

## AGREEMENT

Date: March 3, 2026

THIS AGREEMENT is made and entered into on the date stated herein, between the City of Dickinson, a North Dakota municipal corporation (hereinafter, the "City"), and BEK Consulting, LLC (hereinafter, the "Contractor").

In consideration of the mutual promises, covenants, agreements and stipulations contained herein, the City and the Contractor hereby agree as follows:

1. The Contractor shall complete construction of project SU-5-983(068), as reflected in the specifications for the project, the project proposal, North Dakota Department of Transportation's (NDDOT's) standard specification, supplemental specifications, special provisions, and plans. All such documents, plans, and specifications are hereby incorporated into and as a part of this Agreement as if set out in full. The Contractor shall provide all labor, equipment, and materials necessary to complete the work. The Contractor shall pay or cause to be paid all claims for work, labor, materials, equipment, including equipment rental or repair, and other supplies or insurance premiums, all of which are attributable to or utilized in the improvement and construction of the project.
2. The NDDOT agrees to pay the Contractor for the work performed pursuant to project SU-5-983(068). Such payment shall be in the total amount of \$ 1,888,035.10 as reflected in the Contractor's bid proposal. Such payment shall be made upon completion and acceptance of the work by the City Engineer, with any required progress payments being made pursuant to the project specifications, upon presentation of the proper certification of the engineer.
3. The work shall be done pursuant to this Agreement and the laws of the State of North Dakota, to the satisfaction of the City, subject at all times to the inspection and approval of NDDOT and the U.S. Department of Transportation, its agents and representatives and in accordance with the rules and regulations made pursuant to state and federal law.
4. The decision of the City Engineer upon any question 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. The Contractor, in employing and maintaining labor, shall do so in conformity with state and federal law and this Agreement.
6. The Contractor shall begin work as required by this Agreement or when so ordered by the City and shall maintain the maximum and efficient work force on the project necessary to complete the work within the time established by this Agreement.
7. In the event of any unsettled claims, counterclaims, disputes, and other matters in question between the City and the Engineer arising out of or relating to this Agreement or the work to be performed by the Contractor hereunder, the claiming party shall timely provide Notice of Claim to the other party. Such Notice of Claim shall be in written form, and shall adequately state the

unsettled claim, counterclaim, dispute, or other matter in question in order for the other party to understand and resolve the same. The parties shall thereafter enter into direct negotiations for settlement of the same.

In the event that such direct negotiations are unsuccessful in fully resolving the dispute, the City and the Contractor agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the work to be performed by the Contractor hereunder to mediation. A mediator shall be chosen jointly by the City and the Contractor and shall be mutually acceptable to all parties.

If such mediation is unsuccessful in fully resolving the dispute, then all such disputes may be resolved only in a court of competent jurisdiction. The parties hereby stipulate and agree that the District Court, Southwest Judicial District, State of North Dakota, shall have personal jurisdiction over the parties hereto, and that such District Court, Southwest Judicial District, State of North Dakota, is the appropriate and proper venue for resolving any such dispute.

8. Contractor agrees to indemnify and hold the City harmless from any and all claims, liabilities, losses, damages or expenses resulting from this Agreement and the Contractor's services performed or to be performed under this Agreement, specifically including, without limitation, any claim, liability, loss, damage or expense arising: (a) by reason of the injury to person or property, from whatever cause, or in any way connected with the this Agreement or the work to be performed hereunder, including any liability or any injury to the person or personal property of the Contractor, its agents, officers, or employees; (b) by reason of any work negligently performed under this Agreement; (c) by reason of the Contractor's negligent failure to perform any provision of the work under this Agreement or to comply with any requirement imposed upon the City, the Contractor, or any other party by any duly authorized governmental agency or political subdivision; or (d) because of the Contractor's failure or inability to pay as such shall become due any obligations incurred by the Contractor in its performance of the work under this Agreement.
9. This Agreement may not be assigned by the Contractor without the prior written authorization and consent of the City.
10. Contractor's failure to fulfill any condition or term of this Agreement shall be a material default. Upon such material default, City shall be entitled to any and all remedies available under law, without limitation, and without the same working any forfeiture or a waiver of any of the covenants, terms, or conditions of this Agreement to be performed by the Contractor. A waiver by the City of any default or breach hereunder on the part of the Contractor shall not be construed to be a continuing waiver of such default or breach, nor a waiver in any manner of a default or breach subsequently occurring.
11. This Agreement shall be binding on, and shall inure to the benefit of, the parties hereto and their respective administrators, representatives, successors, and assigns.
12. This Agreement shall be governed by North Dakota law and any question arising hereunder shall be construed or determined according to such law.

13. Time is of the essence with respect to the performance of any and all provisions of this Agreement. Engineer will provide services as expeditiously as is consistent with professional skill and care and the orderly progress of the work.
14. This Agreement, together with the specifications for the project, the project proposal, North Dakota Department of Transportation's (NDDOT's) standard specification, supplemental specifications, special provisions, and plans, contains the entire agreement between and among the parties hereto, and supersedes all prior and contemporaneous discussions, negotiations, understandings and agreements, whether oral or written, express or implied, between or among them relating to the subject matter of this Agreement. This Agreement may not be amended orally, nor shall any purported oral amendment (even if accompanied by partial or complete performance in accordance therewith) be of any legal force or effect or constitute an amendment of this Agreement, but rather this Agreement may be amended only by an agreement in writing signed by the parties.

IN WITNESS WHEREOF, the City and Contractor have respectively executed this Agreement as of the day and year first above written.

CITY OF DICKINSON

By: \_\_\_\_\_  
Scott Decker, President  
Board of City Commissioners

ATTEST:

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

CONTRACTOR

**BEK Consulting, LLC**

By: \_\_\_\_\_

Its: Chief Est/PM

