SMS Auth:

- Transaction: ccd93101-a19a-4c9f-947c-b0eda4041c7c
- Result: passed
- Vendor ID: TeleSign
- Type: SMSAuth
- Performed: 9/11/2024 4:14:56 PM
- Phone: +1 701-320-8811

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Derek Pfeifer		Sent: 9/11/2024 4:15:54 PM
ddpfeifer@nd.gov		Viewed: 9/12/2024 9:25:48 AM
Local Government Engineer		Signed: 9/12/2024 9:26:31 AM
Security Level: Email, Account Authentication (None), Authentication	Signature Adoption: Pre-selected Style	
	Using IP Address: 165.234.253.12	


Authentication Details

SMS Auth:

- Transaction: 18af7d67-4da2-4101-a844-949865a94a4f
- Result: passed
- Vendor ID: TeleSign
- Type: SMSAuth
- Performed: 9/12/2024 9:25:35 AM
- Phone: +1 701-471-5516

Electronic Record and Signature Disclosure:

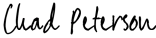
Not Offered via DocuSign

Signer Events	Signature	Timestamp
Shannon Sauer ssauer@nd.gov Security Level: Email, Account Authentication (None), Authentication	 Signature Adoption: Pre-selected Style Using IP Address: 165.234.253.12	Sent: 9/12/2024 9:26:33 AM Resent: 9/16/2024 3:31:27 PM Viewed: 9/16/2024 3:33:12 PM Signed: 9/16/2024 3:33:20 PM

Authentication Details

SMS Auth:
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 Result: passed
 Vendor ID: TeleSign
 Type: SMSAuth
 Performed: 9/16/2024 3:33:07 PM
 Phone: +1 701-426-9825

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Chad Peterson petersonc@casscountynd.gov Chair Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 174.213.245.128	Sent: 9/16/2024 3:33:22 PM Viewed: 9/16/2024 4:26:16 PM Signed: 9/16/2024 4:28:58 PM
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Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Kimberlee Hegvik hegvikk@casscountynd.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 165.234.250.10	Sent: 9/16/2024 4:29:00 PM Viewed: 9/16/2024 4:31:33 PM Signed: 9/16/2024 4:32:07 PM
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Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Brandy Madrigga madriggab@casscountynd.gov Security Level: Email, Account Authentication (None)		Sent: 9/16/2024 4:32:09 PM Viewed: 9/17/2024 3:53:31 PM
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Clint Morgenstern cdmorgenstern@nd.gov Security Level: Email, Account Authentication (None), Authentication Electronic Record and Signature Disclosure: Not Offered via DocuSign		
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Chad Orn corn@nd.gov Security Level: Email, Account Authentication (None), Authentication Electronic Record and Signature Disclosure: Not Offered via DocuSign		
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In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Editor Delivery Events	Status	Timestamp
Sara Susie ssusie@nd.gov Chief Financial Officer Carahsoft OBO North Dakota Department of Transportation CLOUD Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block; color: blue; font-weight: bold; font-size: 1.2em;">VIEWED</div> Using IP Address: 165.234.253.12	Sent: 9/11/2024 9:55:18 AM Viewed: 9/11/2024 9:55:40 AM Completed: 9/11/2024 9:57:23 AM

Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Sara Susie
 ssusie@nd.gov
 Security Level: Email, Account Authentication
 (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Carbon Copy Events	Status	Timestamp
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Legal Admin
 dotlegaladmin@nd.gov
 Security Level: Email, Account Authentication
 (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Legal Admin
 dotlegaladmin@nd.gov
 Security Level: Email, Account Authentication
 (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	9/11/2024 9:55:18 AM
Envelope Updated	Security Checked	9/11/2024 9:57:23 AM
Envelope Updated	Security Checked	9/11/2024 9:57:23 AM
Envelope Updated	Security Checked	9/11/2024 9:57:23 AM
Envelope Updated	Security Checked	9/11/2024 9:57:23 AM
Envelope Updated	Security Checked	9/11/2024 9:57:23 AM
Envelope Updated	Security Checked	9/11/2024 9:57:23 AM

Payment Events	Status	Timestamps
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MEMO TO: Chad Orn
Deputy Director for Planning

FROM: Susie, Sara B.
Local Government Division

DATE: 9/11/2024

SUBJECT: Cost Participation, Construction, and Maintenance Agreement for Project No. SC-0950(061) PCN 24302 – ND HWY 18, E 8 MI, Cass County.

The purpose of this contract is to perform Bituminous Pavement on project in Cass County.

Contract #38241344

Contract Total Maximum Cost is \$5,773,671

Contract authorized amount \$5,773,671 of which 80.93% are Federal Funds with Local Match being 19.07% at \$1,101,039.

38/sbs

Contract routing:

Sara Susie-Contract Owner

Kent Leben – Contract Review

Derek Pfeifer

Shannon Sauer

County Chairperson

State's Attorney

County Auditor

Clint Morgenstern

Chad Orn

**North Dakota Department of Transportation
COST PARTICIPATION, CONSTRUCTION, AND MAINTENANCE AGREEMENT
LPA FEDERAL AID PROJECT**

Federal Award Information – to be provided by NDDOT

Assistance Listing No: 20.205

Assistance Listing Title: Highway Planning & Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Admin

NDDOT Program Mgr: Leben, Kent H.

Telephone: (701) 328-3482

Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

For NDDOT use only.

FHWA Authorization date: 9/6/24

Project No. SC-0950(061) PCN: 24302

LPA: CASS COUNTY

Location: ND HWY 18, E 8 MI

Type of Improvement: BITUMINOUS PAVEMENT

Length: 7.882 MI

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the Local Public Agency (LPA) of Cass County, North Dakota, hereinafter referred to as the LPA, who agree that:

It is in the best interest of both parties to have the LPA construct and maintain this project according to the terms and conditions set forth in this agreement. NDDOT will assist the LPA with the preparation and distribution of the bid documents and include the project in a scheduled bid opening.

The LPA agrees to the terms and conditions required for this project by the Federal Highway Administration (FHWA).

NDDOT will procure federal funds for the construction of the project, pursuant to Title 23 of the United States Code.

Federal funds obligated for this project shall not exceed 80.93 percent of the total eligible project cost. The total cost of the project is \$5,773,671, with the LPA's estimated share being \$1,101,039.

Additional Funding Clause
NOT APPLICABLE

The total eligible project costs include the cost of those items shown in the engineer's detailed estimate as approved for federal funds and any project changes approved by NDDOT for the use of federal funds.



Federal funds may not be obligated by the LPA, prior to FHWA approval of the program documents for the project.

PART I

LPA Obligation:

1. To comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The LPA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the LPA of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et. Seq.).

Include the following paragraph verbatim in any subcontracts they sign relative to this project:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the solicitation, award, and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NDDOT deems appropriate.

2. To comply with requirements of 23 CFR Part 633, Required Contract Provisions, and 23 CFR Part 635, Construction and Maintenance.
3. To construct the project in conformity with the construction contract, changes to the plans shall meet the requirements of 23 CFR Part 625, Design Standards for Highways and the current edition of the NDDOT's *Local Government Manual*.
4. To construct the project in conformity with the approved environmental documents and provide for the implementation of any measures mitigating the environmental impact of the project.
5. To comply with the procedures outlined in the current edition of NDDOT's *Local Government Manual*.
6. To comply with the current edition of NDDOT's *Right of Way Acquisition Procedures for Local Public Agency Federal Aid Projects*.
7. The LPA will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of streets, inconvenience to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance,
8. To comply with the requirements of Appendices A and E of the Title VI Assurances, attached and incorporated by reference herein.



PART II

Contracting and Construction:

1. On behalf of the LPA, NDDOT will:
 - a. Prepare the bid package, solicit proposals, and include the project in a scheduled bid opening as provided in the North Dakota Century Code, Chapter 24-02.
 - b. Evaluate the bids as to the sufficiency of Disadvantaged Business Enterprise (DBE) participation and the bidder's good faith efforts in satisfying the requirements of the current edition of the DBE special provision, and 49 CFR Part 26. NDDOT shall have exclusive authority in evaluating the adequacy of DBE participation.
 - c. Tabulate the bids and send to the LPA.
 - d. Concur in the award of the contract, after the LPA has executed the contract, for the sole purpose of enabling the LPA to procure federal aid for the construction of the project.
2. The LPA will:
 - a. Review bids to determine the lowest responsible bidder.
 - b. Execute the contract.
 - c. Distribute copies of the executed contract and contract bond to NDDOT.
3. During the construction of the project, the LPA will:
 - a. Provide engineering services, material testing, and inspection of the work as required by the contract documents and the current editions of NDDOT's *Sampling and Testing Manual* and the *Standard Specifications for Road and Bridge Construction*.
 - b. Keep all project records and documentation as required in NDDOT's current editions of the *Construction Records Manual* and the *Construction Automated Records System*.
 - c. Make all records available to NDDOT and FHWA for inspection upon request. The LPA will submit all documents and records to NDDOT for review before final payment is made. NDDOT will maintain the project records for three years from the final voucher date of FHWA and then return them to the LPA.
 - d. Be responsible for any changes in plan, character of work, quantities, site conditions, or any claim for extra compensation. NDDOT will review all contract adjustments to determine if the adjustments are eligible for federal aid. Federal aid shall be limited to the amount stated on page one of this agreement.

PART III

Post Construction:

After the project is completed the LPA agrees to:

1. If the traffic corridor intersects a state highway, the LPA must justify to NDDOT that any new access allowed will have minimal impact to the state highway. The design will meet the requirements of 23 CFR Part 625, Design Standards for Highways.



2. Prohibit the installation of traffic signals and pedestrian beacons on or in connection with the project, including those installed at the sole cost and expense of the LPA or by others, without NDDOT approval.
3. Maintain all traffic control devices on the project according to the current edition of the *Manual on Uniform Traffic Control Devices for Streets and Highways*, as supplemented and amended.
4. Restrict the speed limit on the project at or below the maximum design speed. Any changes to the speed limit will be pursuant to North Dakota Century Code, Chapter 39-09.
5. Provide maintenance to the completed project at its own cost and expense.
6. Prohibit access and encroachments upon the right of way pursuant to 23 CFR Part 1.23, Rights of Way, and Part 710 Subpart D, Right of Way, Real Property Management.

PART IV

General:

1. NDDOT will make all contract payments on behalf of the LPA. Payment will be made upon receipt of the engineer's estimate. The LPA will reimburse NDDOT for payments made less the amount paid by FHWA. No costs will be incurred by NDDOT for the construction and maintenance of this project.

If the LPA fails to reimburse NDDOT within 60 days after billing for funds advanced on behalf of the LPA, this document will constitute an assignment of funds now or hereafter coming into the hands of the state treasurer, which would otherwise be distributed to the LPA out of the highway tax distribution fund, NDCC 54-27-19. The state treasurer is hereby directed to pay NDDOT all such funds until the total equals the sum billed pursuant to this agreement.

2. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
3. No official, employee, or other person performing services for the LPA who is authorized to negotiate or approve any contract or subcontract in connection with the project shall have any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by the LPA shall have any financial or other personal interest in any real property acquired for the project unless such interest is openly disclosed upon public records of NDDOT and of the LPA, and such officer, employee, or person has not participated in such acquisition for and in behalf of the LPA.
4. The failure of the state to enforce any provisions of this contract shall not constitute a waiver by the state of that or any other provision.
5. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.
6. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at the respective places of business as set forth below or at a place designated hereafter in writing by the parties.



Local Government Engineer
ND Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0700

Cass County Chairperson
C/O County Auditor
PO Box 2806
Fargo, ND 58108

7. The LPA is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

8. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The LPA, by the signature below of its authorized representative, hereby acknowledges that the LPA has read this agreement, understands it, and agrees to be bound by its terms and conditions.



Executed by the LPA of _____, North Dakota, the date last below signed.

APPROVED:

Kimberlee Hegvik
LPA/STATES ATTORNEY (TYPE OR PRINT)

Kimberlee Hegvik
SIGNATURE

09/16/24
DATE

LPA of _____
*

Chad Peterson
NAME (TYPE OR PRINT)

Chad Peterson
SIGNATURE

Chair
TITLE

09/16/24
DATE

ATTEST:

Brandy Madrigga
AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed by the North Dakota Department of Transportation the date last below signed.

APPROVED as to substance:

Derek Pfeifer
LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

tl *Derek Pfeifer*
SIGNATURE

09/12/24
DATE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

SS

*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)
L.D. Approved 4-12-93; 10-22



CERTIFICATION OF LOCAL MATCH

It is hereby certified that the LPA of _____ will provide non-federal funds, whose source is identified below, as match for the amount the LPA is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

Non-Federal Match Funds provided by LPA. Please designate the source(s) of funds in the LPA budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

Source:

Executed at _____, North Dakota, the last date below signed.

ATTEST:

Brandy Madrigga

AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED:

LPA of _____

Chad Peterson

NAME (TYPE OR PRINT)

Chad Peterson

SIGNATURE

*Chair

TITLE

09/16/24

DATE

*Mayor, President or Chairperson of Commission

CLA 19256 (Div. 38)
L.D. Approved 4-12-93; 1-23



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Risk Management Appendix

Routine* Service Agreements with Sovereign Entities and Political Subdivisions of the State of North Dakota:

Parties: **State** – State of North Dakota, its agencies, officers and employees

Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees

Governments – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$437,500 per person and \$1,750,000 per occurrence**. The minimum limits of liability required of the State are **\$437,500 per person and \$1,750,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$500,000 per person and \$2,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. The Governments shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007
Revised 6-24




Certificate Of Completion

Envelope Id: B52C9A0955AB44A8B00FD3553D9763D1	Status: Sent
Subject: Contract #38241344: Please DocuSign: Cost Participation, Construction & Maintenance Agreement	
Contract Number: 38241344	
PCN: 24302	
Source Envelope:	
Document Pages: 11	Signatures: 4
Certificate Pages: 3	Initials: 2
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	Sara Susie
Time Zone: (UTC-06:00) Central Time (US & Canada)	608 E Boulevard Ave
	Bismarck, ND 58505
	ssusie@nd.gov
	IP Address: 165.234.92.122

Record Tracking

Status: Original	Holder: Sara Susie	Location: DocuSign
9/11/2024 10:09:30 AM	ssusie@nd.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Carahsoft OBO North Dakota Department of Transportation CLOUD	Location: DocuSign

Signer Events

Signer Events	Signature	Timestamp
Kent Leben		Sent: 9/11/2024 10:11:43 AM
khleben@nd.gov		Viewed: 9/11/2024 4:13:31 PM
Title Here		Signed: 9/11/2024 4:14:15 PM
Carahsoft OBO North Dakota Department of Transportation CLOUD		Signature Adoption: Pre-selected Style
Security Level: Email, Account Authentication (None), Authentication	Using IP Address: 165.234.253.12	

Authentication Details

SMS Auth:
 Transaction: d61cfaf5-8a0e-4a76-bd5e-3efb5694729c
 Result: passed
 Vendor ID: TeleSign
 Type: SMSAuth
 Performed: 9/11/2024 4:12:12 PM
 Phone: +1 701-320-8811

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Derek Pfeifer		Sent: 9/11/2024 4:14:17 PM
ddpfeifer@nd.gov		Viewed: 9/12/2024 9:20:52 AM
Local Government Engineer		Signed: 9/12/2024 9:25:00 AM
Security Level: Email, Account Authentication (None), Authentication		Signature Adoption: Pre-selected Style
	Using IP Address: 165.234.253.12	

Authentication Details

SMS Auth:
 Transaction: 236fa790-e4be-43d9-a330-b1dcae3fc26f
 Result: passed
 Vendor ID: TeleSign
 Type: SMSAuth
 Performed: 9/12/2024 9:20:46 AM
 Phone: +1 701-471-5516

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Signer Events	Signature	Timestamp
Shannon Sauer ssauer@nd.gov Security Level: Email, Account Authentication (None), Authentication	SS Signature Adoption: Pre-selected Style Using IP Address: 165.234.253.12	Sent: 9/12/2024 9:25:03 AM Resent: 9/16/2024 3:31:22 PM Viewed: 9/16/2024 3:33:46 PM Signed: 9/16/2024 3:33:51 PM

Authentication Details

SMS Auth:
Transaction: a9bec278-640f-4212-992b-17ea608809a1
Result: passed
Vendor ID: TeleSign
Type: SMSAuth
Performed: 9/16/2024 3:33:41 PM
Phone: +1 701-426-9825

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Chad Peterson
petersonc@casscountynd.gov
Chair
Security Level: Email, Account Authentication (None)

Chad Peterson

Signature Adoption: Pre-selected Style
Using IP Address: 174.213.245.128

Sent: 9/16/2024 3:33:54 PM
Viewed: 9/16/2024 4:29:27 PM
Signed: 9/16/2024 4:30:21 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Kimberlee Hegvik
hegvikk@casscountynd.gov
Security Level: Email, Account Authentication (None)

Kimberlee Hegvik

Signature Adoption: Pre-selected Style
Using IP Address: 165.234.250.10

Sent: 9/16/2024 4:30:23 PM
Viewed: 9/16/2024 4:32:37 PM
Signed: 9/16/2024 4:32:53 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Brandy Madrigga
madriggab@casscountynd.gov
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Clint Morgenstern
cdmorgenstern@nd.gov
Security Level: Email, Account Authentication (None), Authentication

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Chad Orn
corn@nd.gov
Security Level: Email, Account Authentication (None), Authentication

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sent: 9/16/2024 4:32:56 PM
Viewed: 9/17/2024 3:55:08 PM

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Editor Delivery Events	Status	Timestamp
Sara Susie ssusie@nd.gov Chief Financial Officer Carahsoft OBO North Dakota Department of Transportation CLOUD Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block; font-weight: bold; color: blue;">VIEWED</div> Using IP Address: 165.234.253.12	Sent: 9/11/2024 10:09:43 AM Viewed: 9/11/2024 10:10:02 AM Completed: 9/11/2024 10:11:42 AM

Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Sara Susie
 ssusie@nd.gov
 Security Level: Email, Account Authentication
 (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Carbon Copy Events	Status	Timestamp
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Legal Admin
 dotlegaladmin@nd.gov
 Security Level: Email, Account Authentication
 (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Legal Admin
 dotlegaladmin@nd.gov
 Security Level: Email, Account Authentication
 (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	9/11/2024 10:09:43 AM
Envelope Updated	Security Checked	9/11/2024 10:11:42 AM
Envelope Updated	Security Checked	9/11/2024 10:11:42 AM
Envelope Updated	Security Checked	9/11/2024 10:11:42 AM
Envelope Updated	Security Checked	9/11/2024 10:11:43 AM
Envelope Updated	Security Checked	9/11/2024 10:11:43 AM

Payment Events	Status	Timestamps
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Highway Department


Telephone: 701-298-2370

Fax: 701-298-2395

SMB-HWY@casscountynd.gov

MEMORANDUM

TO: Cass County Commission

FROM: Thomas Soucy, County Engineer 

DATE: September 16, 2024

SUBJECT: Consent Agenda Item for October 7th, 2024 Commission Meeting: CH2410 – Ditch Clean – C11 West of Grandin ND

Attached are the contract documents with Northern States Excavating, Inc. for the Ditch Cleaning of C11 west of Grandin, ND.

This work will be taken out of our Routine Repairs/Maintenance budget item.

SUGGESTED MOTION: AUTHORIZE CHAIRPERSON TO SIGN CONTRACT DOCUMENTS WITH NORTHERN STATES EXCAVATING, INC. FOR THE DITCH CLEANING ON THE CASS COUNTY HIGHWAY STATED ABOVE SUBJECT TO STATE'S ATTORNEYS APPROVAL.

J:\Admin-Eng\Commission Corrsp\2024 Commission Correspondence\CH2410 - C11 Grandin Ditch Clean\Consent Agenda Memo NSE Corporation CH2410.doc.docx

CONTRACT APPROVAL REQUEST

COMPANY REQUESTING CONTRACT:

Northern States Excavating, Inc., 1925 168th Ave SE, Gardner, ND 58042

DATE OF REQUEST: September 16, 2024

DATE OF EXPECTED RETURN TO THE COMMISSION OFFICE: October 7th, 2024

DEPARTMENT HEAD REQUESTING SIGNATURE: **Thomas Soucy, 701-298-2374**



STATE'S ATTORNEY SIGNATURE: _____

STATE'S ATTORNEY COMMENTS: _____

PORTFOLIO COMMISSIONER SIGNATURE: _____

Request for quotes for Ditch Cleaning on C11 west of Grandin, ND

<u>Engineer's Estimate</u>	<u>CH2410</u>	<u>Total</u>
	\$30,000.00	\$30,000.00

The quotes were received as follows:

<u>Contractor</u>	<u>CH2410</u>	<u>Total</u>
Northern States Excavating, Inc.	\$21,708.00	\$21,708.00
Gladden Construction, Inc.	\$30,600.00	\$30,600.00
Northern Improvement Company	\$39,995.00	\$39,995.00
Border States Paving, Inc.	\$67,637.13	\$67,637.13

SUGGESTED MOTION: AUTHORIZE CHAIRPERSON TO SIGN CONTRACT DOCUMENTS WITH NORTHERN STATES EXCAVATING, INC. FOR THE DITCH CLEANING ON THE CASS COUNTY HIGHWAYS STATED ABOVE SUBJECT TO STATE'S ATTORNEYS APPROVAL.

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT BOND**

Project No. CH2410

KNOW ALL PERSONS BY THESE PRESENTS, that we Northern States Excavating, Inc., 1925 168th Ave SE, Gardner,

ND 58042 as principal, and _____
NAME AND ADDRESS OF SURETY

as surety, are held and firmly bound unto Cass County, North Dakota, as owner in the penal sum of **Twenty One Thousand, Seven Hundred Eight dollars and Zero Cents (\$21,708.00)** for the use of the owner and also for the use of any person having any lawful claim against the principal or any subcontractor on account of labor or supplies or materials as set forth in the conditions hereof; for the payment of which well and truly to be made we jointly and severally bind ourselves, and each of our heirs, executors, administrators, and successors, firmly by these presents.

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

Type of Work: **Ditch Cleaning**

CH2410, in Cass County, North Dakota, which contract and incorporated plans and specifications are by this reference made a part hereof, and are hereinafter referred to as the contract.

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

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

SIGNED and SEALED this _____ day of _____ 2024.

(SEAL OF PRINCIPAL)

PRINCIPAL

By: _____

Title: _____

SURETY

COMPLETE MAILING ADDRESS

(SEAL OF SURETY)

By: _____

Title: _____

COMPLETE MAILING ADDRESS

IMPORTANT NOTICE

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

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

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

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

NOTICE TO SURETY

Section 26.1-03-01, N.D.C.C. Provides:

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

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

ACKNOWLEDGMENT OF PRINCIPAL

State of _____

ss.

County of _____

On this _____ day of _____ 2024, before me a notary public in and for the state of _____, personally appeared _____, known to me to be (title) of the principal described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said principal.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

My Commission expires _____

ACKNOWLEDGMENT OF SURETY

State of _____

SS.

County of _____

On this _____ day of _____ 2024, before me a notary public in and for the state of _____, personally appeared _____, known to me to be (title) of the surety described in the within instrument and who executed the same and acknowledged to me that the same was executed for and on behalf of said surety.

Notary Public, State of _____

(Notary Public must print or type name here.)

(NOTARY SEAL)

My commission expires _____

Approved as to form this _____ day of _____ 2024.

Cass County States Attorney

Approved by owner this _____ day of _____ 2024.

By _____
Chairperson, Cass County Board of Commissioners

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT**

This agreement made and entered into by Cass County, North Dakota, party of the first part, **Northern States Excavating, Inc., 1925 168th Ave SE, Gardner, ND 58042** party of the second part (hereinafter called Contractor),
WITNESSETH:

1. That for and in consideration of the payments to be made by the party of the first part, the contractor promises and agrees to furnish and deliver all labor, equipment, and materials, and to pay or cause to be paid as they become due, all claims for any work, labor, materials, equipment, including equipment rental or repair, and other supplies or insurance premiums, all of which are attributable to or utilized in and about the improvement and construction of **Projects CH2410**. In accordance and in conformity with the provisions of this contract, the project proposal, the standard specification, supplemental specifications, special provisions, and all of which are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth in the body of this agreement. References in the Standard Specifications for Road and Bridge Construction, 2023 edition, to the North Dakota Department of Transportation or Department must be construed as referring to the owner. Likewise, a reference by the same works to engineer or director must be construed as referring to the owner of the project.

2. The party of the first part agrees and promises to pay to the Contractor for said work, when completed and accepted in accordance with the provisions of this contract, the price set forth in the said proposal, amounting approximately to **Twenty One Thousand, Seven Hundred Eight dollars and Zero Cents (\$21,708.00)** payments to be made as provided in said specifications upon presentation of the proper certificates of the County Engineer, or his representatives, and under the terms of this contract.

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

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

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

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

IN WITNESS THEREOF, the parties to this contract have set their hands and seal this ____ day of _____ 2024.

CASS COUNTY NORTH DAKOTA

Chairperson, Cass County Board of Commissioners

Contractor

WITNESS TO CONTRACTOR'S SIGNATURE

By _____

Title _____